Division of Energy and Mineral Development

Program Overview

August 19, 2014
WHO WE ARE

Assistant Secretary – Indian Affairs
*(Kevin K. Washburn)*

Principal Deputy – Assistant Secretary

Director
Bureau of Indian Affairs

Director
Bureau of Indian Education

Deputy Assistant Secretary
Policy and Economic Development

Deputy Assistant Secretary
Management

Office of Indian Energy
and Economic Development

Office of Self-
Governance

Office of Indian
Gaming

Division of Energy and
Mineral Development

Division of Economic
Development

Division of Capital
Investment

Division of Workforce
Development

Our Mission:
We strive to generate effective energy and mineral development strategies that seed economic growth

Division Chief - Stephen Manydeeds
720 407-0600
stephen.manydeeds@bia.gov
DIVISION OF CAPITAL INVESTMENT (DCI)

INDIAN LOAN GUARANTEE PROGRAM

- Up to 90% Government backed loan guarantee for economic development projects
  - Federally recognized
  - 51% Indian owned
  - Contribute to a reservation or tribal service area
  - 20% equity position

For More Information:
Visit the DCI Website:
http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DCI/index.htm
Or give DCI a call:
Main Office: 202-219-0740
## 2013 Energy Economic Contributions on Indian Lands (Non-Gaming)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Value ($billions)</th>
<th>% of Total Value</th>
<th>Estimated Economic Impact ($Billions)</th>
<th>% of Total Economic Impact</th>
<th>Estimated Employment (jobs)</th>
<th>% of Total Estimated Jobs Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Energy</strong></td>
<td>9.82</td>
<td>92.64%</td>
<td>17.21</td>
<td>90.44%</td>
<td>66,375</td>
<td>82.28%</td>
</tr>
<tr>
<td>Other Minerals</td>
<td>0.08</td>
<td>0.75%</td>
<td>0.15</td>
<td>0.79%</td>
<td>859</td>
<td>1.06%</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>9.90</td>
<td>93.39%</td>
<td>17.36</td>
<td>91.22%</td>
<td>67,234</td>
<td>83.35%</td>
</tr>
<tr>
<td>Irrigated Agriculture</td>
<td>0.49</td>
<td>4.62%</td>
<td>1.05</td>
<td>5.52%</td>
<td>9,758</td>
<td>12.10%</td>
</tr>
<tr>
<td>Forestry</td>
<td>0.2</td>
<td>1.89%</td>
<td>0.53</td>
<td>2.79%</td>
<td>2,294</td>
<td>2.84%</td>
</tr>
<tr>
<td>Grazing</td>
<td></td>
<td></td>
<td>0.09</td>
<td>0.47%</td>
<td>1,381</td>
<td>1.71%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>10.60</td>
<td>100%</td>
<td>19.03</td>
<td>100%</td>
<td>80,668</td>
<td>100%</td>
</tr>
</tbody>
</table>

Data from the U.S. Department of Interior's Economic Report FY 2013 July 11, 2014, Chapter 2, Table 2-2.
WHAT WE DO

Division of Energy and Mineral Development

Minerals
- Construction aggregate projects
- Precious metals
- Coal

Renewable Energy and Distributed Generation
- Wind
- Solar
- Biomass
- Hydro
- Natural Gas

Geothermal & Conventional Energy
- Geothermal
- Oil & Gas
- Coal

Business Development
- Tribal Business Structures
- Financial Analysis
- Good Governance Practices

WHAT WE DO

In-House Technical Support

EMDP Grant

TEDC Grant
ENERGY AND MINERAL DEVELOPMENT PROGRAM (EMDP)

- Annual Grant Program
- Funding availability varies year to year
- Any type of energy or minerals
  - Renewable Energy
  - Conventional Energy
  - Mineral
- Pre-development work only
  - Resource Assessment/Exploration studies
  - Feasibility studies
  - Market studies
  - Engineering studies
EMDP – LIMITING FACTORS

- Project must be on tribal land held in trust or restricted fee by the Federal Government

- Multi-year projects
  - Cannot award multi-year funding
  - Submit each year
  - Funds not guaranteed

- Project tasks should be accomplishable in one year
EMDP NON-FUNDABLE TASKS

- Cannot purchase the equipment for the assessment of energy and mineral resources (e.g. anemometer towers)
- Cannot purchase or lease the equipment for the development of energy and mineral resources (e.g. solar panels, wind turbine)
2012 EMDP AWARDS

$1,819,000 Awarded

12 Total Projects:
7 – Renewable
3 – Oil and Gas
2 – Geothermal

9 mineral projects were awarded in-house technical assistance

Renewable, 76%

Oil and Gas, 14%

Geothermal, 10%
2013 EMDP AWARDS

$3,243,004 Awarded

17 Total Projects:
- 7 – Renewable
- 6 – Mineral
- 3 – Oil, Gas, Geothermal

Mineral, 16%
Oil, Gas, Geothermal, 23%
Renewable, 61%
Solicitation is open on grants.gov
Proposals due August 25th

Call or email for assistance

- **Mineral Projects:**
  - Lynne Carpenter, Mineral Geologist
  - 303-969-5270 x 244
  - lynne.carpenter@bia.gov

- **Renewable Energy:**
  - Winter Jojola-Talburt, Electrical Engineer
  - 303-969-5270 x 281
  - winter.jojola-talburt@bia.gov

- **Geothermal and Conventional Energy:**
  - Bob Just, Petroleum Geologist
  - 303-969-5270 x 235
  - bob.just@bia.gov
Grant program to develop tribal managerial, organizational and technical capacity to maximize the economic impact of energy resource development on Indian land

- Establish business entity structures and/or organizational structures related to energy resource development Business development capacity
- Develop or enhance key regulatory activities
- FY 2013 over $700,000 awarded

bit.ly/tedcgrant
Examples:

- Developing legal infrastructure for business formation
- Establishing tribally chartered corporations under tribal corporation codes
- Establishing tribal business charters under federal law (IRA Section 17 corporation)
Examples:

- Developing or enhancing tribal policies, codes, regulations, or ordinances related to regulating and developing energy resource(s)
  - Land lease regulations for energy development purposes
  - Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act

http://www.bia.gov/WhoWeAre/BIA/OTS/HEARTH/index.htm

- Adopting secured transaction codes and subsequent joint power agreement with the tribe’s respective state.
1. Ease of Starting a Business
2. Construction Permitting
3. Getting Electricity
4. Registering Property
5. Getting Credit
6. Protecting Investors
7. Paying Taxes
8. Trading Across Borders
9. Enforcing Contracts
10. Resolving Insolvency

Corporate Code, LLC Code, Code of Ethics, Transparency, Zoning, Incentives
BIA Issues
BIA Issues
BIA Issues
MTSTA, Article 9 UCC
Taxation Code
UCC
WHY ADOPT CORPORATIONS CODE: THE CORPORATE PARALLEL RELATIONSHIP

**Institutional Harmonization:** Adopting, step by step, the economic laws, procedures and institutions of well established economies.
CREATE A BUSINESS FRIENDLY ENVIRONMENT

Step 1
Governance & Proper Business Structure

Key Components

1. ADOPT VITAL CODES
   • Business Codes
     • Corporation Code
     • LLC Code
   • Uniform Commercial Code
     • Especially Articles 2 & 9
   • Taxation Code
   • Zoning Ordinance
   • Code of Ethics

2. Charter Economic Development Corporation
   • Separate Business from Politics
   • Establish Board Governance
     • Appoint qualified Board of Directors

3. Create a Comprehensive Economic Development Strategy (CEDS)
TRIBAL TAXATION
“NOT SUBJECT TO TAX”

- IRS:
  - Federally recognized tribes are sovereign legal entities, similar to state governments. They have all the rights and attributes of a sovereign entity such as a state. They have a constitutionally guaranteed status as sovereign entities. They are not subject to tax based on this. Federally recognized tribal governments are a unique set of entities in the United States in this respect.

- Tribal Governments can charter Wholly Owned Corporations under Federal Law (section 17 IRA) or under Tribal Law
  - Retain Sovereign Immunity of the Tribe
  - Not Subject to Tax - Cannot take advantage of ITC/PTC, accelerated depreciation, or Bonus depreciation

- Tribes and Wholly Owned Tribal Corporations can form special purpose taxable entities with outside partners to leverage incentives.
Businesses are 400% more likely to succeed if they are isolated from politics. (Harvard Project)
GOOD GOVERNANCE: PROPER BUSINESS STRUCTURE

ASSET PROTECTION

- Tribal Government
- Board
- Economic Development Entity
- Subsidiary Business Entities

Special Purpose Entities:
Used to isolate assets and liabilities

Outside Suit can only target assets of the Corporation and its subsidiaries, NOT the tribe as a whole

Businesses are 400% more likely to succeed if they are isolated from politics. (Harvard Project)
Good Governance: Proper Business Structure

Sovereign Immunity

- Tribal Government
- Board
  - Economic Development Entity
  - Subsidiary Business Entities

Limited Waivers of Sovereign Immunity can be used but only on the Assets of the entity that issues it.

Special Purpose Entities:
- Can retain the Sovereign Immunity of the Tribe or Waive Immunity

Businesses are 400% more likely to succeed if they are isolated from politics. (Harvard Project)
WELL ORGANIZED TRIBE
NOT SO SIMPLE

Tribal Council
- Tribal Community
  - For Profit Business
    - Board of Directors
      - Economic Development Corp.
        - Independently Owned Business Entities (no oversight board)
        - Subsidiary Companies
  - Governmental Services
    - Chief Government Officer
      - Tribal Programs: Housing Authority, Natural Resource, Education, Law Enforcement, Etc.
  - Not For Profit Entities
    - Non-Profit Board of Directors
      - Chief Operating Officer
        - Non-Profits such as: Cultural Center, Educational Foundation, Boys and Girls Club, Etc.
CONTACT INFORMATION

Chandler Allen
Business Development Specialist
720-407-0607
Chandler.allen@bia.gov

Payton Batliner
Business Development Specialist
720-407-0674
Payton.batliner@bia.gov

Website: www.bia.gov/DEMD