

**TESTIMONY BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS  
HEARING ON INDIAN UNEMPLOYMENT  
THURSDAY, JANUARY 28, 2010**

Submitted by:  
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Mr. Chairman and members of the Committee, My name is Conrad Edwards. I am a member of the Colville Confederated Tribes of Washington State, president of the Council for Tribal Employment Rights, and Chairman of the Advisory Board of the Native Construction Careers Institute (NCCI). Thank you for holding this hearing today on Indian unemployment and inviting me to testify. We hope it will be remembered as the beginning of a sustained effort to eliminate the unacceptably high unemployment rates that have plagued our reservations for far too long and have caused so much pain, suffering and loss of hope, particularly among our young people.

Chairman Dorgan, I would also like to thank you for your key role in getting funds for Indian construction worker training included in the Stimulus bill. Those funds were critical in enabling NCCI to expand from a pilot program to a full-scale program now operating on reservations in five states, and soon to expand beyond that. Finally, thank you for participating in the press conference announcing the launch of NCCI this past September. The inspiring words at the press conference from you and Congressman Dicks were the highlight of our launch.

Last week, NCCI sponsored a roundtable on Indian jobs creation at which 30 representatives from the White House, Federal agencies, Congress, tribes, unions and Indian businesses spent half a day brainstorming on innovative approaches for increasing Indian employment on reservations. In my testimony, I will first provide background on NCCI, describe some of the successes we have had working with tribes, and then discuss the recommendations that came out of the roundtable. We believe that many of them would be appropriate for inclusion in any Indian package that is developed for the large Jobs Bill now under consideration in the Senate. Other recommendations may be appropriate for a stand-alone Indian Jobs Bill if the Committee decides to take that route in addition to or in lieu of the larger Jobs Bill

**Background on NCCI**

NCCI is a unique partnership between Indian tribes and construction unions. Our mission is to create careers that provide good wages, fringe benefits, and pensions in the construction trades and other business sectors for Indians living on reservations, particularly those reservations that suffer from high unemployment. NCCI is a division of the Council for Tribal Employment Rights (CTER), a reservation- and community-based national non-profit corporation representing the interests of 300 Tribal Employment Rights Offices (TEROs). NCCI was founded by CTER, the Building and Construction

Trades Department (BCTD) of the AFL-CIO, and 14 national construction trade unions. Its Board of Advisors is comprised of the general presidents of those 14 unions, Mark Ayers, the president of BCTD, the executive board of CTER, and tribal leaders from around the country, including the Honorable Myra Pearson, chair of the Spirit Lake Tribe in North Dakota. I serve as chairman, Mr. Ayers serves as vice-chairman.

I know there are tribes that are concerned about labor unions organizing the casinos on their reservations in violation of tribal sovereignty. I want to emphasize that NCCI is composed of the construction unions only, which have no interest in using their presence on reservations while participating in NCCI activities to try to organize casinos or other tribal operations. But most importantly we have pledged in the NCCI Charter to respect tribal sovereignty and Indian preference and the unions agree to do so in every agreement they enter into with tribes. Our experience has been that the construction unions are fully respectful of tribal sovereignty and assist tribes to strengthen that sovereignty.

### The NCCI Programs

NCCI presently operates two different programs. The first, our training program, was designed to help Indians get started in the construction trades. The second, educating tribes and unions about the benefits of Tribal Project Labor Agreements, was established to create the ongoing reservation opportunities the trainee graduates need to establish long-term careers in the construction trades. I will briefly discuss each of these programs.

#### A. The NCCI Training Program

The NCCI training approach consists of the following elements:

1. On-Reservation Training. The training must be provided on the reservation on actual tribal projects at game speed. We believe on-reservation training has the highest success rate and insures that the graduates will continue to work on or near their reservations, thereby enhancing the economy of their reservation.
2. Union-Quality Training. The training is provided by a union-recommended trainer who understands what the construction industry demands of its workers, though the trainees are not required to join the union to participate.
3. Short-Term Training Programs. The training is limited to 300 hours since the trainees only receive a stipend and we want to get them into the workforce and earning good wages as soon as possible.
4. Training Focused on Skills Needed for Available Jobs. To get the trainees into the workforce quickly but also insuring that they are successful at their first job, the training focuses on giving the trainees the specific skills they need to be qualified for jobs on a project that the TERO has identified as starting up soon after they complete their training. For example, on the Blackfeet Reservation, the TERO identified several large wind farm projects that would soon be starting near the reservations. These wind farms require a large number of concrete finishers to lay the foundations for the wind towers. NCCI provided the trainees with a 300 hour course in concrete finishing. The

graduates received a certificate and were quickly hired by the wind farm contractors. This was two years ago and many of them are still working for those contractors.

5. Immediate Placement Upon Graduation. The trainees, upon graduation, are quickly placed on jobs for which they have been trained, through a joint effort by the TERO and the respective unions.
6. Union Education, Not Mandatory Union Membership. The trainees are not required to join a union. However, they are educated about unions and informed about how, if they join a union, they can be classified as an advanced apprentice, receive continuing training paid for by the union to help them become journeymen, use the union hiring hall when there are no jobs on the reservation, and receive the union fringe benefits, including health insurance and pensions. For those trainees interested in joining the union, the TERO and the unions try to place them on union projects upon graduation.
7. Tribal Sovereignty. NCCI will not begin a project on a reservation until the Tribal Council has enacted a resolution authorizing NCCI to operate on the reservation. This is done both out of respect for tribal sovereignty and recognition that projects cannot succeed on reservations without the support and involvement of the elected tribal officials and other tribal resource programs.
8. Coordination of Tribal Programs and Resources. NCCI synergistically brings together the various tribal programs on the reservation to provide the trainees with the support they need to succeed. The TERO provides overall coordination, along with recruitment, screening, and placement upon graduation, the 477 or other job training program provides stipends and tools, social service programs provide transportation and day care, the housing authority provides building materials for the trainees' projects that involve renovation of houses. It has been inspiring to see how these different tribal programs have come together in a cooperative manner on every reservation on which NCCI has worked. We believe that this happens because all of them recognize how much sense the NCCI approach makes as a way of creating careers for their tribal members, while stretching tribal resources.
9. Helping the Community. The NCCI trainees learn through hands-on experience working on an actual project that will benefit the community when completed. On the Blackfeet Reservation, the trainees learned by taking a boarded up old housing belonging to the Housing Authority and completely renovating it into a beautiful home for a family. On Spirit Lake, the NCCI trainees renovated a dilapidated old commercial building owned by the Tribe, increasing its value from \$200,000 to \$1.5 million. As I will discuss in more detail below, on the Fort Berthold Reservation, the NCCI program will be renovating an old indoor horse arena so it can be used year round for equine assisted therapy, which has proven so successful in treating young Indians with emotional problems.
10. Entrepreneurship. If we are to increase Indian employment on reservations, we need to help Indians develop small businesses as well as become qualified workers. For this reason, we include an additional 100 hours in each of our

NCCI program training programs for entrepreneurial training, teaching the trainees how to bid, estimate, order materials, etc. At the Spirit Lake Reservation, four of the graduates decided to set up their own subcontracting companies. One became a general contractor and three became subcontractors. Together they bid and won the contract to renovate the tribal offices and are now working on that project.

NCCI began in 2008 with two pilot projects, one on the Blackfeet Reservation and one on the Spirit Lake Reservation, with funding provided by the Office of Indian Energy and Economic Development (IEED) in the Department of the Interior. In 2009, Congress included funding in ARRA for seven more projects, the Federal Highway Administration has transferred funds to IEED for five projects that focus on highway construction, and Congress provided funding in the FY 10 Interior Appropriations Act for two more. With these various funds, NCCI has completed projects on the Cheyenne River and Wind River Reservations, is just beginning projects with the Three Affiliated Tribes and the Crow Tribe, and in the coming months will be starting training programs with the Shoshone-Paiute Tribes of the Duck Valley Reservation, with the Colville Tribe, the Ho Chunk Tribe of Wisconsin, the Lummi Tribe, and another project at Blackfeet and at Spirit Lake. In addition, the Cheyenne River Sioux Tribe hired NCCI to deliver a program using its own funds.

## 2. NCCI's Tribal Project Labor Agreement Program

The NCCI training program described above helps the trainees get started in the construction industry. However, in order for them to develop construction careers that provide steady employment, health insurance and pensions, they will need the additional training and additional hours on the job required to become certified journeymen, which is the gold card in the construction industry. They will also need a way to obtain work off the reservation when there is no work on it, and will need a way to have consistent health insurance and to build a pension that will permit a comfortable retirement.

The answer has two parts. First the workers need to join the union, since it pays for the training needed to become journeymen, issues journeyman certificates, and operates health insurance and pension programs for its members. But if the workers are going to be able to continue to live on the reservation, which most do, there also needs to be a steady supply of union work on the reservation.

The way to accomplish this is for tribes to consider making all or most of the construction projects on their reservations union projects by entering into Tribal Project Labor Agreements (TPLAs) with the unions. Project Labor Agreements (PLAs) are the standard agreement unions and either the owners or contractors on a building project enter into to make a project a union project, in return for no-strike and other commitments. Except in a right-to-work state, once a PLA is entered into, all workers on that project must join the unions signatory to the PLA. Last summer, President Obama issued an Executive Order declaring that PLAs were permissible on Federal construction contracts and GSA has

issued draft regulations strongly encouraging Federal agencies to enter into PLAs on large Federal projects.

Until recently, PLAs on reservation projects were rare, largely because of the historical hostility between tribes and unions. However, ten years ago, CTER and the Laborers Union jointly developed the Tribal Project Labor Agreements (TPLAs) approach that was modeled after PLAs but that placed under the sovereign jurisdiction of tribes such key issues as wages, benefits, training, Indian preference, prohibitions on strikes, dispute resolution, giving tribal members who did not want to join the union the right to opt out, and an obligation on the part of the unions to bring Indian workers to off-reservation projects once the on-reservation project was completed.

In 2001, the Tulalip Tribe entered into the first TPLA containing these terms for the construction of its new hotel and shopping center. Of the 2 million labor hours worked on this project, over 70% were worked by Indians, many received the training needed to become journeymen, and many stayed with the contractors and unions after the project was finished and went with them to work on such projects as the construction of the Seattle transit system, Seahawk Stadium and other projects in the area. Others stayed on the reservation to become part of the maintenance team of the tribal facilities. As a result, the TPLA both created immediate jobs for Indians and served as a springboard for long-term careers for those who wanted to pursue that opportunity.

Since then, tribes in seven other states have entered into TPLAs. NCCI has recognized that TPLAs are an important additional component to its efforts to create careers in the construction trades for Indians, in addition to training. By entering into TPLAs for construction projects on their reservations, tribes and Federal agencies can provide NCCI trainee graduates and other workers with the same opportunity to put in enough hours on union jobs to become journeymen, to develop union seniority so they can get placed on jobs off-reservation when there is no work on the reservation, and so they can have health insurance and pensions. However, the decision has to be made solely by the tribe pursuant to its sovereign authority, not imposed from outside.

With some of the FY 10 funding provided by Congress, NCCI applied for and has received a grant from IEED to educate tribes about TPLAs and to assist those that decide TPLAs are beneficial to negotiate them with the unions. NCCI will also be educating the Federal agencies that award construction contracts or grants on reservations about TPLAs, so they will be responsive if a tribe requests that a Federal or Federally funded project on its reservation be carried out under a TPLA. The funding for the TPLA initiative is just being put in place, but as discussed below, two tribes have already begun discussions with NCCI about TPLAs on their reservations, including one in North Dakota.

### 3. Examples of NCCI Activities on Reservations

Our NCCI team spent last week on the Fort Berthold Reservation working with the Three Affiliated Tribes to start up the first NCCI project for that Tribe. Senator Dorgan, I think

you will be pleased to learn that this project is training tribal members to work on the construction of the Elbowoods Memorial Health Care Facility that you worked so hard to obtain funding for. As has been the case on the other reservations on which NCCI has worked, representatives from a wide range of tribal programs came together to develop the plan, with each contributing an important piece. The TERO will serve as the single point of contact between the Tribe and the NCCI coordinator, will advertise for and select the trainees, and will use the TERO ordinance to insure they find jobs upon graduation; the 477 program agreed to provide funding for stipends and tools; the contractor building the Elbowoods facility assisted in determining what skills would be needed and agreed to hire the graduates; and our NCCI team, composed of our NCCI coordinator and union representatives, shared with the group the lessons NCCI has learned on other reservations.

One new element NCCI is exploring is the use of equine assisted workforce readiness programs so that the trainees not only develop construction skills but also the work ethic needed to be successful in any job. The Three Affiliated Tribes' 477 program, which has been doing pioneering work in taking equine assisted techniques developed in the non-Indian world and merging it with elements that build on the deep spiritual ties Indians have to horses, offered to provide that element to the NCCI training program. However, the only indoor horse arena on the reservation is not winterized and is badly in need of rehab work. As a result, the team decided to use that facility as its training site and Marion Construction, the Indian-owned contractor who is building the Elbowoods Health Facility agreed to donate materials. As a result, not only will the trainees be learning construction skills but they will be rehabbing the arena so the Tribe will be able to provide the equine assisted work readiness and therapy programs all year round.

The experience at Three Affiliated demonstrates some of the key aspects of the NCCI approach in action. It shows how supportive the Tribal Council is to participate in a program that will train its young people right on the reservation. It shows how the various tribal programs enthusiastically came together to contribute important pieces to the program. The decision to use rehabbing of the horse arena as the training site is an example of the creativity we have seen tribes consistently bring to NCCI projects – which shows what happens when you let each tribe design its own approach rather than telling it to follow a cookie-cutter approach developed in Washington.

With help from our NCCI team, the Three Affiliated Tribes is also exploring the other component of the NCCI approach, in that it is considering the possibility of entering into a Tribal Project Labor Agreement on another large construction project that will start up this spring. If the Tribe decides to go ahead with the TPLA, (and it is still under discussion) it will mean that for that project, the unions will be training the Indian apprentices on their own dime.

After finishing up at Three Affiliated last Wednesday, our team drove to the Crow Reservation to work with that Tribe. The experience there was virtually identical to that at Three Affiliated. The different tribal programs came together with excitement and creativity to design a program that will prepare tribal members with the skills they will

need to help build the \$7 billion Crow coal to liquids plant now on the drawing boards. That Tribe is also exploring the use of TPLAs on upcoming near-term projects in order to provide an additional route for preparing its workforce for the coal to liquids plant.

## RECOMMENDATIONS

I have divided our recommendations into two parts. The first are recommendations specific to NCCI. The second are the recommendations that came out of the Indian jobs creation roundtable we sponsored last week.

### **A. Recommendations for NCCI**

#### **1. NCCI Construction Worker Training**

Where does NCCI go from here with its training and TPLA components? We think the answer is that it keeps doing what it has been doing – working on a tribe-by-tribe basis. We know there is sometimes a tendency to want to take a successful program and make it a national one that is implemented on every reservation through a directive from some Federal agency. We believe a rapid expansion of the NCCI approach would be fatal. As I tried to indicate above, each project has been tribal-specific, developed by the Tribe to tap its strengths and creativity, with some assistance from our NCCI coordinator. This kind of development is not amenable to a cookie-cutter approach.

When the TERO program was first started up in 1977, we began by working with ten tribes. A year later, after they had successfully developed their TEROs, we worked with an additional ten tribes, and the same the third year. Today there are 150 tribes that have TEROs and an equal number of Alaska Native Villages, but it grew to this size slowly, based on the individual decision of a tribe to proceed with establishing a TERO. We want NCCI to grow in this same organic way. Many of the reservations on which NCCI has operated the initial project using Federal funds have gone on to allocate their own funds, generally from the revenue generated from TERO fees, to hire NCCI to provide additional training. Thus, like the original TERO program, NCCI is teaching a process that becomes self-sustaining after the Federal funds have been expended. We therefore believe that new Federal funds for NCCI training should be used to focus on new tribes that have not yet been exposed to the NCCI approach. NCCI is requesting that \$1 million in funding be included in the Jobs bill to enable us to initiate projects on ten new reservations in the coming year.

#### **2. Expanding the NCCI Approach into New Business Sectors**

Secondly we have begun to explore other business sectors beyond construction in which tribes and unions can work together to create new jobs on reservations, focusing on areas that can be self-supporting. We have identified two areas with that potential.

- a. The first is training to enable Indians to become home health aides and assisting some of the trainees to establish their own home health businesses. This will provide much needed care to the sick and the elderly on reservations,

reduce health costs, and be sustainable because much of the service they provide is covered by Medicaid or Medicare. Several of our participating unions have expertise in this area and have offered to work with us on the training.

- b. The second is training in the forestry industry to assist the brave Indians who put their lives on the line fighting forest fires to develop long-term careers in the forest sector – in the forests, in technical jobs, and in administrative and management jobs. Again, several of our union partners have offered to work with us in such an initiative, which will ensure the workers will have health insurance and pensions – something forest fighters presently lack even if they have been fighting fires for 30 years.

NCCI is requesting \$600,000 to enable it to pilot three projects in each of these two sectors.

### 3. A Center for Indian Jobs Creation

While job creation on reservations is so critical, there is no organization or center that is focused on this issue. There are organizations devoted to Indian business development, health care, education, energy, etc., but none for jobs. We believe that NCCI is uniquely equipped to perform this role because it is a partnership between tribes and unions and because it is the only national Indian organization devoted solely to job creation.

Activities of the proposed center would include sponsoring regular Indian job creation roundtables like the one we held earlier this month (which the participants found to be valuable), developing new approaches for job creation, evaluating existing programs, such as Federal job training programs on reservations to determine ways they can be improved, and keeping a focus on this important issue which too often, in the past, has gotten lost. NCCI is seeking \$500,000 in the Jobs Bill to start up this Center.

### 4. Authorizing a Tribal-Union Partnership

NCCI has submitted proposed bill language to the Committee that would authorize annual funding to a tribal-union partnership. This would be similar to the bill this Committee marked up authorizing a program similar to the Ironworkers Indian training program. A copy of the proposed language and explanation is at Attachment B.

### **B. Jobs Bill Recommendations from the January 14, 2010 Roundtable**

The 30 representatives at the NCCI January 14, 2010 representing Congress, the White House, Federal agencies, tribes, unions and the Indian business community produced a range of recommendations for fostering job creation on reservations. Some of these involve appropriations, others involve administrative changes which could be addressed in the Indian Jobs Bill the Committee is considering. The recommendations are summarized below. The initial report from the roundtable, containing more detail on these recommendations is attached to this testimony.



## 1. Appropriations Requests

- a. Infrastructure Funding – Many of the participants emphasized that economic development requires a better infrastructure than is found on most reservations. Proof of that is on the Fort Berthold Reservation. If the members of the North Dakota Congressional Delegation had not fought for funding for the new bridge across the Missouri River west of New Town, the oil boom would have been severely hampered because the large tanker trucks carrying the oil from the Reservation to the refineries would have had trouble crossing the old narrow bridge that the new one replaced. Infrastructure development also creates construction jobs that will tie into the NCCI programs described above. Therefore, we urge Congress to include as much funding as possible for reservation infrastructure development in the Jobs Bill.
- b. Green Jobs – President Obama has made creation of green jobs one of his priorities, but the existing and proposed programs are not adequately serving Indian reservations. The Department of Labor, using ARRA funding, issued a solicitation for green jobs projects called Pathways Out of Poverty that involved partnerships among low-income communities, unions and educational institutions, which are perfect for reservations, particularly those participating in NCCI programs. Yet of the 55 projects DOL funded, only one was on a reservation. President Obama has proposed tax credits to encourage homeowners to weatherize their houses. While this is probably a good approach elsewhere, it will have little impact on reservations where few people own their own homes or have enough income to make a tax credit of any use. We therefore urge Congress to appropriate \$75 million in the Jobs Bill to DOL for green job projects. In order to get the funding out quickly, Congress should direct that DOL use half of that money to fund green job proposals from reservations that were submitted but not funded under the solicitation mentioned above.
- c. Small Business Development – Small businesses create 70% of the jobs in this country, but there are an insufficient number of small businesses on most reservations. To promote small businesses, we urge Congress to include funding in the Jobs Bill for:
  - i. Pilot projects to promote Indian small businesses in such promising areas as green jobs, agriculture, the provision of equine assisted therapy, forestry and home health.
  - ii. Small business development around opportunities that are already occurring, such as the oil and gas development on reservations such as Fort Berthold that are experiencing oil and gas booms, and small Indian construction companies on reservations that will be having major construction, such as Crow, which will soon be building a \$7 billion coal to liquids facility.
  - iii. Tribal entrepreneurial assistance centers located on reservations. CTER will be submitting its comments on the legislation referred to the Senate by the House on the creation of such centers.

- iv. Increasing the loan guarantee ceiling for the BIA loan guarantee program to \$300 million.
- v. Funding to the Department of Commerce to establish a surety bond guarantee program.

## 2. Authorization Requests for the Indian Jobs Bill

a. Streamlining – Many of the participants in the roundtable urged that Congress streamline the existing BIA system for obtaining business leases, oil and gas permits, and other job-creating activities. While the TERA legislation was an effort to do this, it has not been used by a single tribe in the five years since it was enacted, largely because it created a process that is as difficult to work with as the one it was trying to replace. A better one that actually streamlines needs to be developed.

b. A Jobs Mentality in the Federal Government – Indian unemployment and the hopeless it creates on reservations is a major cause of the high suicide rate among Indian youth. On the budget side, Indian unemployment costs the Federal government hundreds of million dollars or more a year. Yet Federal agency officials and tribal administrators running Federal programs resist efforts to use those programs to promote employment. Contracting officers and facilities construction administrators resist the use of Tribal Project Labor Agreements (TPLAs), are lax in enforcing Federal laws mandating Indian preference in contracting and employment (such as the Buy Indian Act and Section 7(b) of the Self-Determination Act), and they never think about the job and career implications of a project. They see their responsibility as that of producing the most bricks and mortar or other product, even if it means sacrificing the Indian job creation benefits of the program. For the reasons set out above, this is penny-wise, pound foolish, but it is understandable why these officials take this approach, since they have received no different guidance from their agencies. Tribal directors of programs, particularly those receiving Federal contract or grant funds, have the same attitude. To change this attitude and the funds it wastes in the long term, Congress should consider enacting legislation that directs every Federal and tribal agency engaged in an activity on or near a reservation involving Federal funds, when developing a contract or grant, to consider:

- 1) how can it be used to help Indian employment through the development not just of jobs but of long-term careers; and
- 2) how can it be used to help promote Indian businesses?

In sum, Congress should require an Indian Jobs Impact statement, an informal version of an Environmental Impact Statement, on each project funded by a Federal agency on or near a reservation. It should also designate a lead agency to develop consistent practices and to monitor compliance. Whatever small incremental costs this might cause will be more than offset by the savings that will accrue to the Federal budget through the reduction of reservation unemployment.

c. Better Coordination among Federal Programs Involved in Indian Economic Development and Job Creation

A key point of the Roundtable was the need for better cooperation and integration among the Federal agencies. Among other things, this should involve rethinking how Indian manpower training money is used. Right now there is little connection between how those programs operate and how other economic development programs operate. Manpower training programs, along with SBA programs, Rural Development programs, BIA programs, etc. operate in isolation. Tribes need to be allowed and assisted to treat all of these programs as a single pot for economic development, with the requirement that they focus on creating long-term Indian careers and businesses on reservations. There is a need to explore expanding the self-governance concept to agencies other than just the BIA and IHS so tribes can set their own priorities and combine funds to accomplish those priorities.

NCCI would be honored to have an opportunity to work with the Committee to convert these ideas into legislative provisions that could be included in an Indian Jobs Bill.

Conclusion

In conclusion Mr. Chairman and honorable members of the Committee, it is with hope our organization looks forward to working with you and being an integral part of this important legislation because it promises to be responsive and responsible to the tribal employment needs, values and priorities. Additionally, this initiative comes at a critical time in tribal social and economic development, a time when we are transitioning from grants-driven economies to diverse capital economies. Now that we have established strong tribal governments and viable tribal businesses and industries, it is time for us to establish a strong and viable tribal private sector comprised of tribal small businesses as the final element in our self determination foundation. This legislation provides the vehicle to get us to the next level of development. On behalf of the Council for Tribal Employment Rights, the Native Construction Careers Institute, our construction trades union partners, and our respective memberships, I thank you for the time and opportunity to share our perspective on Indian/Native job creation and I have done so today for all my relations.

**RECOMMENDATIONS FROM THE JANUARY 14, 2010  
ROUNDTABLE ON INDIAN JOBS CREATION**

I. Short Term Administrative Actions

A. Develop a Jobs Creation Mentality within Federal Programs through the Establishment of an Indian Jobs Impact Statement Requirement, enforced by the Office of Federal Contract Compliance Programs (OFCCP, in DOL) in Conjunction with SBA.

Addressing Indian unemployment is an urgent life and death matter as well as a Federal budget issue. Indian unemployment and the hopelessness it creates on reservations is a major cause of the high suicide rate among Indian youth. On the budget side, Indian unemployment costs the Federal government hundreds of million dollars or more a year. Yet Federal agency officials and tribal administrators running Federal programs resist efforts to use those programs to promote employment. Contracting officers and facilities construction administrators resist the use of Tribal Project Labor Agreements (TPLAs), are lax in enforcing Federal laws mandating Indian preference in contracting, and employment (such as the Buy Indian Act and Section 7(b) of the Self-Determination Act), and they never think about the job and career implications of a project. They see their responsibility as that of producing the most bricks and mortar or other product, even if it means sacrificing the Indian job creation benefits of the program. For the reasons set out above, this is penny-wise, pound foolish, but it is understandable why these officials take this approach, since they have received no different guidance from their agencies. Tribal directors of programs, particularly those receiving Federal contract or grant funds, have the same attitude.

To change this attitude and the funds it wastes in the long term, every Federal and tribal agency engaged in an activity on or near a reservation involving Federal funds needs to be required, when developing a contract or grant, to consider:

- 1) how can it be used to help Indian employment through the development not just of jobs but of long-term careers; and
- 2 ) how can it be used to help promote Indian businesses?

Whatever small incremental costs this might cause are more than offset by the savings that will accrue to the Federal budget through the reduction of unemployment.

Immediate Action Steps The Administration Can Take

1. Give OFCCP and SBA the authority to require Federal agencies to develop an Indian Jobs Impact statement, an informal version of an Environmental Impact Statement, on each project funded by that agency on or near a reservation, and for OFCCP and SBA, in conjunction with TEROS, NCCI, Indian Timber Counsel,

Intertribal Agriculture Council, or other appropriate Indian intertribal organization, to work with the agency to help it maximize Indian job and business creation. Management should be evaluated on its performance in this regard, just as evaluating Federal managers on the basis of their compliance with affirmative action was the most important step in promoting diversity.

Examples of actions OFCCP, with help from SBA, could take:

- a. Construction
  - a. Require the agency, in conjunction with NCCI and OFCCP, to consider using a TPLA on every project, whether a direct Federal project or one funded through a grant to the Tribe. This needs to be done only with the tribe's full involvement and consent so there is a need to educate tribes about the benefits of TPLAs;
  - b. In conjunction with each TPLA entered into, provide funding out of DOL discretionary job training funds or other sources, for NCCI type training, to assist Indians to prepare for work on the project and learn about careers in construction.
  - c. Section 7(b) and the Buy Indian Act mandate preference in contracting, subcontracting and employment on all Federal contracts for the benefit of Indians. It has largely been ignored by the agencies. Give OFCCP government wide authority over 7(b) enforcement, working with the TEROs.
  - d. Involve SBA, in regard to Indian preference in contracting and subcontracting, to help the agencies weed out fronts since the agencies do not have the expertise or time to adequately do so, and to provide technical assistance to the businesses receiving preference so they use the preference opportunity to become viable companies.
- b. Forestry – When DOI and USFS spend money on forest and natural resources activities on or near reservations, they should be required to work with the nearby tribe, the Intertribal Timber Council, SBA, and others on creating Indian forestry businesses to perform the work.

There likely are many other ways Federal procurement activity on and near reservations can be used to promote Indian employment and business development if that mindset is created within the Federal agencies and tribes.

## B. SBA

1. SBA, in conjunction with tribes and tribal companies, should develop ideas on how to use of the special rights that tribal/ANC 8(a) companies have to sole-source contracts in ways that create jobs on and near reservations, such as surveying Federal agencies to find out what contracts can be performed on reservations. When contracts that have the potential to create reservation jobs are identified, SBA should work with the relevant Federal agency to set those aside for tribal 8a firms. Examples include certain DOD and HHS information technology contracts that can be performed remotely, such as converting paper records to electronic formats.

2. Encouraging successful tribal/ANC 8(a) firms to train Indians in management through intern programs and incentivizing them to use reservation-based, Indian-owned subcontractors.

### C. Low-Hanging Fruit

Many comments at the roundtable talked about the need for any new initiative to look for opportunities, rather than feeling it had to treat all reservations situations as equal. One way to do this is to focus whatever discretionary funds can be made available on “low hanging fruit”. While most agencies’ funding is restricted to formal grant programs, it is possible to move money around to fund the low hanging opportunities through Interagency funds transfers. Low hanging fruit includes:

1. Provide funds to develop and implement strategic plans at tribes that are or are about to experience economic booms such as the Crow Tribe’s coal to liquid plant or Three Affiliated Tribes’ oil and gas boom to ensure those booms result in long-term careers for Indian workers and long-term viability for Indians businesses, rather than simply creating a bunch of unskilled short-term jobs that leave the reservation in a “bust” mode once the boom is over, as has been the case for past booms on various reservations.
2. Fund pilot projects in promising areas of jobs/business development directing/encouraging the respective agencies to fund five (5) pilot projects in these areas, each of which was highlighted by participants at the Roundtable:
  1. Forestry (USFS and DOI)
  2. Agriculture, such as grassfed beef (USDA)
  3. Home health aides (HHS)
  4. Equine related programs to promote wellness and workforce readiness, while creating jobs (HHS and USDA)
  5. Information technology

### D. Streamline the Approval Process

1. Require EPA to recognize that, like China and the developing world, tribes did not create global warming and it is unfair to now penalize them by denying them the opportunity to build significant job creating projects, particularly when they are finally moving from passive lessor to owner. The Administration should give priority to approving the permits of such projects as Desert Rock (Navajo), the TAT refinery, and the Crow coal to liquids plant.
2. Pilot tribal development of strategic plans that focus on creating enduring, sustainable careers and businesses, with intensive technical assistance and broad flexibility through Federal willingness to waive requirements that create barriers.

## II. Long-Term Administrative Changes

A key point of the Roundtable was the need for better cooperation and integration among the Federal agencies. Among other things, this should involve rethinking how Indian manpower training money is used. Right now there is little connection between how those programs operate and other economic development programs operate. Manpower training programs, along with SBA programs, Rural Development programs, BIA programs, etc. operate in isolation. Tribes need to be allowed and assisted to treat all of these programs as a single pot for economic development, with the requirement that they focus on creating long-term Indian careers and businesses on reservations.

### III. Authorization and/or Appropriation Legislation

#### A. The 2010 Jobs Bill

Ask Congress for the following funding in the Jobs Bill:

1. Green Jobs – Appropriate \$100,000 million to DOL ETA to fund Green Jobs initiatives. Given the important role green jobs will place in the future economy and the high priority given to such jobs by the Administration, it was disappointing to learn that DOL's Pathways Out of Poverty (POP) Green Jobs grant program only funded one Indian program, notwithstanding a large number of applications from Indian tribes and organizations. In addition, the President's proposal to use tax credits to promote green jobs will produce minimal benefits on Reservations. Of the \$50 million, half should be allocated to funding proposals already submitted under the POP solicitation, in order to get the money out there quickly.
2. Provide SBA's Office of Native American Affairs with \$5 million to:
  - a. Fund reservation-based Tribal Business Assistance Centers and incubators; and
  - b. To fund the development of pilot projects to create Indian businesses that will employ reservation residents in high opportunity areas such as forestry, home health, energy, and equine assisted therapy and wellness.
3. Loan guarantees – Increase ceiling for BIA loan guarantee program to \$300 million.
4. Fund a surety bonding guarantee program at Department of Commerce.
5. Fund as much reservation infrastructure as the Jobs Bill will permit, since reservations need a viable infrastructure in order to have a viable business sector.

**Indian Jobs Creation Roundtable**  
**Thursday, January 14, 2010**  
**Hosted by: Council For Tribal Employment Rights (CTER)**

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**Proposed Language That Would Authorize A Program  
Involving A Partnership Between Tribes and Unions and Explanation**

**AN ACT**

To authorize the Secretaries of the Interior and of Labor to provide annual grants to partnerships of tribes and unions to assist Indians develop long-term careers in the construction trades.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assemble;

**SECTION 1. NATIVE CONSTRUCTION CAREERS INSTITUTE**

- (a) In General – To the extent funds are made available for this purpose, the Secretary of the Interior, acting through the Office of the Assistant Secretary for Indian Affairs, and the Secretary of Labor, acting through the Office of the Assistant Secretary for Employment and Training, shall annually provide grants to or enter into contracts with a national partnership between ten or more construction trade unions and Indian tribes or intertribal organizations that:
- (i) assists Indians develop long-term careers in the construction trades as workers and contractors through the provision of on-reservation training programs and other activities; and
  - (ii) promotes cooperative efforts between construction unions and Indian tribes generally.

**EXPLANATION**

Many Indian reservations continue to suffer from unemployment rates in excess of 50%. The single largest economic sector on these reservations is construction. However, too few Indians have been able to develop long-term careers in the construction trades, even though these trades offer good wages, health insurance and pension plans. The major barriers have been (1) the absence of consistent training in the construction trades that leads to certification that is recognized in the industry, and (2) the ability of the Indian workers to find jobs off the reservation when there is no construction work in their craft on the reservation.

The construction trade unions are the recognized experts in providing training leading to journeyman status, and the unions have the ability to place Indian workers off of the reservation when there is no work on the reservation. In the past, the relationship between tribes and unions has too often either been non-existent or negative. In order to encourage unions and tribes to work together, the proposed legislation authorizes appropriations to union-tribal partnerships to (1) provide on-reservation training, supportive services and career guidance to assist Indians on reservations with high unemployment to develop long-term careers in the construction trades as workers and entrepreneurs; (2) assist tribes to learn more about unions and for unions to learn more about tribes; and (3) develop other innovative ways that tribes and unions can work together to assist the working men and women in this country. Since both the Department of the Interior and the Department of Labor have important roles in promoting Indian employment, the proposed legislation would authorize appropriations to both Departments, leaving it to the appropriations committees to decide which agency or agencies to appropriate funds to for the purposes set out in the draft bill.