

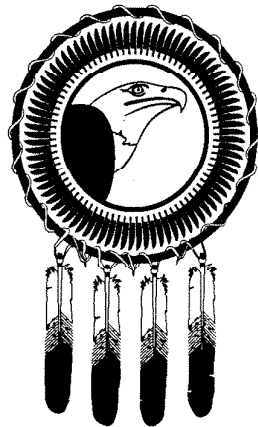
# Malcolm Wiener Center for Social Policy

*A Prototypical Economic Development Corporation  
for Native American Tribes*

by

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American Indian Economic Development

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As American Indian tribes continue their efforts to advance reservation standards of living, many are vigorously pursuing local economic development so as to provide employment and training for their citizens and revenue for tribal government programs. In doing so, a number of tribes have discovered that certain circumstances continue to get in the way of development planning and implementation. Some of these are circumstances over which tribes have little, if any, control; others appear to be rooted in tribal policy, organization, and practice.

This paper describes one organizational approach that can help to overcome certain of these obstacles to economic development: the semi-autonomous, tribal development corporation. The appropriateness of a development corporation for any particular tribe depends to a significant extent on the kinds of obstacles the tribe faces; many tribes, however, may find that a development corporation can help to solve a number of management problems while retaining ultimate control over development in tribal hands.

This paper is divided into three sections. Part I describes several common barriers to economic development on Indian reservations, and explains why an economic development corporation might be an appropriate way to deal with those barriers. Part II outlines in detail what such a corporation might look like: its structure, staffing, powers, responsibilities, and relationship to the tribal council. Part III offers some concluding comments. In addition, three appendices discuss implementation, outline the enterprise development process, and provide a glossary of terms.

## WHY ESTABLISH AN ECONOMIC DEVELOPMENT CORPORATION?

Three of the principal impediments to the development of tribal economies appear to be:

- **The potential for tribal political interference in enterprise operations.** The structure of many tribal governments allows elected officials access to the daily operations of tribally-owned businesses. In addition, the short terms of elective office prescribed by most tribal constitutions politicize nearly all official decision-making, including business decisions, as tribal leaders understandably act to preserve their elected positions. This frequently makes business planning difficult, leads to instability in business management, and places extraordinary burdens on tribal enterprises, discouraging growth and politicizing resources. Successful management of businesses requires some degree of insulation from the often short-term orientation and rapid changes of tribal politics.
- **An uncertain and risky business environment for potential non-tribal investors.** The close association of tribal politics and tribal business, combined with the unique legal status of American Indian tribes, raises the risks to outside investors of conducting business with the tribe. Political instability, the possibility of opportunism on the part of tribal officials, and the difficulty of processing disputes or claims against the tribe discourage would-be investors, placing the tribe at a disadvantage in the competition for capital and expertise that could be devoted to enhancing tribal economies and community welfare.

- **A lack of sufficient indigenous managerial expertise.** The economic and political dependence that many tribes long had — and some still have — on the federal government discouraged the development of managerial expertise or entrepreneurialism among tribal members. Reservation retail sectors have been small or virtually non-existent; the actions of tribal governments have been subject to federal approval; independent Indian decision-making has been difficult. In many cases managerial decisions — in both business and public administration — have been made by the Bureau of Indian Affairs (BIA). Few tribal people have had the opportunity to own or operate business enterprises. For want of exposure, many tribal members lack the skills necessary to contemporary business management and economic success.

One of the striking differences between reservation and other local economies in the United States is that many Indian reservations lack a well-developed private sector. The primary, if not sole, source of capital is the tribal government, which typically is the channel for capital coming onto the reservation from the federal government or private sources. The power to invigorate the economy consequently rests almost entirely in the hands of the tribal government through its capacity to invest or to channel investments by others.

The expenditure of tribal funds on business development or any other program carries with it the responsibilities of prudent investment. It is the role of elected tribal officials to closely monitor the use of those funds. Such oversight by elected officials is both necessary and appropriate for government-run programs such as education and health services, which lack success indicators equivalent to a year-end profit statement. For these programs citizens rely on the

voting booth to express their preferences and their approval or disapproval of government performance in this role.

These systems of checks and controls which motivate tribal officials, while appropriate for certain public programs, are less suited to tribal or private enterprise. Businesses require a stable operating environment and stable management, while governments are subject to rapid turnover and quick changes in policy. This is only slightly less true at the federal and state level than it is at the tribal level, which is one reason why, through more than 200 years of history, the United States has chose to keep government and commerce relatively independent. As a matter of reality, for-profit enterprises, whether tribal or non-tribal, become competitively disadvantaged when business decisions are made according to non-business considerations.

To counter such tendencies, a tribal development corporation ensures (1) that public funds invested in business enterprises serve the interests of the tribe, and (2) that those enterprises have the necessary flexibility and freedom from political interference to be profitable and thereby attract needed outside capital, create and sustain jobs and revenue, and survive for the long term. **The corporation attempts to accomplish these two goals by assuring the tribe of a major role in the setting of long-term business goals and strategy, while preserving to enterprise managers freedom from interference in short-term, day-to-day business decisions.**

As noted above, however, another impediment to development is the lack of indigenous managerial expertise. This is attributable partly to the absence of American Indian commerce in recent tribal history. Successful operation of tribal enterprises may require an infusion of outside — i.e., non-tribal and perhaps non-Indian — business expertise, until tribes can build up sufficient skills and experience among their own members. **A well-designed development**

**corporation should facilitate access to such outside expertise without yielding too much influence to individuals from outside the reservation.**

Finally, the potential for tribal political interference in business operations, coupled with the special legal status of Native American tribes, poses added risks to would-be investors, putting the tribe at a disadvantage in its efforts to attract outside capital. **The development corporation should present outside investors with a stable and reasonably secure investment environment.**

Of course, an alternative to a semi-autonomous development corporation is to have each tribal enterprise report directly to the tribal council or to the tribal chair. In contrast to such an arrangement, which is common on many Indian reservations, a corporation offers a number of advantages:

- It frees the elected council and chair from the time-consuming and burdensome task of detailed monitoring of tribal businesses, allowing those officials to focus on long-term strategy and overall development goals;
- It places such monitoring in the hands of persons — the board of directors of the corporation — specifically chosen for their business skill and knowledge;
- It provides a crucial buffer — again, the board of directors — between enterprise managers and tribal politics;
- It allows the formulation of economic development and business policies that are less subject to changes caused by the cycle of electoral politics, bringing continuity and stability into business management for the tribe.

What follows is a generic model of a semi-autonomous tribal development corporation, designed to achieve these objectives. It is presented here as a prototype. Obviously it can be altered to fit a particular tribe's situation or preferences. However, it is important to recognize the central purpose of the corporation, which is to facilitate economic development by overcoming the obstacles noted above. Changes in the prototype should be carefully considered so as to make certain that they do not undermine the system of checks and balances built into the design, making it impossible for the corporation to accomplish what it is intended to do.

It should be noted also that a development corporation is not sufficient in and of itself to ensure economic development. The effective functioning of the corporation itself depends in some cases on other aspects of tribal organization and leadership. But a well-designed development corporation can contribute significantly to successful reservation development.

## A PROTOTYPICAL TRIBAL ECONOMIC DEVELOPMENT CORPORATION

The concept of the development corporation is that of an organization wholly owned by the tribe but vested with sufficient autonomy to make effective and prudent business decisions. The task of the corporation is to manage and direct those tribally-owned enterprises assigned to it by the tribe, and to explore, where appropriate, new opportunities for tribal enterprise development. The corporation also serves as the business arm of the tribe in cooperative ventures with outside investors or in arrangements for the establishment of non-tribal enterprises on the reservation.

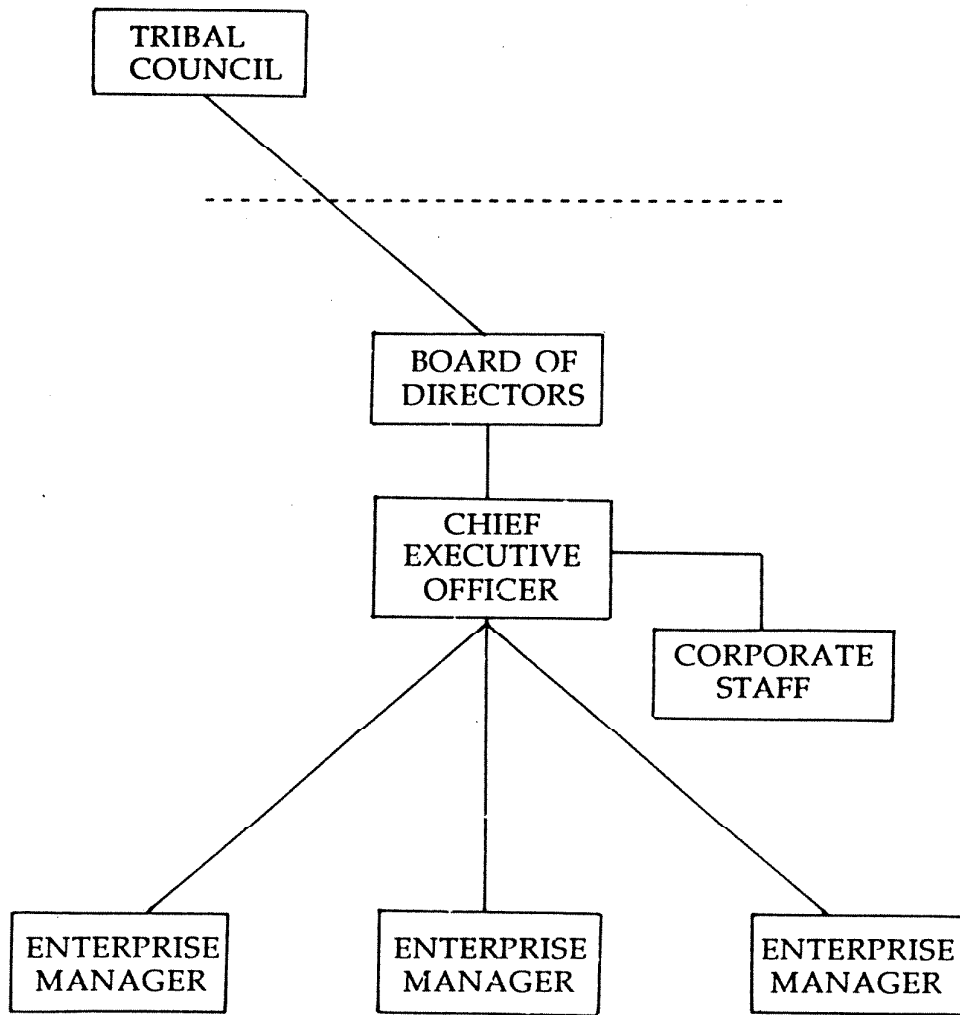
The creation of a development corporation presumably will follow whatever guidelines might be laid down in the constitution or charter of the tribe in question. If there are no such guidelines, the corporation could be created through an ordinance of the tribal government. The problem with creation by ordinance is that a subsequent government could dissolve the corporation simply by rescinding or altering the original ordinance. In other words, creation through the action of the tribal council leaves the corporation vulnerable to political events which might lead the same or a subsequent council to abandon the corporation.

Surely the council should have some say in how the corporation goes about the tribe's business; the task is to make certain that the corporation itself is protected from the the short-term vagueries of tribal politics. The best way to do this is to establish the corporation through the tribe's constitution or charter, usually requiring the consent of a majority of tribal members, so that dissolving it likewise would require the approval not simply of the council but of a majority — perhaps a substantial majority — of the tribe.

The basic organizational chart of a generic tribal development corporation is shown in Figure 1. The corporation consists of a board of directors, a chief executive officer (CEO), tribal enterprise managers, and such additional staff as are necessary to maintain efficient operations. The size of the staff depends on the number and size of the enterprises the corporation has to manage, and on the other activities it may be asked to carry out by the tribe. Some enterprises may be large enough to internalize many of the management services of the corporation. Others will rely almost entirely on corporate staff. A tribe with few enterprises presumably will need little in the way of staff; a tribe with many enterprises to manage may need a larger staff to manage those enterprises effectively.

The following discussion describes the roles and responsibilities attached to each of these entities or positions, beginning with the tribal council, which, while not part of the corporation, typically oversees its activities.

Figure 1. A PROTOTYPICAL TRIBAL ECONOMIC DEVELOPMENT CORPORATION



## I. The Tribal Council

As the body ultimately responsible for tribal governance on most reservations, the tribal council also bears responsibility for overseeing the development corporation. It appoints the members of the corporation's board of directors, approves annual budgets and strategic plans, and puts together an overall economic development plan that specifies the role of the corporation in the tribe's future. The participation of the council in the affairs of the corporation is limited in its frequency but significant in its power. Its role is designed to achieve the delicate balance of giving the corporation sufficient autonomy to operate independently of politics while keeping the corporation accountable to the overall strategic interests of the tribe.

The tribal council is the organ of tribal government that interacts directly with the corporation. It makes those development decisions which are necessarily political, such as development priorities, overall spending levels, and the like.

The council serves two primary functions in the development process. First, it is the source of authority and direction from which the corporation receives its mandate. By setting long-term priorities, formulating an overall development plan, appointing board members, and approving annual budgets, the council sets corporate strategy and assures a good fit with tribal objectives. In effect, it points the corporation in the right direction.

Second, the tribal council demonstrates to the outside world that the tribe is serious about economic development. The council empowers the corporation to make business commitments, and to place tribal assets at risk in the form of investments in tribal and non-tribal enterprises. To demonstrate its commitment, the council may also have to grant limited waivers of immunity for

development projects. Such tribal investments and waivers may be necessary to attract outside financing and talent capable of meeting tribal needs and objectives.

On the other hand, while corporate budgets and plans require annual tribal council approval, day-to-day business decisions are not accessible to the council. This inaccessibility of business decisions is essential if the corporation is to maintain the independence necessary for efficient business management and to attract outside investment.

In the prototypical development corporation, specific duties of the tribal council relative to the corporation are as follows:

#### **I.A. Source of direction and authority**

##### **1. Formulate a long-term development plan**

The development corporation is an integral part of the tribe's economic development strategy. Those who run the development corporation have to know what is expected of them. It is the task, typically, of the tribal council to set long-term development goals, to decide how the corporation can support those goals, and to communicate those decisions to the board of directors of the corporation.

Development goals have to bear the tribe's needs and interests in mind, as well as the accessibility and size of markets for tribally-produced goods and services. In determining what the tribe's needs and interests are, the council may wish to seek tribal members' input through public meetings or by other means.

Among the issues a long-term development plan should consider are the following:

- (1) The relative priority of:

- income
- job creation (quality & quantity)
- training (job, management, investment, etc.)
- provision of goods and services needed by the community
- tax revenue
- stimulation of ancillary businesses
- Indian ownership

(2) The availability of:

- skilled labor
- financial capital
- natural resources

(3) Acceptable levels of:

- capital costs
- tribal liability
- environmental pollution
- natural resource depletion
- presence of non-Indians or non-tribal members on the reservation

(4) Acceptable/unacceptable forms of economic activity.

Through deliberate attention to issues such as these the council formulates general policy in the area of economic development, setting broad guidelines for the activity of the development corporation. The corporation's board of directors and chief executive officer can then decide how to operate within those guidelines.

## **2. Appoint members of the board of directors**

The tribal council appoints the members — usually seven — of the board of directors of the corporation, selecting from a list of nominees provided by the tribal chair and the council itself.<sup>2</sup> The council selects directors based on objective qualifications (see the section below on the board of directors).

The tribal council can remove a board member, but not easily. Removal of a board member requires a two-thirds vote of the tribal council, and must be for good cause. Good cause is limited to impropriety, malfeasance, gross incompetence, persistent absenteeism, or conflict of interest. Directors cannot be removed simply because they do not follow the wishes of the council.

Obviously this is an area of difficulty. The council, which bears ultimate responsibility for tribal welfare, must have some control over the board. On the other hand, the whole objective of the corporation is to insulate tribal enterprise from politics. One can easily imagine a situation in which a board of directors that refused, for example, to alter its financial allocation policies to suit tribal council preference found its recalcitrant members charged with gross incompetence, and ultimately dismissed. The power to remove a member of the board is the most dangerous power the council has vis-a-vis the corporation.

The best protection against such interference is a strong, independent judiciary or personnel grievance procedure within the tribal government. Such truly independent mechanisms of dispute resolution are rare on Indian reservations, which is another reason why economic development often is difficult there. The design of an independent judiciary or some equivalent mechanism is beyond the scope of this paper, but it is important to note that there must be some check on the tribal council's ability to interpret just cause so as to serve its own, short-term political interest. In other words, should a member of the board of directors be dismissed by the council, the board member must have a route of appeal other than to the council. An independent

tribal judiciary that can rule conclusively on the propriety of council personnel decisions would normally be the appropriate body to hear such an appeal.<sup>3</sup>

### **3. Approve budgets and operating plans**

The annual Plan of Operation of the corporation is subject to review and consent by the tribal council. Each year the corporation's board of directors submits for council approval its Plan of Operation for the coming year, including projected budgets, appropriations, major acquisitions, enterprise strategies, and the like. In addition, the council may be asked by the board from time to time to approve or disapprove major changes in those plans as such changes become necessary. The council may also dictate that certain kinds of board decisions always require council approval. For example, the council may wish to retain the power of review over the expenditure of any tribal funds above a certain amount — e.g., \$25,000 — or over all decisions significantly affecting the use of reservation lands, and so forth. However, the sorts of business decisions that require council approval should be as few as possible.

The precise detail of the Plan of Operation, the format of the budget reports, and so on are determined by the tribal council and the board of directors. Appropriation or operating plans may be general or specific, depending on the nature of the enterprise, the perceived level of risk, and other considerations. The council's primary concern, however, should be that the Plan of Operation fit the long-term strategic interests and overall development objectives of the tribe. The level of detail should be only so much as required to meet this general criterion, leaving as much flexibility as possible in the hands of corporation and enterprise managers.

Finally, the review process should be limited to approval or disapproval. The tribal council should not be able to amend, and hence micromanage,

corporation plans. If a plan and/or budget is disapproved, it should be returned to the board of directors, with explanation, for revision. Similarly with occasional decisions regarding major expenditures and the like. For example, the council may approve or disapprove a proposed corporate expenditure of \$50,000 for center pivot irrigation, but it should not attempt to dictate what equipment is purchased, or from whom, or how the equipment is to be used. Allowing the council to amend budgets and plans directly removes business decisions from the hands of those best qualified to make them: the managers of the corporation and its enterprises.

#### **I.B Guarantor of financial commitments**

##### **1. Invest tribal resources in development projects**

Because the corporation is a legal extension of the tribe, all assets of the corporation rightfully belong to the tribe. Consequently, all expenditure and contractual authority of the corporation must be delegated to it by the tribe, that is, in most cases, by the tribal council. Such authority should be granted annually through the Plan of Operation or other budget approval process. Thereafter the corporation should have the authority to invest tribal resources in the manner indicated by the budget.

##### **2. Allow limitations to sovereign immunity.**

Attracting non-tribal private financing may require the tribe to share the investment risk through limited waivers of sovereign immunity. Under a limited waiver the tribe stands to lose its investment should an enterprise fail. Such a waiver can be made only by the tribe, that is, by the tribal council.

## **II. The Board of Directors**

The board of directors serves as the steering committee for the corporation, and bears ultimate responsibility for corporate management. Its tasks are several: to ensure that the operations of the corporation serve the long-term interests and objectives of the tribe, as specified by the tribal council; to serve as liaison between the tribal government and the corporation's chief executive officer; to insulate that officer and corporate decisionmaking from inappropriate interference on the part of the elected government; and to ensure that the operations of the corporation follow sound business practices.

The board also serves as a source of business advice for the tribe, and a source of reassurance to would-be investors. As a multi-member body, ideally composed of individuals with business experience and acumen, and substantially protected from political pressures, the board is well set up to provide the tribe with objective judgments on business issues, and to reassure investors of the predictability of the reservation business environment.

### **IIA. Nature of the Board**

The number of members, their selection, representation, terms of office, and source of appointment, are all designed to give the board maximum stability and competence while keeping it accountable to tribal interests.

#### **1. Number of members**

The board of directors has seven members. A minimum of five of these are members of the tribe, while up to two may be non-members. This division protects tribal interests from adverse outside influences while making it possible

to give a significant managerial role to outsiders whose business expertise may exceed that available within the tribal population.

## **2. Terms of office**

Members serve four-year terms, with staggered appointments made every odd year (nonelection years).<sup>4</sup>

## **3. Appointment**

Board members are appointed by the tribal council. Appointment to the board is based primarily on business experience, acumen, and a commitment to the development goals of the tribe. Especially desirable areas of expertise include business management, economic development, marketing, finance, law, and accounting. No more than one-third of the members of the board (e.g., in a seven-member board, no more than two members) may at the same time serve as members of the tribal council.

## **4. Removal**

A member of the board may be removed by a two-thirds vote of the tribal council, but only on the grounds of gross incompetence, persistent absenteeism, conflict of interest, impropriety, or malfeasance. A board member can appeal dismissal to an independent judicial body.<sup>5</sup> A member of the board may resign at any time.

## **5. Vacancies**

Vacancies are filled by interim appointments made by the tribal council. Appointees serve the unfilled portion of the vacated term.

## **6. Frequency of meeting**

The board meets monthly on a fixed day (e.g., the second Tuesday of every month). Special meetings may be called by the board's chair when necessary. If requested by the chief executive officer of the corporation, the chair is responsible for calling a board meeting within two weeks of receiving the CEO's request.

## **7. Manner of acting**

A simple majority of directors present at a meeting at which a quorum (five members) is present constitutes a decision by the board.

## **8. Officers**

Board members elect from among their number a chair, a vice-chair, and such other officers (e.g., secretary, treasurer) as they see fit. The chair assumes responsibility for calling and running meetings of the board. The vice chair assumes the duties of the chair should that person be absent. The chair may not at the same time be a serving member of the tribal council.

## **9. Compensation**

Directors receive a modest per diem (e.g., \$100) for each meeting they attend, plus reimbursement for the cost of travel to attend meetings. Directors are not salaried and should not serve for the purpose of financial gain.

## **II.B. Powers and Responsibilities**

The primary task of the board is to oversee the operations of the corporation. These operations should follow sound business practices and reflect the strategic interests and objectives of the tribe. It is the responsibility of the

board to see that they do, and to keep the tribal council informed, via regular reports, of progress and problems against these objectives. Where tribal objectives may conflict with prudent business practice, it is up to the board to make clear to the council what the alternative courses of action and their likely consequences are, and to work with the council to resolve such conflicts.

It is the further responsibility of the board to make recommendations to the tribe regarding strategic decisionmaking about both current operations and future opportunities.

### **1. Hiring**

The board selects and hires the chief executive officer of the corporation. Other hiring decisions are the responsibility of that officer.

### **2. Reporting**

The board, in cooperation with the chief executive officer, provides the following reports to the tribal council: an annual Plan of Operation, including budgets; annual audit statements; an annual report describing progress against corporate goals in the past year; quarterly corporate balance sheets and profit and loss statements.

### **3. Planning**

It is the task of the board, in cooperation with the chief executive officer, to establish a Plan of Operation for the corporation each year, and to monitor progress against that plan on at least a quarterly basis.

### **4. Corporate operations**

The board is responsible, along with the chief executive officer, for drafting and submitting to the tribal council the annual Plan of Operation of the corporation; it has the power of review and approval over all corporate expenditures over a sum to be determined by the board (e.g., \$5,000), and below the level requiring tribal council approval (e.g., \$50,000); and it has the power to overrule, should it so decide, decisions of the CEO. However, the CEO should be free to make the vast majority of business decisions without board review.

#### **5. Rule and policy making**

The board has the authority to create and implement a set of bylaws governing corporate operations, and to establish from time to time, in consultation with the CEO, policies necessary to effective operations. The bylaws and policies of the corporation must be consistent with those provisions, constitutional or otherwise, by which the corporation was created, with the constitution or charter of the tribe, and with the overall tribal objectives as determined by the tribal council or other appropriate tribal leadership. The board may propose to the tribe changes in those provisions and objectives, but such changes are appropriately up to the tribe, not to the board. On the other hand, the establishment of by-laws and business policies are appropriately the province of the board of directors of the corporation, not of the tribal council.

### **III. Chief Executive Officer**

The Chief Executive Officer (CEO) is the single most important position in the corporation, and the focal point of responsibility and accountability. As overseer of day-to-day enterprise activities, the CEO to a significant degree determines the success or failure of tribal enterprises. He or she implements the annual operating plans approved by the board of directors and tribal council, and is authorized to make daily operational decisions, including spending decisions, consistent with those plans and with annual budgets. The CEO has to be both competent as a manager and able to understand and appreciate the needs and goals of the tribe. He or she has primary responsibility for hiring enterprise managers and other corporate staff; for delegating authority to members of the staff; for setting, in consultation with the board of directors, operational goals, policies, and procedures; and for organizing and overseeing those business systems found necessary for efficient corporate operations. Enterprise managers report to the CEO, who in turn reports to the Board of Directors.

#### **III.A. Nature of the position.**

The CEO position is designed to give maximum latitude to the CEO so as to facilitate quick and efficient business decisionmaking, while at the same time assuring that corporate operations respect the broad guidelines set by the board of directors and the tribe.

##### **1. Appointment.**

The CEO is appointed by the board of directors. The appropriate criteria for selection are business experience and acumen, the demonstrated skills necessary to assume the responsibilities and powers of the position, and a willingness to operate within the guidelines set by the board and, at a more

general level, by the tribe. Tribal membership may be desirable, but should not be a criterion of appointment.

## **2. Term**

The CEO typically is hired to a multi-year (e.g. three-year) contract with a specified probationary period (e.g., six months).

## **3. Removal.**

The CEO may be removed by decision of the board of directors whenever he/she is in violation of contract or has demonstrated incompetence in the position. The CEO may resign at any time.

## **4. Compensation.**

The CEO should be paid a competitive salary commensurate with other persons of similar skill and experience.

### **III.B Powers and Responsibilities**

#### **1. Management**

The following functions are those which must rest in the office of the CEO to ensure accountability and coordination.

##### **a. Day-to-day business management**

The CEO is the chief operating officer of the corporation, and as such has control over corporate business operations of all kinds. Day-to-day business decisions (e.g., hiring, contracting, payroll, pricing, schedules, and so forth) are the province of the CEO, unless otherwise delegated by the board of directors, and are not the province of the tribal council or other tribal officers.

##### **b. Hiring corporate staff**

The CEO is responsible for hiring such staff as are necessary to carry out the corporation's functions. All corporate staff report ultimately to the CEO.

**c. Operating policies and procedures**

It is the responsibility of the CEO to develop and implement operating policies and procedures for tribal enterprises, including personnel, financial management, contracting, purchasing, marketing, and other areas as needed.

**d. Annual Plan of Operation.**

Each year the CEO submits to the board of directors a Plan of Operation for the corporation and its enterprises. This Plan includes the following items:

- operating budgets
- capital budgets
- production/sales targets
- staffing requirements (including training)
- expense/revenue projections
- reinvestment and profit-sharing plans

The board of directors has the power of review and approval over this Plan.

**e. Accounting for corporate funds**

The CEO is responsible for keeping accurate, up-to-date financial records and accounts of all corporate business, and for hiring or contracting with necessary resources (e.g., a certified public accountant, etc.) to do so. Balance statements should be available to the board on a monthly basis.

**f. Coordination with the Bureau of Indian Affairs.**

It is the responsibility of the CEO to keep the BIA advised of all tribal business activities for which BIA notification is required. The CEO serves as

the conduit through which the tribe makes its business developments known to the BIA. He/she also monitors BIA compliance with any agreements between it and the tribe as they pertain to economic development.

## **2. Hiring tribal enterprise managers.**

The CEO selects and hires the managers of individual tribal enterprises (see the section on enterprise managers below).

## **3. Development planning**

Depending on overall tribal goals and long-term development plans, the corporation may be asked by the council to look for and explore new business opportunities. As the person most immediately familiar with business conditions on the reservation, with the tribe's business capabilities, and with tribal development goals and policies, the CEO is best qualified to oversee such explorations and to initiate planning for new business development. The CEO may hire such staff (e.g., an economic development planner) as efficient planning for new business demands.

When pursuing new business development, it is the responsibility of the CEO to develop a Business Plan that indicates how any new venture will contribute to the achievement of tribal goals. The Business Plan should include:

- i. identification of potential enterprises
  - type of business (agriculture, manufacturing, etc.)
  - type of ownership (tribal, joint)
  - key production factors: capital, infrastructure, labor, and resource requirements
  - facility location

- tribal benefits (fiscal and non-fiscal)
- relationship to long-term development goals

ii. market analysis.

- key market determinants
- market trends
- competition
- market projection

iii. financial analysis.

- projected budget and profits (five years), income, and cash flow, plus balance sheet measures of performance (employment, internal rate of return)
- structure of financing: equity, debt, bonds, loans, grants
- break-even analysis

iv. implementation plan and schedule

All plans for new business development are reviewed by the board of directors and ultimately are subject to approval by the tribal council.

#### 4. Non-tribal enterprise development

Although the CEO's primary concern is maintaining the health of tribally-owned enterprises, he/she also serves as primary contact for non-tribally-owned enterprise development on the reservation, should such development be contemplated by the tribe. As the person most directly involved in business planning, operations, and development on the reservation, the CEO is in the best

position to search out, screen, and evaluate proposals for non-tribal enterprises. Part of the CEO's responsibility is to advise the tribe on such proposals. In the case of proposals deemed acceptable by the tribe, the CEO is responsible for arranging the terms under which the proposed project will be developed. This includes designing plans for technical assistance and financing arrangements intended to attract the project to the reservation. Of course all such development plans are subject to the approval of the board of directors and, ultimately, the tribal council.

#### **5. Technical assistance, training, infrastructure**

The CEO is in the best position to identify needs for improvement in reservation infrastructure, in manpower training, and in other areas relevant to the operation of tribal enterprises. Part of the CEO's job is to advise the tribe on such needs, and to coordinate corporate activities in this area with other tribal departments and services. The CEO also has the authority, within the constraints of sound business practice, to contract with vendors within or outside the tribe for training, technical assistance, or other consulting services necessary to the effective operations of the corporation and its enterprises.

#### **6. Tribal management training and placement**

Where possible within the business resources and objectives of the corporation, the CEO may initiate special programs to prepare tribal members to fill managerial and non-managerial positions within the corporation and its enterprises. For example, he/she may assign tribal members as assistants or apprentices to enterprise managers or other corporate staff for the purpose of management training. Assuming that tribal members have or develop

appropriate qualifications, the CEO attempts to place them in available positions in the corporation.

## **7. Financing**

The CEO has the authority, in consultation with the board of directors, to solicit governmental and private financing or assistance, so long as it does not conflict with the Plan of Operation of the corporation or with the overall development goals of the tribe.

## **8. Report and advise**

It is the task of the CEO to keep the Board of Directors advised of the state of corporate business operations, typically through attendance at the monthly meetings of the Board. The CEO is responsible for bringing issues of concern to the attention of the board promptly, and for providing periodic assessments of corporate performance as it relates both to board-established policies and objectives and to the long-term economic development plan of the tribe. The CEO also may be called upon to report directly to the tribal council on occasion on corporate progress and problems, or to offer advice on business decisions.

## **9. Hire a planning staff**

A number of these responsibilities clearly require the services of an economic development planner and possibly additional planning staff. The CEO may hire such staff as are necessary, within the available resources of the corporation. Ideally the planner will be familiar with the development goals of the tribe and with the nature of tribal government, competent at applying for development grants, experienced in the areas of particular development potential for the tribe, skilled at development planning, and able to arrange technical

assistance contracts to attract desirable enterprises onto the reservation. While it may be desirable that the planner be a tribal member, this should not be a criterion of employment.

#### IV. Enterprise Manager

Each tribal enterprise has a manager, hired by the CEO of the development corporation. The enterprise manager is responsible for the day-to-day operation of the enterprise, and is authorized to make operating decisions in a manner consistent with the corporate Plan of Operation. Specific responsibilities of managers are determined by the CEO of the corporation, in consultation with the board of directors, and are likely to vary with the size and complexity of the enterprise in question. Typically they include all hiring of enterprise personnel, expenditures within those limits set by the CEO and the budget, and the organization and oversight of all enterprise operations and activities. The enterprise manager reports to the CEO.

The selection of managers, as of all other personnel, is based as much on objective qualifications as possible. Managerial ability and experience are the primary criteria. In addition, managers should be skilled at managing people and willing to operate the enterprise within the broad guidelines set by the corporation and the tribe.

## CONCLUSION

This outline of a prototypical development corporation is intended to serve two purposes. First, by presenting a detailed organizational design, it intends to raise a particular set of issues that need to be addressed by tribes as they pursue the development of tribally-owned enterprises. Among these issues the primary ones are:

1. Insulating business decisions from internal tribal politics;
2. Developing the organizational capability to make informed, sound, and systematic business decisions;
3. Building an institutional base within the tribe that will encourage would-be investors of money, time, or energy — whether tribal members or not — to invest;
4. Giving the tribe increased control over its own economic future.

Second, the intention here is to present a set of root ideas that can serve as starting points for the design of an institution appropriate to the tribe in question. While many of the details can be altered without jeopardizing the successful operation of the corporation, the following are considered vital to this model:

1. The role of the elected tribal government in business operations must be limited and clearly defined. Its primary role is strategic: creating a long-term vision and direction for economic development. The appointment of

directors and the annual review of budgets and plans also should remain in the hands of the tribal council, as should approval of certain kinds of major business decisions. But interference beyond these functions should be kept to a minimum.

2. Members of the board of directors should have staggered terms that overlap those of elected tribal officials, and should be appointed during non-election years.
3. Directors and the CEO should be well-qualified for their jobs. Demonstrated competence in business management should be required. Grounds for removal must be clear and strictly limited to objective evidence of poor performance.

One other caution should be noted here. As already pointed out, one of the most important conditions for the success of a tribal economic development corporation lies in other governmental institutions, and in particular in the presence of a strong and independent judicial mechanism within the tribe. It is a mistake to assume that the tribal council — any more than any other governing body, in Indian Country or elsewhere — can consistently rule fairly in disputes to which it is a party. Some sort of independent judicial mechanism that can help to resolve occasional conflicts over corporate operations and personnel will greatly increase the chances that the development corporation will successfully fulfill its intended purpose, and better serve the interests of the tribe.

Ultimately, of course, no matter how well designed, the development corporation will only succeed if tribal members and the tribal government want it to succeed. Strong leadership and an overall commitment to the purpose of the

corporation are necessary for success. With that support, the development corporation can help tribes achieve their political, economic, and social goals.

## APPENDIX I. IMPLEMENTATION

The timing of the evolution of the development corporation is difficult to predict. Considerable care should be given to the drafting of the charter of the corporation. The ultimate success of the corporation depends a great deal on achieving the delicate balance of power between the corporation and the tribal government. The constitutional measure or ordinance establishing the corporation should anticipate both future political turmoil and potentially misguided business decisions by the corporation. With the right balance of power these competing problems can be prevented from causing extreme harm to tribal economic development.

Once the corporation becomes a legally established entity, the tribe may consider hiring a temporary CEO for the purpose of initiating corporation activities.

The complete process of creating a long-term development plan, identifying promising enterprises, and arranging for their development may take more than a year or two, and it may take several years for tribal enterprises, once established, to return a profit to the tribe. Positive results are unlikely to materialize immediately.

Finally, the needs of the corporation, in terms of its budget and staff, will become clear as the tribal economy develops. At first the corporation may have only a CEO and a secretary. In time, however, as enterprises multiply and develop, the staff will grow and the CEO typically will delegate many of the responsibilities of the office to enterprise managers and other staff. When and to what extent staff additions and delegations become necessary will probably become apparent in time.

## APPENDIX II. THE ENTERPRISE DEVELOPMENT PROCESS

It is difficult to imagine the dynamics of the development corporation based on the static definitions of responsibility given in the body of this paper. The following flow chart of the development cycle (Figure 2) describes the process of enterprise development itself.

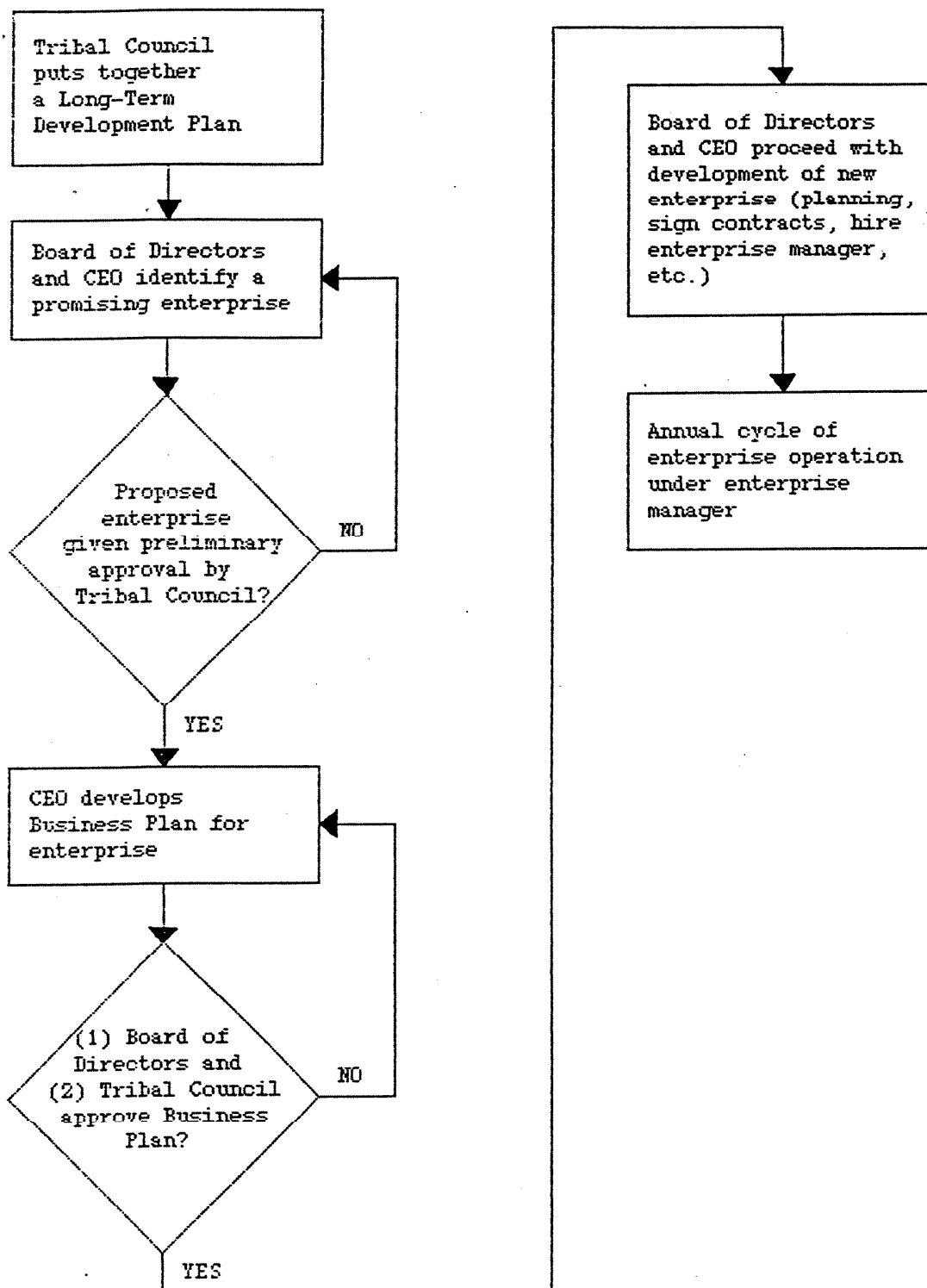


Figure 2. ENTERPRISE DEVELOPMENT CYCLE

### APPENDIX III. GLOSSARY OF TERMS

**Long-term development plan**

A strategic plan for economic development put together by the tribal government, presumably in consultation with the members of the tribe. It summarizes long-term development goals and priorities, and outlines relevant tribal policies in regard to resource use, relations with non-Indians, jobs, appropriate development activities, etc.

**Annual Plan of Operation**

Prepared by the CEO in consultation with the board of directors. Outlines budgets, goals, staffing levels, production levels, anticipated profits, and major activities of the corporation for the coming year. Subject to tribal council approval.

**Business Plan**

A plan for future enterprise development. Details the type of project, costs, resource use, anticipated impacts on unemployment, staffing, etc.

**Tribal enterprise**

A for-profit business owned by the tribe and operated by the development corporation.

**Non-tribal enterprise.**

A for-profit business which is owned not by the tribe itself but by an individual or other group (tribal or non-tribal), and operated privately.

## NOTES

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1. I would like to thank the Crow Tribe of Montana and the Rosebud Sioux Tribe for their assistance in the development of this paper.
  2. The process for developing a list of nominees should be determined by the tribal council.
  3. Both the process for initiating removal of a director and the appeal process should be defined by the tribal council.
  4. In starting up the corporation, three board members should be appointed to two-year terms and the other four to four-year terms so as to initiate the staggering of terms from the beginning. Thereafter regular appointments are for four-year terms.
  5. See the discussion under The Tribal Council, part IA, no. 2 above.

