

Highlights of [GAO-11-543T](#), a statement before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

Indian tribes are among the most economically distressed groups in the United States. In 2008, the U.S. Census Bureau reported that the poverty rate among American Indian and Alaska Natives was almost twice as high as the population as a whole—27 percent compared with 15 percent. Residents of tribal lands often lack basic infrastructure, such as water and sewer systems, and sufficient technology infrastructure. Without such infrastructure, tribal communities often find it difficult to compete successfully in the economic mainstream.

This testimony statement summarizes GAO's observations on (1) five broad categories of unique issues that may create uncertainty and therefore affect economic activity in Indian country and (2) tribes' use of special gaming and small business contracting provisions. It is based on prior GAO reports.

This testimony statement contains no new recommendations.

View [GAO-11-543T](#) or key components. For more information, contact Anu K. Mittal at (202) 512-3841 or mittala@gao.gov.

April 7, 2011

INDIAN ISSUES

Observations on Some Unique Factors that May Affect Economic Activity on Tribal Lands

What GAO Found

GAO's previous work has identified five broad categories of unique issues that may create uncertainty for tribes or, in some cases, private companies wishing to pursue economic activities on Indian reservations.

Accruing land in trust. Having a land base is essential for tribal economic development activities such as agriculture, energy development, and gaming. However, a February 2009 Supreme Court decision has raised uncertainty about the process for taking land in trust for tribes and their members.

Tribal environmental standards. The Clean Water Act, Safe Drinking Water Act, and Clean Air Act authorize the Environmental Protection Agency to treat Indian tribes in the same manner as states. In some cases, however, states are concerned that tribes with this authority may impose standards that are more stringent than the state standards, which could result in a patchwork of standards within the state and potentially hinder economic activity.

Indian tax provisions. Tribes face uncertainties regarding the types of activities that they can finance with tax-exempt bonds. Also, in 2008, GAO reported that there were insufficient data to (1) identify the users of a tax provision that allows for accelerated depreciation of certain property used by businesses on Indian reservations and (2) assess whether the provision had increased economic development on Indian reservations.

Obtaining rights-of-way. Securing rights-of-way across Indian land is important in providing Indian lands with the infrastructure needed to support economic activity. In 2006, GAO reported that obtaining rights-of-way through Indian lands was a time-consuming and expensive process.

Legal status of tribes. The unique legal status of tribes has resulted in a complex set of rules that may affect economic activities. For example, Indian tribes have sovereign immunity, which can influence a business's decision to contract with a tribe. Also, the limitations imposed by federal law on Indian tribes' civil jurisdiction over non-Indians on Indian reservations can create uncertainties over where lawsuits arising out of contracts with tribes can be brought.

In contrast to these unique issues that may pose challenges to economic activity in Indian country, some Indian tribes have taken advantage of special provisions for gaming and small business contracting. The National Indian Gaming Commission reports that tribal gaming operations generated \$26.5 billion in revenue for 2009. However, not all tribes have gaming operations and the majority of the revenue is generated by a fraction of the operations. Similarly, Alaska Native Corporations (ANC) have been granted special procurement advantages. In 2006, GAO reported that obligations to firms owned by ANCs that participated in the Small Business Administration's 8(a) program increased from \$265 million in fiscal year 2000 to \$1.1 billion in 2004. We have ongoing work looking at the use of these special procurement advantages.