FEDERAL RESERVE BANK OF SAN FRANCISCO

Community Investments Vol. 8, Issue 3

Misconceptions Mask Opportunities in Indian Country

Author(s): Patrick Borunda, Executive Director, Oregon Native American Business and Entrepreneurial Network (ONABEN)
Summer 1996

Antedating the emergence of the Cascade Mountains, fed by tributaries from British Columbia and western Montana and Wyoming, the ancient Columbia River has been a constant factor in the Northwest's economic history. Several thousand years before the political unification of Upper and Lower Egypt in 3200 BC, Native Americans were sharing the bounty of the Columbia as a common resource. Thousands of years before goods were carried through Central Asia on the Silk Road, Native Americans used the river to create a trade network, eventually linking Alaska to California and the Pacific Ocean to the Dakotas.

Ivory, furs and fish, stone, hides and meat, shell, edible seeds and medicinal treasures were traded at the mouth of the Columbia where the Chinook Tribe maintained a busy exchange and traded on their own accounts. Trade was conducted in a common tongue (Chinook Jargon) and employed a regulated currency in the form of dentalium shell, the harvest of which was restricted to prevent inflation. Denomination was by size of shells grouped on a six-foot string.

This economic history is little known in today's banking community. Lack of recognition contributes to the misconceptions and misunderstandings that separate bankers from Native American markets and interferes with the creation of mutually beneficial relationships.

There are at least four misconceptions about Native Americans which need clarification:

1. Contemporary American society must rescue Native Americans from their chronic condition of poverty;
2. Reservation boundaries are irrelevant anachronisms;
3. Reservation boundaries form a barrier to sound banking practices; and,
4. The CRA is designed to benefit only underserved communities.

Let's examine each in more detail.

Contemporary American society must rescue Native Americans from their chronic condition of poverty. A practical effect of this misconception is that bankers often fail to treat Native Americans as intelligent players in negotiating mutually beneficial agreements.

Actually, there have been distinctive, rich and complex social organizations among Northwest tribes for millennia. Common features of these organizations included sharing political power between men and women and gender-independent accumulation of wealth and status. Cultural practices (e.g., potlatches among coastal tribes) led to regular distribution of basic goods and wealth-leveling within communities. The communities shared economic burdens and rewards. This system was so effective that four months of labor were sufficient to harvest the basics of survival for an entire year. This economic cycle provided ample time for art, war, spiritual and cultural celebrations. It was this cultural heritage that tribes intended to protect when they agreed to treaties transferring property rights.

From European contact to the early 20th century, the Native American population teetered on the edge of extinction. Today, despite two centuries of unrelenting pressure, Native American communities are winning their battle for self-determination and survival. Among the many historical skills being restored and supplemented by contemporary education is that of creating wealth. Not understanding the historical sophistication of these communities burdens the business dialogue between Native Americans and the financial community.

Reservation boundaries are irrelevant anachronisms. A practical effect of this misconception is that the values that guide Native American communities are not often considered when bankers evaluate proposals and structure agreements.

In fact, the boundaries are there specifically to protect vital, functional values with ancient roots. Native American communities have a unique position and perspective in American society. These are "guaranteed" by treaty rights which tribes constantly struggle to maintain against continuing federal, state and local government encroachment. As this publication goes to press, there are court actions from San Diego to Bellingham, Washington, and from Portland to Denver involving attempts to limit tribal sovereignty and cultural continuity.

Most Americans do not understand that sovereign Native governments were not given rights or land by the treaties. Nor do most Americans understand that the treaty obligations assumed by the United States are covenants in perpetuity--they are not discretionary. Land rights were transferred, value was delivered and treaties are still defined as contracts. In these contracts, the sovereign tribes 1) reserved specific rights they already owned in order to protect those rights, and 2) gave up certain rights (e.g., ownership of territory) in exchange for specific promises and protections for ways of life which predated the last Ice Age in North America.

In exchange for reservations on which tribes could live undisturbed, Native Americans ceded large tracts of territory, opening them up for white settlement. These reservations are remnants of ancestral homelands where cultural values of consensus decision-making, inter-generational respect, non-destructive use of resources, etc., hold ultimate authority.

When a tribal community seeks to invest in an enterprise, the community's values must be used to evaluate the investment. If, for example, an investment does not appear to generatea profit-margin consistent with conventional lending practices, but employs a number of tribal members, it may very well be a sound investment for the tribe. This does not imply that financial expertise and advice should not be offered. It simply means that bankers must recognize that their rules are not the only factors relevant in a given situation and consideration should be given to employment of more flexible practices. So long as a loan has an identified source of repayment, other external guidelines of credit-worthiness ought not to be arbitrarily imposed.

Reservation boundaries form a barrier to sound banking practices. A practical effect of this misconception is that bankers forgo opportunities without exploring alternate means of satisfying restrictive underwriting guidelines.

Historically, reservation economies have been driven by tribal government and dominated by tribally-owned enterprises. Numerous assets considered necessary for economic development (e.g., adequate physical infrastructure and housing) have been absent. The need for various types of financing are legion.

When banks might have been players, however, they have often backed away in the belief that a tribes sovereign immunity and/or the trust status of land prevents adequate security. The key here is understanding (and perhaps redefining) what is considered "adequate." Some remedies are straightforward; others require imagination.

Sovereign immunity means that a sovereign entity may not be sued except with its permission. The doctrine protects public assets, or, in the case of a tribe, assets held in trust for tribal members. However, sovereign immunity has been selectively waived by federal and state governments and can also be selectively waived by tribes. For example, a tribe can establish a subordinate or separate entity for purposes of a specific transaction and may waive the subordinate entity's immunity without affecting the sovereign status of the tribe.

To allay concerns about the trust status of land, the tribe may pledge cash flow of an otherwise unrelated enterprise as repayment for a loan to expand a business on trust land. If the loan is made to an individual, the tribe may guarantee the mortgage by committing itself to buying out a defaulting borrower. In either event, the bank's capital is protected and the tribe is able to satisfy its community development purposes.

The Community Reinvestment Act is designed to benefit only underserved communities. A practical effect of this misconception is that bankers not directly associated with CRA activities may fail to understand the profit potential of doing business in Indian Country. Business outreach to all American citizens and to Native American tribes will pay dividends to bank shareholders and benefit all the stakeholders in the "mainstream" economy.

The stable economic base in Indian Country is more than gaming and extends beyond the historically-identified natural resource businesses owned by the tribes. A stable economic base includes a healthy private sector, combining competitive capability with culturally consistent values. Contrary to a widely held perception, the Internal Revenue Service does tax economic activity on Indian reservations. Prior to the explosion in gaming revenues and the now rapid growth of private enterprise, reservations were yielding over $10 billion per year in revenue to the federal government. Reservations are net contributors to federal, state and county governments.

Beyond gaming, Indian tribes throughout the United States continue to hold title to significant natural resources--timber, minerals and energy reserves. These include 44 million acres in range and grazing land, 5.3 million acres of commercial forest, 2.5 million acres in crops, 40% of U.S. uranium reserves and 30% of western coal reserves. Though shamelessly exploited by non-Indians throughout this century, these resources are now being more aggressively managed by Native people. Many tribes have achieved new levels of sophistication in the past decade and will not release these resources to market in the absence of appropriate compensation and safeguards. Banks which have good relationships with tribes will reap the benefits of resulting trust deposits and future financing opportunities.

One of the most exciting developments in Indian Country today is the emergence of a private sector which will raise community standards of living and form the basis for wealth-creation through community capital development. Native Americans now have the lowest per capita business ownership rate of any community tracked by the U.S. Department of Commerce. In the Pacific Northwest, Native Americans own fewer than 9 businesses per thousand people versus 59 and 65 businesses per thousand among white citizens of Washington and Oregon respectively. Organizations like the Oregon Native American Business and Entrepreneurial Network (ONABEN) and its offspring, the Native American Business Network (NABN) in Washington, are making a systematic and aggressive assault on this statistic.

In just three years, ONABEN's program graduates have increased the number of Native American-owned businesses in Oregon by approximately 35%. These new business are adding approximately $7 million per year to the gross state product of Oregon. With the assistance of regional banking partners like Seafirst Bank, Key Bank of Washington, U. S. National Bank and others, ONABEN and NABN are targeting approximately 250 healthy new business starts in the next three years.

Privately owned Native American businesses currently contribute almost $100 million per year to the northwest economy. Estimates indicate that the Native American community could contribute over $1 billion by reaching the average business ownership rates in these states. New employment measured in thousands of jobs can be reliably forecast. In addition, added tax revenues for state and local governments will significantly improve the financial stability of struggling jurisdictions. Clearly, a case can be made that ignoring the business opportunity in Indian Country is contrary to the best interests of bank stockholders.

Recommendations:

- Understand that Native American communities will succeed on the basis of their historical identities and not as a function of becoming assimilated in white America.
- Recognize that a successful relationship with a Native American community begins with under-standing that individual community's aspirations. Commit your expertise to helping them realize their aspirations. Creative solutions will serve both the banks and the tribe's enduring interests.
- Pick a niche where you can make a genuine contribution. From government finance to small business lending, the needs are significant in Indian Country. Focus on a particular area rather than posturing as the all-purpose provider.

- Finally, make a commitment for the long term. Pledge human and financial resources to understanding your Native American customer base. Access to capital alone is not sufficient to create a profitable relationship with Native American communities.

Successful interaction between Indian Nations and the banking community depends on each understanding their common interests while respecting their profound differences.

About the Author:

Patrick Borunda is the Executive Director of Oregon Native American Business and Entrepreneurial Network (ONABEN). Tarahumara-Mescalero (Apache), Patrick earned his MBA at the Wharton School of Business at the University of Pennsylvania. He has practiced as a professional consultant in strategic management since 1978, serving clients in health care, higher education, energy and financial services. For more information about ONABENs programs, please call 1-800-854-8289.