

Statement of Pete Homer, President/CEO  
National Indian Business Association

United States Senate Committee on Indian Affairs

P.L. 105-135, HUBZones Implementation

I

May 12, 1999

Thank you, Mr. Chairman and members of the Senate Committee on Indian Affairs. On behalf of the National Indian Business Association, I would like to thank you for the opportunity to testify today on Public Law - 105-135, HUBZones Implementation.

We are here today seeking legislation that will ensure that American Indian Tribal Enterprises and Alaska Native Corporations are eligible to participate in the Small Business Administration HUBZone Empowerment Program. While we believe that Congress clearly demonstrated its intent that tribal enterprises and Alaska Native Corporations could participate, SBA's interpretation of the Act is that tribal enterprises are excluded. We are hopeful that this unfortunate misunderstanding will be cured by P.L. 105-135 HUBZone Implementation that will explicitly address the eligibility of tribal enterprises and Alaska Native Corporations.

My name is Pete Homer, I am an enrolled member of the Colorado River Indian Tribes of Arizona. I serve as the President and Chief Executive Officer of the National Indian Business Association (NIBA), a national trade organization established in 1992 to promote Native American Indian business development through education, communication, and advocacy. NIBA represents 24,000 American and Alaska Native owned businesses nationwide.

Our mission is to work to stimulate business development, job creation, and economic activity within the American Indian and Alaska Native communities. NIBA is founded on the principle that increased economic and commercial development in Indian Country and the expansion of American Indian and Alaska Native business ownership is the single most important step toward a better, more prosperous future for American Indians and Alaska Natives.

It was in furtherance of these goals and principles that NIBA was one of the earliest supporters of the HUBZone legislation. We were extremely pleased when the Congress in the original Act granted HUBZone status to all reservations in the Act in recognition that all Indian reservations constitute Historically Underutilized Business Zones. We were optimistic that the pre-designation of reservations as HUBZONES would dramatically reduce the amount of time and red tape it would take for reservation based businesses to participate and that the increase in federal contracting opportunities for Indian businesses across the country would stimulate economic activity and create jobs.

Our early optimism, fueled by the clear direction Congress provided in the legislation; the President's strong commitment to Indian economic development, his orders directing federal agencies to consult with tribal leaders; and SBA's establishment of an office specifically charged with handling Indian issues, has since given way to a high degree of disappointment. As this committee is aware, catch-22 situations frequently arise in the implementation of new programs. Indian programs in particular are often fraught with such difficulties, especially where an agency has limited experience, in implementing Indian programs- and whose institutional machinery has limited exposure to the intricacies of federal Indian law and policy. This is one of the reasons behind the President's directives to agency heads requiring full and effective consultation with tribal leaders whenever the agency undertakes activities, including rulemaking, which affect tribes and tribal interests.

In the case of HUBZones implementation, the Catch-22 is the agency's determination that tribal enterprises are not eligible to participate in the program, excluding some 1,200 tribally owned businesses from participation in the HUBZones program. The irony is that Tribal enterprises represent the single most important category of reservation based businesses with the capacity to meaningfully participate in the HUBZones program.

Of the 558 American Indian and Alaska Native tribal governments, approximately 190 own at least one (1) tribal enterprise and 48 own more multiple enterprises. Laguna Pueblo in New Mexico, for example, has 13 tribal businesses, creating more than 800 jobs. The Turtle Mountain Tribe in North Dakota has 9 tribal businesses, creating over 500 jobs. The Assiniboine and Sioux Tribes of the Ft. Peck Reservation in Montana has 8 Tribal businesses creating over 400 jobs. Alaska Native Corporations have an estimated 205 different businesses, employing approximately 2,000 workers. It is simply illogical to conclude that Congress intended all reservations and tribal communities to constitute historically underutilized business zones, yet intended to exclude from participation those very enterprises with the best, and in some cases only, capacity to participate and effect the results intended in the Act.

The problem with the definition arises out of SBA's interpretation of a provision of the Act that defines the term "HUBZONE Small Business Concern." Under this provision, only those "small business concerns" owned and controlled by one or more persons who are citizens of the U.S. are eligible to participate in the program. Although the drafters included Alaska Native Corporations as entities "owned and controlled by one or more persons" they did not come to the same conclusion in relation to Tribal-owned Enterprises. Although NIBA and others commented specifically on this point, emphasizing tribal enterprises, like Alaska Native Corporations, are, in fact, owned by all tribal members who are natural persons, SBA's attorneys were unpersuaded. Accordingly, we appear here today urging this Committee to pass P.L. 105-135 to ensure the eligibility of tribal enterprises and Alaska Native Corporations so as to resolve this matter with finality.

The exclusion of tribal enterprises virtually nullifies the possibility that the HUBZones program will have a significant impact on reservation economic activity and unemployment. This is particularly distressing given the fact that properly implemented its impact could be substantial, particularly where there are established enterprises with a demonstrated production capability. If, for example, 100 tribal enterprises were to receive 1 ½% of the \$ 2 billion available for

contracting and sub-contracting at the FY-99 funding level, the resulting \$300,000,000 would create approximately 5,000 jobs. In Indian Country, where 35 % of the reservations have an unemployment rate of 67 % and where the remaining 65 % have unemployment rates ranging from 18 % to 45 %, the creation of 5,000 jobs is dramatic. Projecting ahead, there will be an increase of \$1 Billion in each subsequent year to about \$6 Billion in 2003.

There is no question that American Indian and Alaska Native areas, in virtually all cases, fall into the category of "Historically Underutilized Business Zones." This is why Congress included Indian Country provisions in the Act in the first place. While our nation has enjoyed economic prosperity for nearly a decade, improvements in economic conditions, while steady, have been slow in Indian Country. Tribal economies continue to lag far behind the rest of the nation. The proliferation of Tribal enterprises has been one of the bright spots in an otherwise uninspiring snapshot of the reservation economic growth. Tribal enterprises create not only jobs, experience, and training for workers, but a deepening awareness of what can be. Tribal enterprises deserve all of the support, encouragement, and assistance we can provide for they are critically important agents of economic growth and expansion.

Let me close by thanking you for this opportunity to discuss this important matter with you here today. Again, we urge you to favorably consider our request for enactment of Public Law 105-135 HUBZones Implementation to clarify the eligibility of tribal enterprises and Alaska Native Corporations for participation in the HUBZones program.