DOCUMENT RESUME

ED 068 258 RC 006 546

AUTHOR Fuller, Stephen W.
TITLE Indians' Problems in Acquiring Development Capital. Four Corners Agriculture and Forestry Development Study. Special Report No. 11.
INSTITUTION Four Corners Regional Commission, Santa Fe, N. Mex.; New Mexico State Univ., Las Cruces. Agricultural Experiment Station.
REPORT NO FCRC-601-336-051
PUB DATE Dec 71
NOTE 21p.

EDRS PRICE MF-$0.65 HC-$3.29
DESCRIPTORS Agronomy; *American Indians; *Credit (Finance); *Depleted Resources; *Federal Programs; Initial Expenses; Interest; Management Education; Operating Expenses; *Reports; Tables (Data)
IDENTIFIERS *Southwest

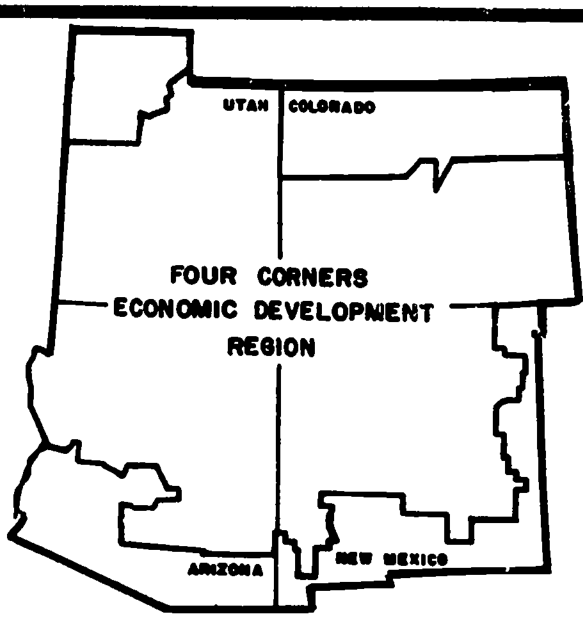
ABSTRACT

The difficulty with which American Indians acquire equity capital and an examination of selected Federal programs which make this type of credit available to this minority group are discussed in this report. Specifically, collateral, fractional heirship, ownership of chattels, managerial training, repayment, and servicing of loans are discussed as barriers to capital acquisition. The government agencies analyzed which provide this capital are the Bureau of Indian Affairs (BIA), The Farmers Home Administration, The Economic Development Administration, The Small Business Administration, and the Office of Economic Opportunity. Specific suggestions are that Congress (1) authorize and appropriate at least an additional $50 million for the revolving loan fund; (2) inaugurate and establish a $200 million loan guaranty fund; (3) authorize interest subsidies on guaranteed loans; (4) authorize the BIA to sell existing revolving fund loans to financial institutions; and (5) authorize tribes to issue bonds exempt from Federal income tax for purposes related to the governmental affairs or operations of the tribe. It is noted that a major factor limiting the Indian in his competition for credit is his lack of managerial training. (HBC)

Special Report No. 11
December 1971

• Four Corners Agriculture and Forestry Development Study

INDIANS' PROBLEMS IN ACQUIRING DEVELOPMENT CAPITAL



Report to
Four Corners Regional Commission

NEW MEXICO STATE UNIVERSITY
AGRICULTURAL EXPERIMENT STATION
In Cooperation
Stations of the University of Arizona
Colorado State University
and Utah State University

FOREWORD

Information reported in this publication was developed under Technical Assistance Contract - F.C.R.C. No. 601-366-051Four Corners Regional Commission, "Development Opportunities for Agriculture and Forestry Resources in the Four Corners Region." The research was jointly financed by the Four Corners Regional Commission and the experiment stations of New Mexico, Arizona, Colorado, and Utah. The Agricultural Experiment Station of New Mexico State University coordinated the study and served as prime contractor with the Four Corners Regional Commission. The other experiment stations served as subcontractors to New Mexico State University.

This report is one of several special reports on development possibilities for the agriculture and forestry sector of the Four Corners Economic Development Region. In addition to the special reports on resource inventories and development possibilities, there will be a final report.

The four-state study team consists of the following individuals:

W. P. Stephens
Project Administrative Adviser
Agricultural Experiment Station
New Mexico State University

William N. Capener
Project Leader
New Mexico State University

<u>University of Arizona</u>
Thomas M. Stubblefield
State Project Leader
John L. Fischer
William P. Gotsch

<u>New Mexico State University</u>
Thomas S. Clevenger
State Project Leader
John D. Canady
Garrey E. Carruthers
Stephen W. Fuller
William D. Gorman
James R. Gray
Marlia L. Hanson
Robert R. Lansford
Alan J. Randall

<u>Colorado State University</u>
James A. Lewis
Co-State Project Leader
Albert G. Madsen
Co-State Project Leader
Donald Sorenson
Wilson Leeper
William M. Waneka

<u>Utah State University</u>
Jay C. Andersen
State Project Leader
Lynn H. Davis
Herbert Fullerton
J'Wayne McArthur

TABLE OF CONTENTS

INDIANS' PROBLEMS IN ACQUIRING DEVELOPMENT CAPITAL

Stephen W. Fuller[1]

This report reviews problems of the American Indians in acquiring equity capital and examines selected federal programs which make this type of credit available to this minority group. The scope of the report is restricted to credit problems associated with financing business endeavors of reservation Indians.

Most studies which prescribe for minority group problems assume that solutions can be found in terms of the dominant cultural traits. That is, if Indians are poor credit risks, they must do those things typical of the white culture to improve their credit rating. So, there is an implied assumption that the white "life style" must be approximated by the minority group if a solution to the problem is to be found. The solutions prescribed by this study are dependent upon this assumption.

Many of the institutions created by non-Indians operate on basic premises and assumptions of human behavior and motivation which are foreign to Indian culture. Consequently, those institutions which may perform satisfactorily for the non-Indian are not always capable or willing to cope with the needs of minority groups. Financial institutions are no exception.

The economic position of the reservation Indian is less favorable than most American minority groups. In many Indian communities, the pattern is one of bare subsistence. Avenues open to Indians for improvement are often blocked, as they are for millions of other Americans, by a lack of resources with which to make a living. In addition, Indians are often faced with the complex problems caused by the closeness of the two cultures. Many of the reservations lack fertile soil, minerals, water, and other natural resources. Total utilization of existing resources would not always supply an adequate income for all reservation residents. In the Southwest, many of the reservations contain a large amount of arable land but insufficient water to use the land resource fully.

[1] Assistant Professor, Department of Agricultural Economics, New Mexico State University.

The Navajo Reservation located in the Four Corners Region has problems typical of many in the Indian lands. The Navajo Reservation is comprised of 14 million acres in the states of Arizona, New Mexico, and Utah. The region is arid and lacks sufficient water for extensive agricultural use. However, compared to many tribes, the Navajos are fortunate because they have substantial mineral and timber resources. The Navajo population on the reservation is estimated at 130,000 and is growing at a rate of two and a half percent per year. The labor force is estimated to be 40,000 of which 45 percent are unemployed. Add to this the 2,000 Navajos who enter the labor force annually, and one can perceive the magnitude of development needed to decrease the unemployment rate to an acceptable level. The Navajo's per capita personal income is estimated to be $ 900.[2] In contrast, the average per capita income for the United States population was approximately $3,921 in 1970.[3]

Even if all reservations were rich in natural resources, many difficulties would remain. Often Indians lack training for managerial work. Moreover, only a few Indian workers have known the stability resulting from their own or their families' regular employment. Another handicap lies in the basic concepts of some Indian cultures. Even in agriculture, which is traditional with the Pueblo Indians in New Mexico, modern farming methods are contrary to general Indian customs and beliefs.[4] Modern agricultural production depends on research, improved varieties, mechanization, use of fertilizer, and an increased control of environment. But to Indian cultures, which typically stress ancestral customs based upon a need to work in harmony with nature, such modern practices are often alien. Much of the historical experience of the Indian has, in general, moved outside of the traditions of science and technology.

A 1958 cost estimate of a ten-year program of economic development for the American Indians came to $1,947 per capita for the reservation population or a total of $600,000,000.[5] (At today's price levels, the amount needed would be over $1 billion dollars.) This estimate included none of the costs of the functions now performed by the Bureau of Indian Affairs. The Bureau of Indian Affairs estimates that the Indian nations require developmental capital in excess of one billion dollars to finance development and economic utilization of Indian owned resources (table 1).[6]

At present, Indians receive only a fraction of the capital required for development of Indian-owned resources. The Bureau of Indian Affairs indicates that economic development is handicapped by lack of adequate and dependable sources of financing.[7] They also note that many Indian developmental projects are impeded by abnormally high interest charges. The BIA indicates that private lenders cannot be expected to provide any greater quantity of capital unless thay are provided with some economic incentives. Evidence of the unmet demand

---

[2]Navajo Nation Development Program, Navajo Tribe, Window Rock, Arizona, April 6, 1971.

[3]Survey of Current Business, U. S. Department of Commerce.

[4]Brophy, William A. and Sophie E. Aberle, <u>The Indian, Americas Unfinished Business</u>, University of Oklahoma Press, Norman, Oklahoma, 1966, pp. 62-116.

[5]Dorner, Peter, "The Economic Position of the American Indians: Their Resources and Potential for Development," PhD. Dissertation, Harvard University Library, February 1959, p. 25.

[6]<u>1970 Annual Credit and Financing Report</u>, United States Department of Interior, Bureau of Indian Affairs, p. 1.

[7]Ibid. p. 1.

Table 1. Summary of estimated Indian financing needs by purpose[1]

Item	Amount
Financing of industrial development and group commercial enterprises	$215,604,973
Financing of recreation development	70,922,100
Financing of utility systems, transportation terminals, community buildings, civic facilities, and other governmental purposes for which bonds may be issued	84,003,422
Financing of group arts and crafts enterprises	4,316,300
Loans to individuals	
Land	90,164,200
Agricultural	122,861,606
Non-agricultural	35,742,900
Housing	132,613,700
Small business	47,267,900
Education	9,658,250
Other	69,751,800
Total	508,060,356
Tribal land purchase	122,954,200
Expert assistance	874,569
Total	$1,006,735,920

[1] 1970 Annual Credit and Financing Report, U.S. Department of Interior, Bureau of Indian Affairs, p. 1.

for credit is the ratio of capital requests to cash available in the BIA revolving fund discussed later. During the 1970 fiscal year, there were requests totaling $25,300,000; however, cash available in the revolving fund totaled only $3.3 million. For every dollar of credit requested from the revolving fund, only 13 cents was available for loan. Further evidence of unmet capital needs is stated in a recent Navajo publication which lists "lack of adequate development capital" as one of the primary factors inhibiting economic development of that reservation.[8]

SOURCES OF CAPITAL

Indians receive financing from three main sources: 1) financial institutions, including traders, which provide capital to other citizens and their organizations, 2) tribes and other Indian organizations with funds of their own, and 3) a revolving fund for loans authorized by Congress and administered by the BIA from which loans are made to Indians and Indian organizations.

The data in table 2 show the proportion of credit coming from each source as well as the growth in Indian financing over the past five years.

As shown by the information in table 2, there has been a 71 percent increase in the quantity of capital extended over the five-year period 1966-1970. The proportion of credit extended by the three primary sources has been about constant during this period. Customary lending institutions have extended approximately two-thirds of all capital, while tribal and revolving loan funds have been supplying approximately 27 and 6 percent, respectively.

[8] Navajo Nation Development Program, Navajo Tribe, Window Rock, Arizona, April 6, 1971.

Table 2. Three primary sources of Indian capital[1]

Source of Capital	Amounts Outstanding in 1966		Amounts Outstanding in 1967		Amounts Outstanding in 1968		Amounts Outstanding in 1969		Amounts Outstanding in 1970	
	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars	Percent
Customary Lending Institutions	173.2	67.9	183.5	63.1	207.0	63.8	252.6	66.0	294.2	67.2
Tribal Funds	57.6	22.6	81.7	28.1	92.3	28.4	105.1	27.4	117.7	26.9
Revolving Loan Funds	24.2	9.5	25.7	8.8	25.2	7.8	25.3	6.6	25.7	5.9
Total	255.0	100.0	290.9	100.0	324.5	100.0	383.0	100.0	437.6	100.0

[1] 1970 Annual Credit and Financing Report, United States Department of Interior, Bureau of Indian Affairs, p. 3.

Table 3. Credit extended to Indians by customary lending institutions[1]

Area	Estimated Total		Estimated Additional Volume	
	1968	1969	1968	1969
Albuquerque	$13,173,600	$19,140,200	$ 8,112,200	$11,848,500
Navajo	53,130,000	56,079,900	31,082,100	32,823,700
Phoenix[2]	25,191,500	31,297,900	15,243,000	17,716,500

[1] 1970 Annual Credit and Financing Report, United States Department of Interior, Bureau of Indian Affairs, p. 23.
[2] Includes Sacramento area.

Examples of customary lending institutions are banks, savings and loans, finance companies, insurance companies, Economic Development Administration, Farmers Home Administration, Office of Economic Opportunity, Small Business Administration, and merchants. The information in table 3 shows estimated financing of Indians by customary lending institutions in the Albuquerque, Phoenix, and Navajo reservation areas. A major portion of the increase in capital provided by customary institutions has come through government agencies such as the EDA, FHA, HUD, OEO, SBA, and others. In 1965, approximately 10 percent of capital provided by customary lending institutions came from the government agencies. In contrast, during this same period, the proportion of credit supplied by banks remained constant at 17 percent.[9]

In the book, The Indian--America's Unfinished Business, authors Brophy and Aberle make the following comment about private lenders:

> The policy of encouraging Indians to borrow from commercial agencies has not been a success. There are many reasons for this. Since most Indians have little capital, men in the credit business have assumed that adequate

[9] 1970 Annual Credit and Financing Report, U. S. Department of Interior, Bureau of Indian Affairs, p. 4.

financing is available to Indians through government sources and have felt no special obligations to them. Moreover, Indians have been reluctant to approach them.[10]

The statement "... encouraging Indians to borrow from commercial agencies has not been a success" is probably an overstatement. For example, on the Navajo reservation, this type of credit increased from $12.2 million to $23.7 million between 1966 and 1970. However, private commercial credit can hardly provide all the capital necessary for development. (See footnote 6.) The remainder of the report is devoted to examining reasons for Indian credit problems and governmental loaning programs of selected agencies so that they might be evaluated as a source of developmental capital for Indian reservations.

BARRIERS TO CAPITAL ACQUISITION

Collateral

One of the major factors limiting capital acquisition by Indians is their inability to provide adequate collateral. This problem is imbedded in both economic and legal factors. The limited size of the security offered restricts the size of the loan, and this in turn limits the size of the enterprise and the payment ability of the Indian borrower.

A study by Gray and Martinez in 1958 provides some insight into the collateral problem.[11] The data in table 4 gives some findings about the financial status of the Indian loan applicant.

According to table 4, the net worth value of working assets owned by Indians is approximately 40 percent of the value of working assets owned by non-Indians. Two-thirds of the Indian borrowers had net worths of $1,999 or less; in comparison, only 16 percent of the non-Indian borrowers fell within this category (table 4). Nearly one-half of the non-Indian loan applicants had net worths of $5,000 or greater; in contrast, only about 12 percent of the Indian loan applicants were within this group. The data indicated that, on the average, the financial status of the Indian loan applicant was unfavorable; however, at the higher net worth values, the Indian borrower compared favorably with the non-Indian borrower. Generally, the assets of most Indian loan applicants were small in comparison to non-Indian borrowers.

The special ownership status of Indian lands makes it difficult for financial institutions to accept these lands as security for real estate loans. Tribal property is not owned by individual Indians; rather each Indian has an undesignated interest in the property. Individual Indians may have an interest in tribal property in the same way that a shareholder has an interest in a corporation's property, except the Indian cannot sell his interest. If property is used as security, it must have a salable title, but this is not a characteristic of trust lands, where the t tle to the property is held by the federal government in trust for the Indians.

[10] Brophy and Aberle, op. cit, p. 110.

[11] Gray, James R. and Miguel M. Martinez, Appraisal of Bureau of Indian Affairs Credit Program, Gallup Area, New Mexico, 1958, New Mexico Agricultural Experiment Station Research Report 26, May 1959.

Table 4. Comparisons of value of working assets owned by Farmers Home Administration borrowers[1] receiving operating loans and by Indians applying for tribal credit for agricultural purposes[2] in New Mexico

Net Value	Proportion of Borrowers with Net Worth		Average Net Value	
	Indians	Non-Indians	Indians	Non-Indians
dollars	percent	percent	dollars	dollars
Less than 0	9.0	2.2	-136	-4,108
0-999	41.5	4.4	444	616
1,000-1,999	16.2	9.7	1,435	1,637
2,000-2,999	8.1	12.0	2,455	2,617
3,000-4,999	13.5	22.9	4,277	3,888
5,000-9,999	10.8	41.2	6,511	6,920
10,000 and over	.9	7.6	20,655	14,120
Total	100.0	100.0		
Average			2,063	5,231

[1]Taos and Rio Arriba counties, New Mexico, non-Indian ratios are for the 1957-58 period.
[2]Although Indian ratios are for the 1950-58 period, the bulk of the ratios are for the 1954-58 period.

Source: James R. Gray and Miguel M. Martinez, Appraisal of Bureau of Indian Affairs Credit Program, Gallup Area, New Mexico, 1958, New Mexico Agricultural Experiment Station Research Report 26, May 1959

Some individual Indians have been given title to land so that they may have a salable title. This was made possible by the General Allotment Act, which provided that "the federal government should divide tribally-owned land among tribal members, the United States to hold the plots in trust until the Indians gained the white mans sense of individual, private ownership."[12] Unfortunately, this legislation gave rise to another problem, "fractionated heirship" (discussed later). Individual trust allotments can be used as security for real estate and other types of loans; however, once foreclosure proceedings are instituted, land loses its trust status and its tax privileges.

A relatively small portion of Indian lands in the Southwest has individual trust land status. For example, of the 19,152,000 acres in the Navajo Reservation and surrounding reservations, 18,383,000 acres are in tribal trust land and 769,000 acres are individual trust allotments. Therefore, only four percent of the total acreage could potentially be used as collateral to secure a real estate loan. The Navajo Reservation or the Albuquerque area did not have loans in which individually-owned trust lands were used as security.[13]

The following are excerpts from the Gray and Martinez study, which examined some of the legal problems encountered by Indians attempting to secure loans:

> ...legislation and court decisions have a bearing on the security status of New Mexico Indian trust land. These include 25 U.S.C.A. 177 which provides: "No purchase, grant, lease or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or correction entered into pursuant to the constitution." Two decisions pertinent to the problem are Franklin vs. Lynch, 34 S. Ct. 505 (1914), "which held that where a tribe could not convey an interest in their land, individual members also could not, for they had

[12]Brophy and Aberle, op. cit.

[13]1970 Annual Credit and Financing Report, United States Department of Interior, Bureau of Indian Affairs, p. 25.

neither an undivided interest in the tribal land nor any vendible interest in any particular tract. Recently in Alonzo vs. U.S., 249 F 2d 189 (1957) the United States Circuit Court of Appeals in considering a case involving Pueblo Indians in New Mexico said that the purpose for this restriction is to protect the Indians against loss of their lands by improvident disposition or through overreaching by members of other races."

The attorney general's office indicated that despite the lack of legal restrictions, recent court decisions and legal interpretations have had the effect of limiting the security that Indians have to offer to tribal (reservation) Indian lenders. The problem is two-fold in nature. According to the provisions of Title 25, U.S.C.A., Section 464, one of the key sections of the Indian Reorganization Act of 1934, land that is tribally-owned cannot be furnished as security, through mortgage or otherwise, for the credit extended or for the debts of the individual Indian.

The second general problem in the use of security for loans mentioned by the attorney general's office is in the non-real estate credit area. The problem involves the attainment of sufficient jurisdiction by the lender of the security offered. Two recent court cases, State vs. Begay, 63 N.M. 409, 320 P. 2d 1017, and William vs. Lee, 79 S. Ct. 269 are relevant. In the final decision of the former case, although a criminal matter, the court held that because of the provision of Article 21, Section 2 of the Constitution of New Mexico, the state lacks jurisdiction over the Indian lands and until Indian title thereto has been extinguished, the lands remain subject to the absolute jurisdiction and control of the Congress of the United States.

The Supreme Court of the United States held in January 1959, in William vs. Lee that the Arizona Courts were not free to exercise jurisdiction over a civil suit by one who is not an Indian against an Indian where the cause of the action arose on the Indian (Navajo) Reservation. The court further specified that the creditor should seek relief through the Tribal Courts. This judgment has particular relevance to the credit problem because a creditor was seeking to levy a judgment upon the assets of an Indian.

The decision of the U. S. Supreme Court was anticipated by an opinion given by the New Mexico Attorney General's Office in October 1958. Negative conclusions were given in answer to the question of the legal authority of a county sheriff to either serve civil processes or levy execution as a result of a judgment and issuance of execution upon an Indian living on a reservation, or his personal property located on a reservation.

In conclusion, the laws of the State of New Mexico apparently do not restrict lenders from making loans to Indians. The restrictions apply mainly to the security offered for a loan. So far as lenders are concerned, court decisions have made it difficult to enforce a judgment on an Indian residing on tribal lands. In the final analysis, these decisions have weakened the non-Indian credit position of Indians because non-Indian lenders are reluctant to rely on tribal courts for foreclosure action.

Fractionated heirship

The system of tenure determining ownership for Indian lands is immensely complicated, and this in turn complicates credit acquisition for the Indian. The term fractionated heirship applies quite accurately. It is not unusual for as many as five individuals to own interests in a single small tract of land. The General Allotment Act, mentioned above, is partly responsible for this tenure relationship. Unfortunately, the authors and proponents of such legislation failed to foresee that partitioning an owner's land following his death would often prove impractical. Before an heir can work a single tract, he needs approval of his fellow owners. Many times a tract is too small, too poor, or too arid for efficient use even in its undivided whole. The fractionated heirship tenure arrangement with its undesignated property rights complicates credit acquisition.

Ownership of Chattels

Partially connected with fractionated heirship is the problem of determining chattel ownership so that it may be used as security. An Indian rancher may own livestock in cooperation with other family members, but it may be impossible for him to designate individual ownership. This often occurs when cattle and sheep are jointly owned by family members. This restricts acquiring capital for short-term or operating loans.

Managerial Training

Another important variable affecting the willingness of creditors to extend capital to Indians is the lack of managerial training on the part of the prospective applicant. The "business world" is almost foreign to many Indians, since the economic portion of their lives has not revolved around entrepreneurship, which is associated with the non-Indian cultures. Consequently, some of the basic tenets of management, which are obvious to non-Indians, are new and foreign to the Indians' logic. A creditor in the Gallup area found that many Indian ranchers were ignorant of good animal husbandry practices and therefore suffered very low calving and lambing percentages.[14]

A soon-to-be-released Four Corners report, Para-professionals: An Approach to Education, by Thomas S. Cievenger, is intended to be helpful in solving the problem outlined above.

Repayment

Generally, creditors believe that Indian loans have greater non-payment risk than non-Indian loans.[15] Without reliable estimates of possible losses, lenders who have dealt with Indians have increased their interest rates.

---

[14]Personal interview in which creditor preferred to remain anonymous.

[15]Gray and Martinez, op. cit.

Servicing of Loans

Some lending institutions are reluctant to issue loans to potential borrowers living on Indian lands because of the long distances required to service the loans. Because of the time involved in servicing and supervising the loan, the lending institutions are forced to charge higher interest rates.

Generally, the lack of security, small uneconomic units, and inadequate managerial training are the greatest barriers to capital acquisition.

GOVERNMENT AGENCIES WHICH PROVIDE CAPITAL

The agencies examined in this report are the Bureau of Indian Affairs, Farmers Home Administration, Economic Development Administration, Small Business Administration, and the Office of Economic Opportunity.

Bureau of Indian Affairs

The BIA occupies a unique position among federal bureaus. No other department in the government has sufficiently broad functions to fulfill federal obligations to Indians or to carry out the necessary administrative measures. Many federal agencies concentrate on a single aspect of government services or activities. The Economic Development Administration deals only with economically depressed areas, whereas the Office of Economic Opportunity deals primarily with poverty. But the BIA deals with all diverse aspects of an Indian's life except his medical services. Frequently one program may encompass several branches within the BIA and, in addition, one or more divisions of the Interior Department, other federal departments and independent agencies or private businesses, but it is almost always a cooperative venture with the BIA.

The Bureau of Indian Affairs has two funds from which financial assistance can be extended to Indian tribes, Indian organizations, and individual Indians on or near reservations for businesses, agriculture, or other economic endeavors. These two funds are the Credit Revolving Loan Fund and the Indian Business Development Fund. The Credit Revolving Loan Fund is a continuing program; whereas, the Indian Business Development Fund is dependent upon annual appropriations by Congress.

The revolving fund for loans was authorized by four main Acts: 1) The Indian Reorganization Act of June 18, 1934 (48 Stat. 986; 25 U. S. C. 470), as amended and supplemented; 2) the Oklahoma Welfare Act of June 26, 1936 (49 Stat. 1968; 25 U.S.C. 503); 3) the Navajo-Hopi Rehabilitation Act of April 19, 1950 (64 Stat. 44; 25 U.S. C. 631); and 4) the Act of November 4, 1963 (77 Stat. 301; 25 U. S. C. 70n-1), as amended, authorizing loans for expert assistance in connection with the preparation and trial of claims pending before the Indian Claims Commission. An act of May 24, 1950 (64 Stat. 190; 25 U. S. C. 443), authorized the deposit in the revolving fund of monies received from Indians in settlement of debts for foundation livestock and from the sale of livestock. The livestock involved came from drought relief purchases by the Department of Agriculture in 1934 and were turned over to the

Bureau of Indian Affairs to establish foundation herds for Indians. The livestock were loaned to Indians on a "repayment in kind" basis. A total of $2.8 million was deposited in the revolving fund from livestock settlements.

Funds authorized by the Indian Reorganization Act, supplemented by livestock settlements, are generally the only money in the revolving fund available for loans to Indians and Indian organizations (table 5). Funds authorized by the Navajo-Hopi Rehabilitation Act are available only for loans to the Navajo and Hopi Tribes and their members (table 5). Funds authorized for expert assistance loans may not be used for other purposes. Funds made available for loans have never been adequate to meet demands.[15] For this reason, the Bureau's credit program continues to be directed towards increasing Indian financing from conventional sources including other federal agencies such as SBA, EDA, HUD, and FHA.

Table 5. Amount of authorized and appropriated monies for Indian Revolving Fund[1]

Source	Authorized	Appropriation	Expended for Administration 1936-1961	Appropriation Available for Loans	Authorizations Unappropriated
	dollars	dollars	dollars	dollars	dollars
Indian Reorganization Act	20,000,000	19,999,600	3,093,902	16,905,698	400
Oklahoma Welfare Act	2,000,000	2,000,000	612,774	1,387,226	--
Navajo-Hopi Rehabilitation Act	5,000,000	1,800,000	367,264	1,432,736	3,200,000
Expert assistance	1,800,000	1,800,000	--	1,800,000	--
Total	28,800,000	25,599,600	4,073,940	21,525,660	3,200,400

[1] 1970 Annual Credit and Financing Report, United States Department of Interior, Bureau of Indian Affairs, p. 25

Under the provisions of the Navajo-Hopi Rehabilitation Act, $5,000,000 have been authorized for the revolving fund (table 5). However, only $1,800,000 has been appropriated. In contrast, all other Acts which have authorized monies for the revolving fund have had nearly the full authorization appropriated. In recent years, a major portion of the loans extended from the Navajo revolving fund have gone for housing.

At the time of enactment of the Indian Reorganization Act, few Indians were able to obtain financing from conventional sources, either governmental or private. Indians were practically unknown to customary lenders, and the lenders were largely unknown to the Indians. Many Indians who started in productive enterprises with revolving fund loans gradually progressed to the point where conventional lenders could be interested in financing them. Information on conventional lender financing was obtained for the first time in 1951 and showed a total volume at that time of slightly over $20 million. The growth to an estimated $294,200,000 in 1970 (table 2) would probably not have been possible if the revolving fund had not been available to get them started. Many of the loans from the revolving fund involved fairly high risk, since the initial lenders had no accurate way of knowing the repayment capacity or risk-bearing ability of potential loanees. Undoubtedly, the risk was higher than the ordinary lender could tolerate. With initial appropriations of $21,500,000 available for loans, the revolving feature has permitted total loans of $68,900,000 to be made. Loans receivable as of June 30, 1970, were $25,700,000 (table 2).

[15] 1970 Annual Credit and Financing Report, United States Department of Interior, Bureau of Indian Affairs, p. 25.

During the 1970-71 fiscal year the Bureau of Indian Affairs began a new program, the Indian Business Development Fund, which is dependent on annual appropriations by Congress. The Indian Business Development Fund is a grant program to provide "seed money" to tribes, Indian organizations, or individual Indians so that they can obtain loans from conventional sources. A grant normally cannot exceed 40 percent of the total project cost, and all financing necessary for the project must be committed before a grant is made. The program is aimed at increasing ownership, income, and employment for Indians. The amount of funds available for each fiscal year depends on appropriations approved by Congress. In the first year of the program $3,900,000 was made available. A total of 780 applications requested funds in the amount of $10,800,000--more than triple the money allocated.[17]

The Navajos have used this program to aid financing of cattle purchases, clothing stores, restaurants, garbage collections, auto repair shops, and other economic endeavors. The cooperating financial agencies in order of funds made available to the Navajos are 1) Small Business Administration, 2) Navajo Tribal Credit Program, 3) commercial banks, and 4) the Farmers Home Administration.[18]

For a project to be eligible for a loan, several requirements must be satisfied: 1)the project must be profit-oriented to generate jobs for Indians, 2) it must be owned or controlled by an Indian group or an individual Indian(corporations are eligible for grant funds if at least 51 percent of the corporation is owned by eligible Indians), and 3) the project must be located on a reservation or in the immediate vicinity.

Enterprises which may have greater social than economic impact are not excluded. However, organizations whose primary objective is governmental, religious, charitable, fraternal, social, or political are not eligible. Tribes which have uncommitted funds are generally not eligible for loans from the Indian Business Development Fund.

Farmers Home Administration

Where there are individually-owned trust allotments, the Farmers Home Administration will accept this as security for reservation Indian loans. In the Southwest, where a relatively small portion of the Indian land is held as individually-owned trust allotments, the FHA is limited in the volume of credit which may be extended to the reservation Indian.

The information in table 6 indicates some of the FHA loan programs available to the Indian. Farm ownership loans are not available to reservation Indians without an individually-owned trust allotment. The operating and Economic Opportunity loans make equity capital available to the individual (table 6). The remaining programs make loans available to public bodies, nonprofit organizations, or groups of farmers and ranchers. The Economic Opportunity Loan program makes equity capital available for the individual Indian to create his own business. However, as discussed later, the maximum size of the loan is very restrictive. These loans (table 6) are in no way tailored to meet the special needs of the Indian, but if the Indians meet the loan requirements, they are eligible.

---

[17] New Indian Business Development Program Starts 241 Indian-Owned Businesses, Department of Interior News Release, July 16, 1971.

[18] Personal interview with E. E. Wood, BIA, Window Rock, Arizona.

Table 6. Selected Farmers Home Administration loans[1]

Type of Loan	Purpose	Who May Apply	Where to Apply
Operating	Land improvement, equipment, labor, and development resources necessary for successful farming, including the development of recreational and other non-farm enterprises to be operated on the farms.	Operators of family farms only.	Local Farmers Home Administration Office.
Water and Waste Disposal Programs	Loans and grants for the construction of rural community water and waste disposal systems.	Public bodies and nonprofit organizations.	Local FHA Office.
Irrigation	Loans to develop irrigation systems, drain farmland, and carry out soil conservation measures.	Groups of farmers and ranchers.	Local FHA Office.
Grazing and Forest Lands	Loans for shifts in land use to develop grazing area and forest lands.	Groups of farmers and ranchers.	Local FHA Office.
Rural Housing	To construct and repair needed homes and essential farm buildings, purchase previously occupied homes, or buy sites on which to build homes.	Farmers and other rural residents in open country and rural communities of not more than 5,500.	Local FHA Office.
Watershed	Watershed loans to help finance projects that protect and develop land and water resources in small watersheds.	Local organizations	Local FHA Office.
Economic Opportunity	Economic opportunity loans are made to low-income families in rural areas to enable them to increase their incomes. Economic opportunity loans also are made to cooperatives serving low-income rural people and providing processing, purchasing, or marketing services.	Low-income rural families.	Local FHA Office.

[1] Loan Sources in the Federal Government, Management Aids No. 52, Small Business Administration, p. 4-6.

The Economic Opportunity Loans are widely used by many Indians. Under the Economic Opportunity Act of 1964, the Farmers Home Administration makes loans to low-income farm and nonfarm rural families who need small amounts of capital to improve their earnings but are unable to obtain credit from other sources at reasonable rates and terms. To qualify for a loan, an applicant must 1) have limited resources and be receiving an income from all sources that is too low to cover basic family needs, 2) be unable to obtain the necessary credit from other sources, including regular loan programs of the FHA, 3) furnish evidence, if the credit is for a non-farm enterprise, that the service or product is not being adequately supplied by others in the community, and 4) have reasonable prospects to earn more income.

The total outstanding amount of the opportunity loan to any one family may not exceed $3,500. The actual amount loaned is limited to the family's needs and reasonable ability to repay. Loans are generally secured by a promissory note and a loan agreement. Borrowers are given management assistance to enable them to make profitable use of their resources. A loan limit of $3,500 seriously restricts the possibility of this loan program.

During the first years of this program, approximately 98 percent of the operating type of loans made to Indians out of the Gallup FHA office were Economic Opportunity loans.[19] In the last two fiscal years, however, funding for this program has been nil. At present (1971), the FHA is not accepting applications for Economic Opportunity Loans.[20] Indians have been forced to apply for regular FHA loans, but many do not qualify because of tighter requirements of regular FHA programs compared to the Economic Opportunity loan program.

Under the Economic Opportunity Act of 1964, the Farmers Home Administration can make loans to cooperatives serving low-income rural families. This program has been used by Indians in the Gallup area to establish livestock, rug, and arts and crafts cooperatives. Because of a lack of funds, the cooperative loan program is no longer available.

Public Law 91-299, approved April 11, 1970, permits the FHA to make loans to Indian tribes and tribal corporations for the acquisition of lands within the reservation. This loan may be used to re-acquire land whose title was originally held by an Indian but was lost to a non-Indian through foreclosure. Eligibility for such a loan is limited to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to the Indian Reorganization Act. To qualify, the tribe must not have uncommitted funds with which it could acquire lands in the tribe's reservation. Loan funds may be used by the tribe to acquire land within the reservation for use of its members, such as for 1) lease to tribal members for dwelling, farming, grazing, or other purposes, 2) lease to cooperative grazing units, 3) recreation for sole use of the tribal members, 4) rounding out grazing units, 5) elimination of fractional heirships, and 6) other purposes approved in advance by the national FHA office. To some tribes, such as the Navajos, this program will not substantially aid in enlarging the land base, since only a very small portion of the lands within the boundary of the reservations are now privately owned by non-Indians.

Economic Development Administration

The Public Works and Economic Development Act of 1965 is designed to provide new industry and permanent jobs in distressed areas through grants or loans for public works and development facilities. Emphasis is placed on long-run economic development and programming for areas or communities with persistent unemployment and low family incomes. The primary objective of the Act is to create a climate conducive to the development of private enterprise in economically distressed communities. Local initiative is required to design and implement community redevelopment in partnership with government.

To encourage private investment, the Public Works and Economic Development Act established the EDA Business Development Loan. This provides for low-interest, long-term loans to help businesses expand or establish plants in redevelopment areas. These loans are made to assist a variety of enterprises, such as forestry and wood products, furniture and fixtures, paper and allied products, fabricated metal products, food and kindred products, leather products, and rubber and plastic products.

---

[19] Personal interview with FHA representative at the Gallup office.

[20] Telephone conversation, Don Purcell, FHA, Albuquerque.

Although there is no limitation on the amount the agency may lend to any one applicant, EDA may not lend more than 65 percent of the cost of land, buildings, machinery, and equipment for industrial and commercial enterprises. Maturity on an EDA business loan may extend to 25 years. However, maturity on EDA business loans is usually based on the useful life of the fixed assets acquired. Collateral requirements vary, but EDA must have at least a second lien position on the fixed assets purchased.

In addition to requiring that an applicant must be located in an EDA-designated area and may not borrow to relocate his business, EDA also demands that: 1) the requested funds are not obtainable from other sources at reasonable terms, 2) there is a reasonable assurance of loan repayment, and 3) the project is consistent with the EDA approved Overall Economic Development Program. The EDA also requires that at least 15 percent of the total eligible project cost is supplied as equity capital or as a subordinated loan, repayable in no shorter period of time and at a no faster amortization rate than the EDA loan. At least one-third of the 15 percent must be supplied by the state, community, or area organization. Projects involving financial participation by Indian tribes are exempt from the "one-third of 15 percent" requirement. EDA also may waive the "one-third of 15 percent" requirement in certain hardship cases and allow the applicant or other non-federal sources to supply the funds directly to the project. To stimulate investment by private lenders, EDA encourages the applicant to borrow as much as possible of the project costs, above the first 15 percent, from private lending institutions. Such loans may be repaid before the federal loan and may be secured by a lien having precedence over the federal lien.

Only the Navajo and Mescalero Apache tribes in New Mexico have used EDA Business Development Loans. A state EDA representative indicated that the EDA was willing to work with Indian tribes, but most tribes were unable to meet the financial requirements.[21] The Mescaleros received a $108,000 EDA loan to build a tribal store. The 35 percent of the capital not supplied by the EDA came from the Mescalero's tribal fund. The Navajos have used EDA business loan funds to construct 1) a Navajo sawmill cut-stock plant (Navajo Forest Products Industries), 2) a Navajo town center commercial facilities, 3) Shiprock industrial building (Fairchild Semiconductor Co.), and 4) an addition to the Shiprock industrial building for electronic equipment manufacturing operation.[22]

The EDA has several other loan programs which aid development, but they do not make loans directly to businesses. These programs are the EDA Grants and Loans for Public Works and Development Facilities and EDA Planning Grants for Economic Development.

The Public Works and Development Facilities Program finances industrial park developments such as utilities, streets and access roads, and water and sewer facilities. These projects are financed by direct and supplementary grants. Eligible projects in designated areas may receive direct grants of up to 50 percent of total eligible project costs. Eligible projects in severely distressed areas may receive additional assistance in the form of supplementary grants to augment basic grants from EDA. The combined federal grant can not exceed the maximum grant rate that the EDA has established for the area in which the project is located.

[21] Personal interview with L. W. Curfman, Santa Fe.

[22] Comment by R. E. Kilgore, assistant area director, BIA on earlier draft of this paper.

Recently, the provisions of the Public Works and Development Facilities Program has been expanded to make special provisions for the Indian. Section 101 (c) of the Public Works and Economic Development Act of 1965, as amended on November 25, 1969, provided that for a supplementary grant to an Indian tribe, the 20 percent non-federal share of the aggregate project cost may be reduced or waived. The term "an Indian tribe" includes the governing body of a tribe, corporation, authority, or other tribal organization or entity. The term does not include non-tribal or non-Indian municipalities or organizations, even though they and the projects to be assisted are located within a reservation boundary. Projects proposed by such non-tribal entities are limited to a maximum grant of 80 percent or other grant rate applicable to the area and are subject to the same criteria and procedures as projects from other redevelopment areas.

Under the provisions of the new program, projects for Indian tribes are given special consideration, and subject to the limitations set out below, 100 percent grants will be made for eligible public works projects. There are the types of public works projects which are affected by this policy:

Non-revenue producing projects are eligible for a 50 percent basic public works grant and up to 50 percent supplemental grant funding, considering the relative needs of the area, the nature of the project, the economic impact of the project, and the relation of the project to the economic process on the reservation. Examples of projects in this category are 1) industrial and commercial parks, including utilities and services, 2) bridges, access and other roads, 3) skill centers, community and cultural center buildings, 4)water, sewage, and sewage treatment systems, 5) docks, piers, wharfs, and airport facilities, and 6)recreation development (except for revenue-producing facilities).

To determine the appropriate grant rate for projects which combine revenue and non-revenue producing facilities, the application is numbered and processed as two separate projects, with the aggregate costs of the revenue-producing and the non-revenue-producing facilities determined separately. The non-revenue-producing portion of the project is eligible for 50 percent supplemental public works grants as outlined above. The revenue-producing portion of the project is eligible for 50 percent public works grant funding without supplemental grant funding. Here is an example of how such projects are developed:

An applicant proposes a tourism and recreation complex consisting of 1) a motel-lodge, including a restaurant, bar and pool, motel parking area, driveway, and landscaping, 2) a small lake with a fishing dock, picnic area and campsites, an information and craft demonstration center, and nature trails, and 3) a water and sewer system, access road, general parking area, and site work. The lodge complex is defined as a commercial (revenue producing) facility and is eligible for a grant of 50 percent of its cost. The remaining facilities are considered non-revenue-producing and are eligible (subject to the above requirements) for a 50 percent basic grant and a 50 percent supplemental grant.

Commercial or industrial use projects will be eligible for 50 percent public works grant funding without supplemental grant funding. Examples of projects in this category include but are not limited to 1) commercial buildings that are not part of a tourism and recreation development, such as a general merchandise store, a gas station, or a general warehouse and storage plant, and 2) industrial facilities for the manufacture or assembly of goods such as a plant for the assembly of electronic components, a plant for the manufacture or assembly of pre-fabricated housing units, a plant for the repair and assembly of guns, or a lumber mill.

Because this program became effective only recently, (January 1, 1971), its success or impact cannot be determined at this time.

Small Business Administration

The Small Business Administration's leading objectives are to stimulate small business in economically deprived areas, promote minority enterprise opportunity, and promote small business contribution to economic growth and competitive environment. Several SBA programs which Indians may find useful in acquiring capital to finance economic endeavors are presented in table 7.

Table 7. Small Business Administration loans[1]

Type of Loan	Purpose	Who May Apply	Where to Apply
Business Loans	To assist small firms to finance construction, conversions, or expansion; to purchase equipment, facilities, machinery, supplies, or materials; and to acquire working capital. Loans are direct or in participation with banks.	Small Businesses	Nearest SBA Field Office
Economic Opportunity Loans	To assist small firms operated by those who have marginal or sub-marginal incomes or those who have been denied equal opportunity (Title IV of the Economic Opportunity Act).	Low-income disadvantaged persons desiring to strengthen or establish a small business.	Nearest SBA Field Office.
Development Company Loans	To assist small firms by helping to establish and finance the operation of state and local small business development companies which make loans to small firms for equity capital, plant construction, conversion, or expansion.	State and local development companies.	Nearest SBA Field Office

[1]Loan Sources in the Federal Government, Management Aids No. 52, Small Business Administration, p. 3.

For business loan purposes, SBA defines a small business as one that is independently owned and operated, not dominant in its field, and meets employment or sales standards developed by the agency. When financing is not otherwise available on reasonable terms, SBA may guarantee up to 90 percent or $350,000 (whichever is less) of a bank loan to a small firm. SBA business loans may be for as long as ten years, but those portions for construction purposes may have a maturity of 15 years. Working capital loans are usually limited to six years. Security for a loan may consist of one or more of the following: 1) a mortgage on land, building or equipment, 2) assignment of warehouse receipts for marketable merchandise, 3) a mortgage on chattels, and 4) guarantees or personal endorsement. One of the regular SBA business loans made to Indians in New Mexico has been to Sandia Indian Industries. This $350,000 loan was used to construct a manufacturing plant whose product was sold on contract to the federal government. The loan was secured by the government contract and tribal funds.

The Economic Opportunity Loan Program of the SBA has been used by Indians to a greater extent than has the Business Loan Program. To receive an economic opportunity loan the applicant must have insufficient income from all sources to make a reasonable living or have a physical disability. The maximum loan under this program is $25,000 for a period of 15 years. The EOL program has been used in cooperation with the BIA's Indian Business Development Fund. The BIA grants up to 40 percent of the financing, and the SBA picks up the remaining portion.

The SBA's development company loan has never been used by New Mexico Indians, but it may be useful. The loan is made to a local development company or an industrial foundation, and the loan funds are in turn used to assist a small business concern in acquiring fixed assets. The local development company is generally required to provide from its own sources at least 20 percent of the cost of the project. This 20 percent can be in the form of cash, land, buildings, and equipment. The loan must be so secured that payment is reasonably assured. The collateral will normally consist of a first mortgage on real estate and a first lien on machinery and equipment acquired with the project funds. The SBA can lend up to $350,000 for each small business concern to be assisted. Loan maturity cannot exceed 25 years.

Office of Economic Opportunity

The purpose of the Office of Economic Opportunity is to strengthen, supplement, and coordinate efforts to further the policy of the United States to "eliminate the paradox of poverty in the midst of plenty in this nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity." Under the Economic Opportunity Act of 1964, the FHA administers economic opportunity loans to rural families with low incomes and loans to cooperatives serving rural families with low incomes. The SBA administers economic opportunity loans to assist small firms operated by those with marginal income (Title IV of the Economic Opportunity Act). The loan size of the opportunity loans is usually quite small, but the loan requirements are not as high or rigid as the regular loan programs; therefore they have provided a source of capital for many Indians. State agency administrators indicated that, during the previous and present fiscal years, the appropriations for all economic opportunity loan programs has been very small.[23] It was their unofficial opinion that these programs were being abandoned.

PROBLEMS AND RECOMMENDATIONS

Lack of managerial training is one of the major factors limiting the Indian in his competition for credit. Intensive managerial training in the conduct of farms, ranches, and other businesses should be carried out so that the Indian can more favorably compete with the non-Indian for credit. Untrained Indians should receive instruction that emphasizes the mental and the manual aptitudes in demand in modern society. At present, extension programs are available through contracts between the Department of Interior and the U.S. De-

[23] Personal interview with O.E.O. representative, Santa Fe.

partment of Agriculture. At the local level, these contracts are between the area Bureau of Indian Affairs office and the Cooperative Extension Service. The BIA provides the funds for the extension personnel located on the Indian reservation. This staff can be the machinery which might be used to develop an intensive training program for the Indian, although an additional financial and personnel commitment would be needed to establish such a program. In New Mexico, 20 people are now employed in this extension program.

The EDA, FHA, and SBA have provisions for extending substantial sums of capital for development and equity, but because of these agencies' financial requirements, the present programs will not meet capital needs for economic development. The Economic Opportunity Loan programs administered by the FHA and SBA for which Indians could qualify are not funded at levels which permit adequate credit availability.

The author believes that only through legislation can the collateral and in turn the capital acquisition problem be solved. Specific suggestions are that Congress:[24]

1. Authorize and appropriate at least an additional $50 million for the revolving loan fund.

2. Inaugurate and establish a $200 million loan guaranty fund.

3. Authorize interest subsidies on guaranteed loans.

4. Authorize the BIA to sell existing revolving fund loans to financial institutions, thereby increasing the amount of funds available for loan.

5. Authorize tribes to issue bonds exempt from federal income tax for purposes related to the governmental affairs or operations of the tribe.

The success of any Indian credit program cannot be determined solely by the profitability of investment criteria but must be evaluated in broader terms. Credit programs must be designed to accommodate the unique problems of the Indian. If programs are designed to disregard the Indian life style, the Indian may disregard the credit program. That is, if the credit program is contrary to his life style, the Indian may decide that he will continue to tolerate economic disadvantage. So, if the program is to experience success, it must have regard for the Indian's culture. Such a program would not necessarily be uneconomic in terms of "investment criteria."

---

[24]These five recommendations were proposed legislation that was considered in the 88th, 89th, 90th, and 91st Congress. All provisions were defeated.