



Indian Law

BUSINESS PARTNERSHIPS & TRIBAL EMPLOYMENT

Business Partnerships Between Energy Companies and Tribes

Van Ness Feldman has a nationally recognized energy law practice, with expertise in generation, transmission, natural gas pipelines, oil pipelines, hydroelectric relicensing, and alternative energy. The firm also has a highly respected Native American practice.

By combining its energy and Native American law expertise, the firm has been able to assist our energy sector clients and our tribal clients accomplish their goals of launching successful projects on Indian and Alaska Native lands and creating positive business environments that ensure the long-term success of the business relationship.

Because the firm is known and respected in both the energy and tribal communities, it is able to open doors and to create a negotiations climate of mutual trust. Because it has represented clients on both sides, the firm has the unique ability to help its clients understand the other parties' concerns and to develop creative approaches that accommodate both parties priorities.

Perhaps most importantly, because it has represented both tribes and energy companies the firm is able to assist all of its clients develop strategies that are respectful of the other sides' values and requirements – the key to successful negotiations.

Reservation Economic Development and Employment, Including the SBA 8(a) Program and TERO

The attorneys at Van Ness Feldman have been involved in many of the significant and innovative initiatives to promote economic development on reservations, particularly those that are not close enough to large population centers to benefit from gaming.

One of the firm's attorneys helped to found the Tribal Employment Rights Office (TERO) program and assists tribes develop ordinances to regulate employment-related matters on their reservations, such as OSHA, Wage and Hour, and family leave.

The firm helped to create the Native American Bank, a Federally chartered financial institution that focuses on providing loans and other banking services to Indian country. The firm led the lobbying effort for legislation to provide tribes and ANCs with special rights (such as the right to large sole source contracts) under the SBA 8(a) program, helped to draft the regulations implementing those rights, and has assisted numerous tribes and ANCS to obtain 8(a) certification and to use

those rights to promote their economic betterment.

We have also been at the forefront in developing creative approaches for using those special 8(a) rights. For example, the firm brought together separate information technology firms owned by eight tribes, three Alaska Native Corporations and one Native Hawaiian Organization into a multi-tribal 8(a) certified company that has been awarded over \$80 million in DOD contracts and that has create almost 300 IT jobs in remote communities. The firm is presently working with an intertribal organization to promote Indian employment and the development of Indian businesses in road and other construction areas.

8(a) and Government Contracting

Businesses owned 51% or more by Indian tribes and Alaska Native Corporations are able to obtain to sole-source contracts from federal agencies, using special rights Congress has provided to them under the U.S. Small Business Administration's 8(a) program. This opens up opportunities for creative joint ventures between tribal firms and the private sector to access government contracts outside the competitive processes.

The attorneys at Van Ness Feldman helped to draft the statutory and regulatory language providing the special rights to tribal and ANC 8(a) firms and have helped numerous tribal and private sector firms tap those rights. It has also been at the forefront in developing creative approaches for using those rights. For example, the firm brought together twelve information technology firms – owned by eight tribes, three Alaska Native Corporations and one Native Hawaiian Organization – into a multi-tribal 8(a) certified company that has been awarded over \$80 million in DOD contracts.

Tribal Employment Rights Ordinances and Offices

Over 150 tribes have enacted Tribal Employment Rights Ordinances to promote the employment of Indian workers and businesses on projects occurring on their reservations and have established Tribal Employment Rights Offices (TEROs) to enforce those Ordinances. When energy companies engage in business activities on reservations, they need to understand the TERO program and the responsibilities it imposes. The attorneys at Van Ness Feldman helped to start the TERO program and have almost 30 years of experience working with it. As a result, the firm can assist tribes seeking to strengthen their TERO programs and can assist private sector clients doing business on reservations to develop cooperative relationships with the TEROs on reservations on which they are developing projects to enable them to satisfy those requirements in a cost-effective manner.