



Strengthening Tribal Governments

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Introduction

Alaska tribes have been self-governing from time immemorial, but are now faced with the difficult task of developing modern versions of tribal government that strive to satisfy tribal members while preserving cultural identity and practicing traditional values. At the same time, tribal governments need to be recognizable by the state and federal governments as strong and legitimate governmental entities with which government to government relationships can exist. There are

three sovereigns recognized by the United States Constitution and in federal Indian law: the federal government, state governments, and tribal governments. Of these the tribal governments have the greatest flexibility in how they are structured and what procedures they operate under. To some extent, Alaska tribal governments are designed through tribal constitutions, but the details are largely designed through tribal codes adopted by tribal councils and through unwritten practices which evolve over time.

Tribal sovereignty, the authority to govern, belongs to all the tribal members. Tribal members delegate this authority to tribal councils to exercise, placing their trust in them to act in their best interest. The primary purposes of tribal government are to represent the best interest of the people, to provide services for the benefit of the people, and to govern the people in the manner they wish to be governed. This self-determination, through tribal government, provides Alaska Native people the opportunities for local control in serving their communities and planning their future, while protecting cultural identity. These opportunities are best realized when tribal government is strong, fair in the eyes of the tribe, and a reflection of traditional tribal values.

Many Alaska tribes face difficult social problems and have very limited economies with which to deal with them. At the same time, changes in state and federal administrations swing between supporting tribal self-determination and opposing it, creating instability in government to government relations. It is critical that whole communities come together, support one another, and build strong respected governments. Strong, healthy, successful governments can help overcome these difficulties and challenges by building bridges of respect, rather than walls of stone. It takes the whole village to create such a government.

Leadership

There are many paths to building strong, healthy tribal governments, and good leadership is a key ingredient. Strong tribal governments have leaders who are

honest, ethical, and hard working people with a genuine concern for the welfare of all members of the tribal community. Strong leaders are people the tribal members respect and can trust to guide the community. It is the responsibility of these leaders to seek office, and the responsibility of the voters to elect such people. It is the responsibility of the parents, communities, and councils to support the leadership qualities and capabilities of the youth who will become the next generation of tribal leaders. It is in the best interest of the tribe to include the youth in some way at tribal meetings and events where tribal business is discussed.

Planning

Planning is essential for making progress in tribal government building, and for obtaining funding for many of the services and projects tribes undertake. Planning simply involves figuring out what is needed, establishing goals to meet the needs, determining the steps needed to obtain the goals in a given timeframe, and evaluating the relative success of your efforts. Tribal councils may be involved in overall community planning, but they also must have a plan for their own specific activities. For example, tribal councils are responsible for adopting and amending tribal codes which is an on-going and time consuming task. They must determine which are the most important codes to work on, and what steps are needed to make progress in adopting or amending them given the other priorities on their plate. There are many tasks facing tribal councils and prioritizing activities is essential for building strong, healthy tribal governments.

Fairness in Tribal Government

Strong, respected tribal governments are fair in the eyes of the tribe. Getting tribal members to perceive council activity as fair is extra challenging because of the large close family relations and relatively small size of many of the tribes. Two of the biggest areas tribal members complain about involving fairness are nepotism and financial management. One of the best tools for councils to rise to these challenges is to develop clear written policies for issues such as conflicts of

interest, elections procedures, hiring and supervision of employees, meeting procedures, and access to financial and other records (except those that must be confidential). Consistency in following those policies should be a guiding principle for tribal council activity. Any policy that is created must be enforceable. There must be a way for tribal members to hold the tribal council accountable if a policy is violated, just as tribal governments can hold its members accountable for inappropriate activity.

Another tool for building fairness is to follow a policy of working hard at including the input of tribal members and letting them know what the council is doing. This may be done through open council meetings where tribal members feel welcome to come and air their concerns, through newsletters, surveys, mailings, radio, public notices, tribal gatherings, council members going to the school and talking with the youth, and any number of other ways.

Fiscal Accountability

Fiscal responsibility, or good money management, is a key to building strong tribal governments. It is essential that tribal members can trust their leaders to wisely take in, spend, and account for their money. Clear fiscal policies are critical and should provide for oversight on check writing and accounting. Monthly or quarterly financial reports should be made available to tribal members in a form that is easy to understand. From time to time an audit from outside the tribe should be used as an oversight to council financial activity. An independent audit can not only provide for good accountability, but may also help to identify if the money is being spent wisely. The person who serves as the treasurer on the tribal council should be chosen carefully, as this person must have the skills to provide oversight on the tribe's finances and be able to communicate with the council and tribal members about the status of the finances. It is essential that the tribal members can trust their leaders with the resources that are to benefit the entire community.

Stability in Tribal Government

To achieve long term success, stability is essential in building strong tribal governments. There are many elements that contribute to stability. Staggering the terms that tribal council members serve will help to prevent the entire government from being replaced at one time. This provides for continuity in tribal government and allows new council members to learn their roles and responsibilities from experienced council members. Strong tribal leaders need to delegate some responsibility and train others so the tribe is more prepared when they move out of their positions.

Developing clear written codes and policies provides continuity in tribal government as well as keeping organized records on all tribal council activity. The written word is something that provides consistent guidance which promotes stability.

Checks and Balances

Strong respected governments have internal checks and balances to provide oversight and prevent government from going in an unhealthy direction. In state and federal government, 'checks and balances' refers to dividing power between branches of government, but at the same time, giving each branch of government a bit of power over the others. For tribal government, 'checks and balances' may be provided in other ways such as reserving rights to tribal members on critically important matters, requiring a super majority vote on the most important council issues, allowing public participation in government through referendums and initiatives, hiring outside auditors, and requiring more than one signature on tribal checks. Alaska tribes may have tribal courts that are separated or partly separated from the council that also may provide as a check on tribal council activity.

Managing Tribal Staff

Good management of tribal employees is essential for successful tribal government. The most basic management tool is a tribal personnel policy that outlines such things as the chain of supervision, conflicts of interest, confidentiality, expectations for employees, rules for discipline and termination, and avenues for grievances. Tribal personnel policies may outline a procedure for community members to make a complaint about a tribal employee. Tribal council members should refrain from interfering with the day to day operations of the tribal staff and rely on the authorized chain of supervision. Although the tribal council may have sovereign immunity, it is best to proceed as if suits from a disgruntled employee are possible and avoid the potential circumstances in the first place.

Capacity Building

Capacity building is critical for strengthening tribal government and is accomplished in many different ways. Pairing the experienced with the less experienced is a good practice in capacity building as well as bringing in youth to tribal meetings and events. On-going training for council members, court judges, and tribal staff is essential and can take the form of trainings, workshops, conferences, college courses, and individual tutoring. Providing a library of resources at the tribal office and supporting each individual's efforts to further their own capacity lends to an environment of capacity building. An investment in building human capacity is a direct investment in strengthening tribal government.

Legislating Tribal Law

Well written tribal policies and codes that do not undermine the traditional unwritten tribal values and law ways are a fundamental aspect of strong, respected tribal government. Tribal councils are generally responsible for developing the written policies of the tribe and tribal codes, or ordinances as they may be called. Well written policies such as the personnel policy greatly improve

the daily operation of the tribal government in terms of tribal staff. It is a basic responsibility of the councils to adopt good policies and to amend them as needed.

Most Alaska tribes are in fairly early stages of code development and councils have the tremendous task in front of them to develop and revise them. Tribal codes serve a variety of functions by providing details for tribal government structures and procedures such as the court structure and election procedures. They outline the laws that the tribal government will enforce such as curfew and vandalism of tribal property. Tribal codes regulate activities in the village such as taking artifacts and regulating burn barrels. Well written codes and policies provide for a smooth flow of government and continuity between administrations. They promote respect from other governments and institutions. They may also protect Native cultural uniqueness if appropriately drafted.

It commonly falls upon the tribal council to review the tribal constitution and to propose changes to the tribal membership if they feel it is in the best interest of the tribe to do so. The unwritten values and tribal law ways are the highest form of tribal law, the constitution is the highest form of written tribal law, next comes the codes or ordinances, and followed by the written policies. Each should not conflict with the one above. Following traditional values and developing well written tribal laws are roots of strong tribal governments.

Enforcing Tribal Law

Sovereignty is the authority to govern, which certainly means to enforce the law within the jurisdiction of the tribe. The majority of the tribal laws and policies should be abided by because they are meaningfully written, the majority of the people generally agree with them, and the tribal government and community simply follow them. When this is not the case, the tools to use for enforcement are found in discipline procedures in personnel policies, removal and recall provisions for tribal council members, and in tribal courts.

A strong tribal court is a great protector of tribal sovereignty, both in enforcing laws of the tribe and in protecting the tribe against poor government. Realizing that tribal sovereignty belongs to all the people and that it is delegated from them to the tribal council, there must be a way to assure that the tribal council acts in the way the people choose, and that they do not abuse their authority to govern. When structured properly and given independence through the separation of powers and conflict of interest concepts, tribal courts can provide checks and balances in tribal government to protect against abuses of power and inappropriate activity.

Technical Assistance

Tribal governments may be strengthened by wise use of technical assistance. Technical assistance may come from tribal non-profits, which have the responsibility to continually improve their capabilities to provide it, or from private consultants. Consultants should have the ability to clearly communicate with the council both orally and in writing. They should be flexible and produce what the tribe wants, rather than what they want. Consultants should be knowledgeable about village life, tribal law, as well as about federal Indian law and any other law that may apply to the situation at hand. Experience in working with Alaska tribes is very beneficial as well as a good sense of humor and being generally personable. It is a good idea to check references before beginning work with a consultant. If there is any question about legal issues, tribal attorneys should be consulted, preferably the one or ones who would represent the tribe in the event that a legal battle occurs.

Creating Economic Opportunity

Strong governments promote economic opportunity which promotes the well being of the whole community, and in return, strengthens the government. Many Alaska villages face very limited economies, which creates dependencies on transfer payments. Tribal government has a role in creating an atmosphere for

economic opportunity and encouraging economic development either on a small cottage industry scale, or on a larger scale where resources permit. Tribal government also has a role in advocating for their members to benefit from economic development that affects them. Additionally, most tribes receive far less grant money from federal, state, or private foundations than they could be receiving if they improve their grant writing and management skills, and increase human capacity for doing the program work.

Another avenue of improving village economies is to strive to recycle money that comes into the village as much as possible. An example of recycling money is for a state paid school teacher to get her hair cut by a local community member, who in turn spends some of that money at the local store, which in turn donates some of that money to the school for the senior trip. Money would again be recycled if a local transporter used his boat in transporting the kids, once again if the boat engine is repaired by a community member, and again when the engine repairman paid a community member for guitar lesson for his child. Tribal governments are in the position to assist and encourage this recycling of dollars.

Relationship Building

Strong, respected tribal governments build positive relationships. Relationship building is critically important for exercising tribal sovereignty and serving the best interest of the people. There are two levels of relationship building. First there is one on one relationship building, where building relationships occurs one person at a time. An example of this type of relationship is the relationship built between tribal employees and state employee counterparts such as social workers. In building these relationships the individuals gain a better understanding of the challenges each face in the performance of their jobs and jointly identify solutions to better serve the people. Positive one and one relationships are at the core of building a respected tribal government.

Secondly, on a broader perspective, relationships with other governments, agencies, and entities, should be cultivated to provide to strong government to government relationships. These types of relationships are best build on respect and understanding, and should be in the spirit of cooperation and not competition.

A strong tribal government is essential in building these relationships, and should first look to resolving conflicts within the tribe and tribal government. Rifts between members and between different factions of the tribe must be bridged to unify the tribe. Clear written policies, positive community events, talking circles, mediation, support groups, counseling, treatment programs, cultural activities, are all things that help heal rifts. The old saying 'united we stand, divided we fall' applies to tribes and the relationships they form.

Building Tribal Governments on Respect

Strong tribal governments are based on respect, a core traditional value. Respect is built on values and knowledge. Strong tribal councils view their behavior, actions, decisions, and positions in terms of tribal values. Strong tribal governments are proactive in seeking wisdom from their Elders and tribal members, from other tribes and other governments, from training agencies, and others with relevant wisdom to share. Likewise, tribal governments should be open to listen and learn of the values and beliefs of others. In gaining this knowledge of each other, governments can learn to respect each other's positions and develop relationships based on that respect and knowledge.

Tribal governments in Alaska face many challenges and heavy workloads. It is critical that they choose their battles carefully, but also remember that doing nothing is a conscious choice. Tribal councils have great opportunities to serve the Alaska Native people, to build governments of their choice, and to base them on tribal values and respect.