

Native 8(a) – The Origins

By

Robin Puanani Danner, CEO
Council for Native Hawaiian Advancement

Small Business Roundtable
Honolulu, Hawaii August 2012



What Is an 8(a) Business or Firm?

- **1953:** Congress Passes the Small Business Administration Act
- **1967:** “Section 8(a)” is Established
 - To foster individually owned business in federal government contracting (create govt vendors, business prosperity)
 - Targeted at “disadvantaged populations”, mostly racial minorities, but also women, veterans, etc
 - Dominated by African Americans

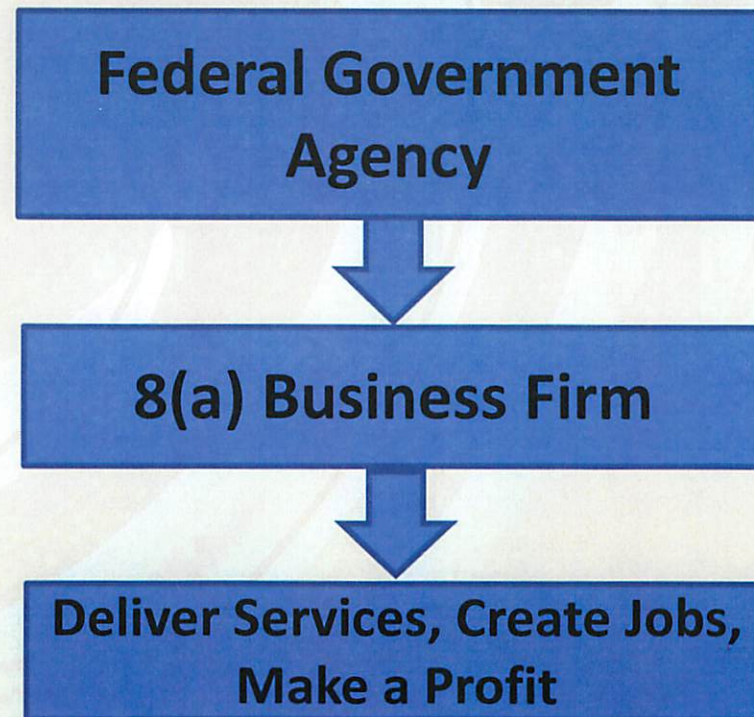
What Is an 8(a) Business or Firm?

What Does the 8(a) Section Do?

- Opens opportunity to capture federal government work and contracts for firms that qualify as an SBA 8(a) firm. For example:
 - Negotiate directly with a govt agency for a contract, saving the govt time and money
 - (up to a certain dollar amount)
 - Bid on government contracts with other 8(a)s
 - (smaller pool, no “biggs” to compete against in the mix)

What Is an 8(a) Business or Firm?

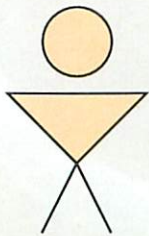
- Simply...A firm doing business with the federal government that meets the criteria of section 8(a) of the Small Business Administration Act



SBA
"Minority 8(a)"

Disadvantaged
Private Firms

Individual
Investor
Owned



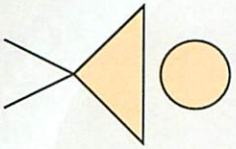
1960s

- Result of Civil Rights Era of the 60's
- Successful Economic Program
- Thousands of Small Business Owners
- Increase # of Vendors for the Govt
- For Individually Investor Owned
- Minorities, Women, Veterans, Etc
- Govt Contracts Competed for Among 8(a)s
- Govt Contracts Sole Sourced with Ceiling

SBA
"Minority 8(a)"

Disadvantaged
Private Firms

Investor
Owned

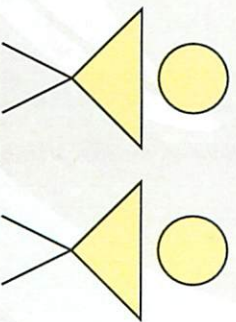


1960s

SBA
"Native 8(a)"

Tribe
Federally
Recognized

Tribal Govt
Owned



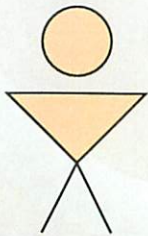
1982

- Trust Responsibility
- Federally Recognized Tribes
- Business Tool - Larger Mission
- Not Individual Owner/Investor
- Compete Among 8(a)s
- Sole Source without Ceiling

**SBA
"Minority 8(a)"**

**Disadvantaged
Private Firms**

**Investor
Owned**

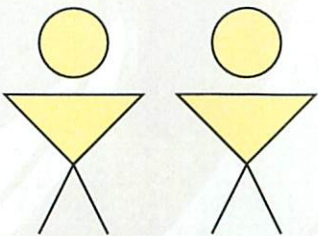


1960s

**SBA
"Native 8(a)"**

**Tribe
Federally
Recognized**

**Tribal Govt
Owned**

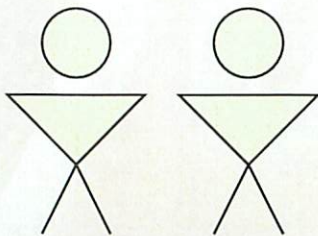


1982

**SBA
"Native 8(a)"**

**ANC
Federally
Recognized**

**Native
Community
Owned**

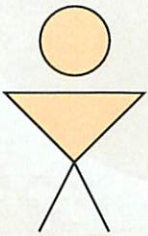


1988

**SBA
"Minority 8(a)"**

**Disadvantaged
Private Firms**

**Investor
Owned**

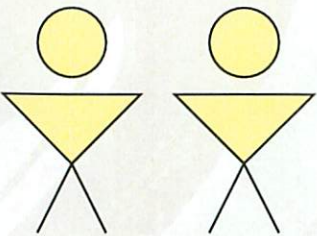


1960s

**SBA
"Native 8(a)"**

**Tribe
Federally
Recognized**

**Tribal Govt
Owned**

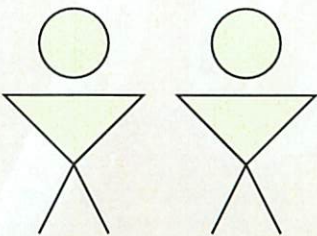


1982

**SBA
"Native 8(a)"**

**ANC
Federally
Recognized**

**Native
Community
Owned**

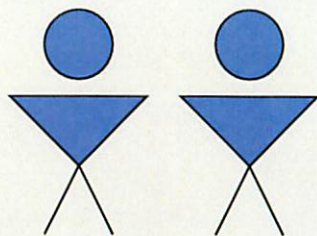


1988

**SBA
"Native 8(a)"**

**NHO
Incorporated
In Hawaii**

**Native
Community
Controlled**



2002

Native 8(a) - The Purpose

- Different Goals & Purposes:
 1. **Minority/Disadvantaged 8(a) Firm**
Promotes Individual Business Success
A Very Good Thing!
 2. **Tribal/Native Community Enterprise 8(a) Firm**
Promotes Business Success for Entire
Communities
A Great Thing!

Native 8(a) - The Origins

- Founded on Status as Native Peoples
 - Based on Unique Federal Trust Relationship
 - U.S. Constitution: “The Commerce Clause”
 - Various Treaties, Congressional Acts, Common History
 - Communal Responsibility of Tribes/ANCs/NHOs:
 - Not investor owned 8(a) firms;
 - Native Govt & Community owned/controlled firms
 - To advance entire communities & cultures
 - Net Profits support Tribal govt functions & social justice

What to do With Native Peoples?

- From Congress to Congress
 - Policies like Shifting Sand, Searching For What's Right
 - A Growing Nation, Influx of New Americans
 - Displacement of Native Peoples in order to Grow a New Nation
 - Always a Question of What to Do with Native Peoples
- Era's of Federal Indian Policy Emerge
 - Our Country's Attempts at Answering the Question
 - Searching for What's Fair, What's Right, What's Good
 - Sometimes Our Country Got it Right
 - Sometimes Our Country Got it Very Wrong

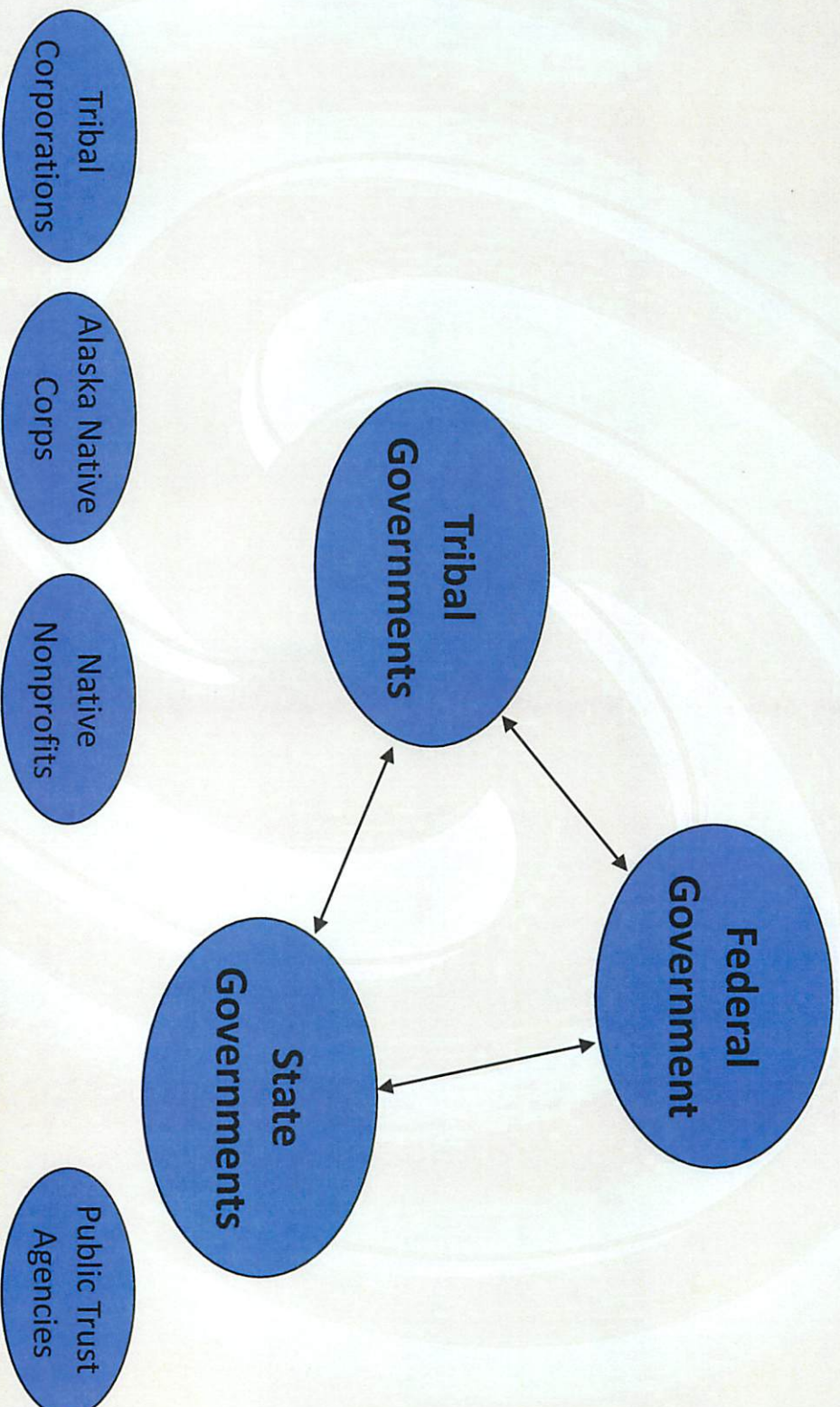
U.S. Government Policy Eras

“Always a Public Policy Question of What to Do with the Natives”

- Pre-Contact: Self-Sufficient, Evolving Cultures
- Contact-1828: “Discovery” – Colonial/Missionary Dispatches
- 1828-1887: “Treaty Policy” - Land Dispossession/Reservations
(removal, aggression, westward expansion)
- 1887-1934: “Assimilation Policy” – Make Them Like Us
(education, land allotments, automatic citizenship)
- 1934-1945: “Self-Governance Policy” – Let Them Be Them
(land restoration, govt to govt dealing best, federal recognition)
- 1945-1961: “Termination Policy” – The Dark Years
(urbanization, revert to assimilation)
- 1961-today: “Self-Determination & Self-Governance Policy”
(Native solutions for Native challenges best)



Native Organizations, Tribes, Corporations



Native 8(a) – The Origins

- Native 8(a)s
 - Not Created for Individual Ownership
 - Created to Advance the Obligations of Tribes, ANCs & NHOs
 - Operated for a Much Larger Purpose
 - Diversify Resources - to address the socio economic status of entire groups of Native peoples
 - Business - to deliver excellent product, employ people, grow our business skills, participate in commerce!
 - Dedicate Net Income – to invest in culture, education, Native ways, health & well-being, self sufficiency

American Indian Tribes An Orientation

“Tribal business delivers the talent we have in Indian Country to the federal government marketplace. We are building a new history, a new relationship with the federal government – one that is set upon the strengths of our cultures and honors our past while building a new future.”

Tex Hall, former President, National Congress of American Indians

Indians & Indian Lands

- Total American Indian Population – Over 4.1 Million
 - Roughly 1.5% of U.S. Population
 - “American Indian” = Over 200 cultural affiliations
- Approximately 56 million acres of Tribal Lands
 - 2.43% of Original Lands (2.3 Billion Acres of Original Land)
- 560+ Tribal Governments in 34 States
 - Business Enterprise is a Growing Sector among Tribes
 - A Vital Component to Meeting the Needs in Indian Country

Facts:

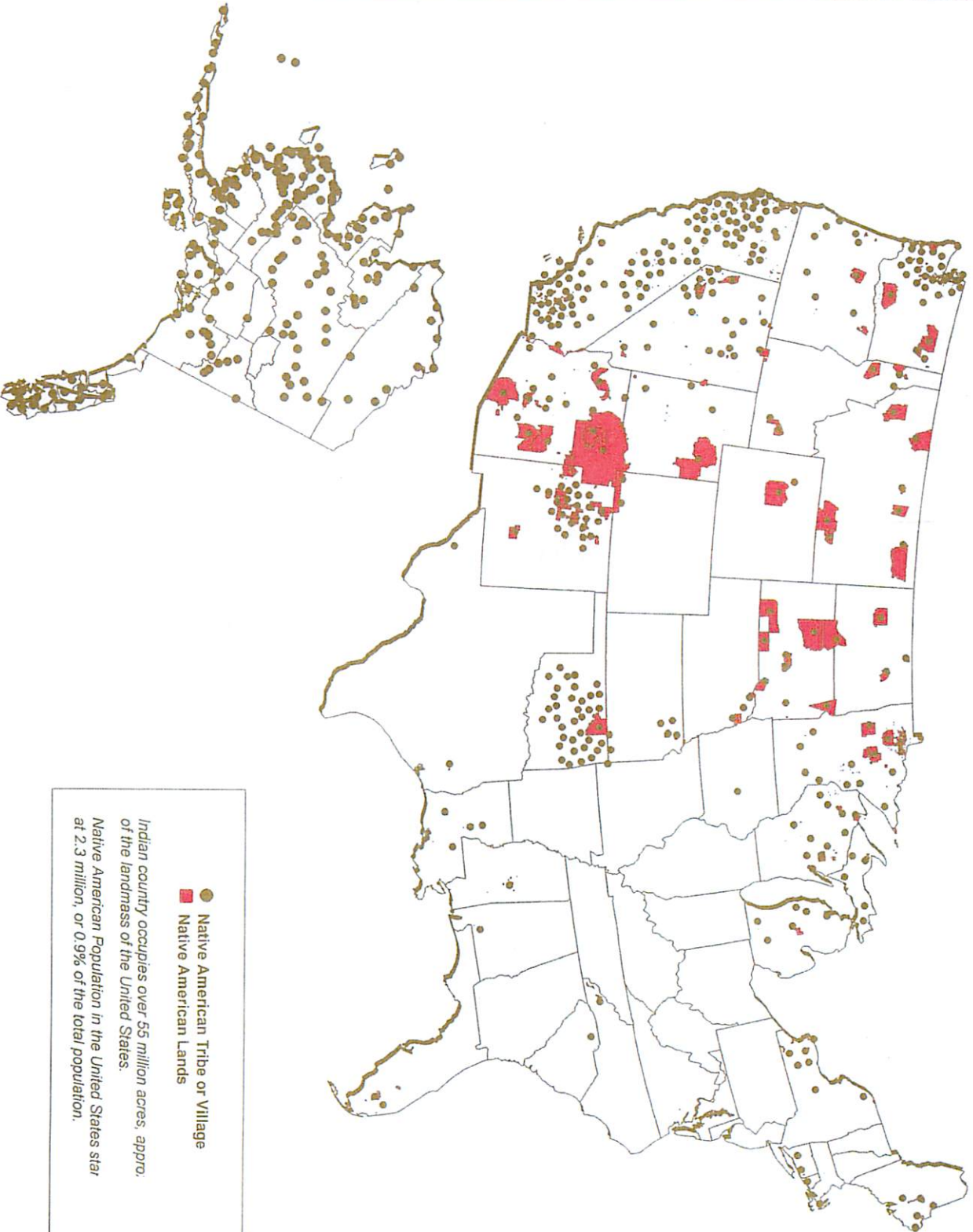
There are 557 federally recognized tribes in the U.S. 226 of these tribes are located in Alaska

The American Indian & Alaska Native population totals 2.3 million

Between 1887 and 1934, the U.S. government took over 90 million acres of land from tribes without compensation.

The largest reservation in the U.S. is the Navajo Nation.

The smallest reservation is less than one acre.



Recent Harvard Study

“After centuries of turmoil, oppression, attempted subjugation, and economic deprivation, the Indian nations have asserted their rights and identities, have built and rebuilt political systems in order to implement self-rule, and have begun to overcome what once seemed insurmountable problems of poverty and social disarray. The foundation of this resurgence has been the exercise of self-government by the more than 560 federally recognized tribes in the U.S.”

“... self-rule [by] tribes can bring, and has brought, improvements in program efficiency, enterprise competency, and socioeconomic conditions. ... self-rule brings decision-making home, and local decision-makers are held more accountable to local needs, conditions, and culture...”

*Harvard Project on American Indian Economic Development
January 2005*

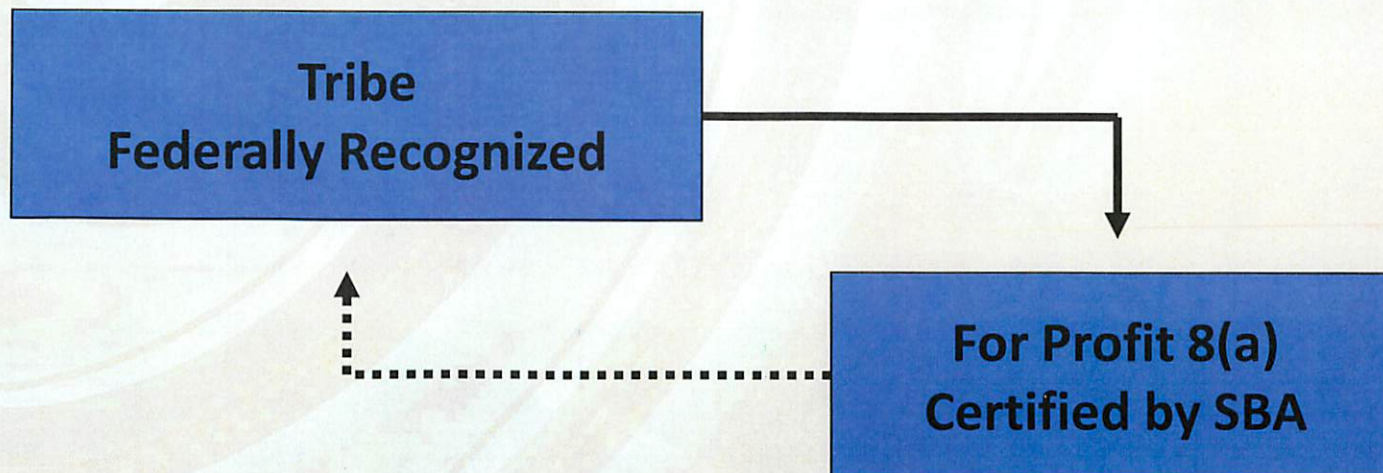


Tribal Summary

- Tribes Federally Recognized by Congress
 - Over 565 Tribes exist in 34 states – each unique
 - Capacity and Ability Ranges Across the Board
- Incorporate Businesses to Engage in Commerce
 - Not Investor Owned, But Tribal Government Owned
 - Accountable to Tribal Members, Leadership Elected
- Tribal Corporations
 - Net Revenues Fund Tribal Govt Services & Community Needs

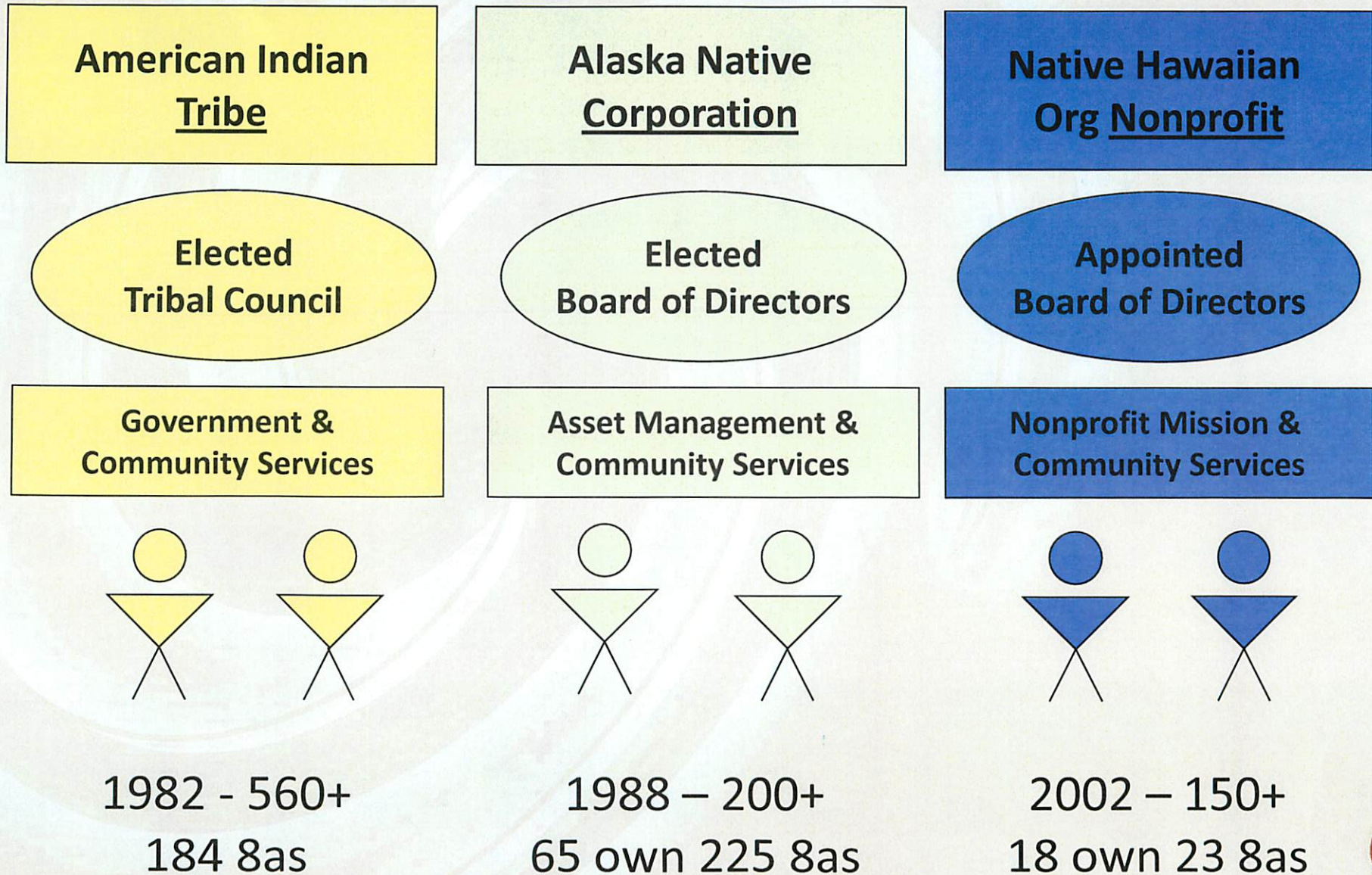
Tribal Government 8(a)

- Since 1982
 - Success in 8(a) emerging as Tribes incorporate autonomous Tribal Corporations
 - Estimated at 184 Tribal 8(a) Firms
 - Support Tribal Government Mission with any Success



Tribe —ANC—NHO

Native Community Enterprise 8(a)



Alaska Native Corporations An Orientation

"Native Elders were right. Change has come and is coming faster still. To keep on the clear, bright trail, we must understand clearly our present status and use that knowledge to have our footsteps firmly follow in theirs."

Byron Mallott, former President, First Alaskans Institute

Alaska Native Cultures

- The term “Alaska Native” describes many different Native peoples and cultures
- The 3 basic “Western Descriptions”
 - Eskimos – North, West and South
 - Indians – Interior, East and Southeast
 - Aleut – Southwest (chain)
- Stewards of Alaska’s lands for over 10,000 years

5 Major Categories of Alaska Native Organizations

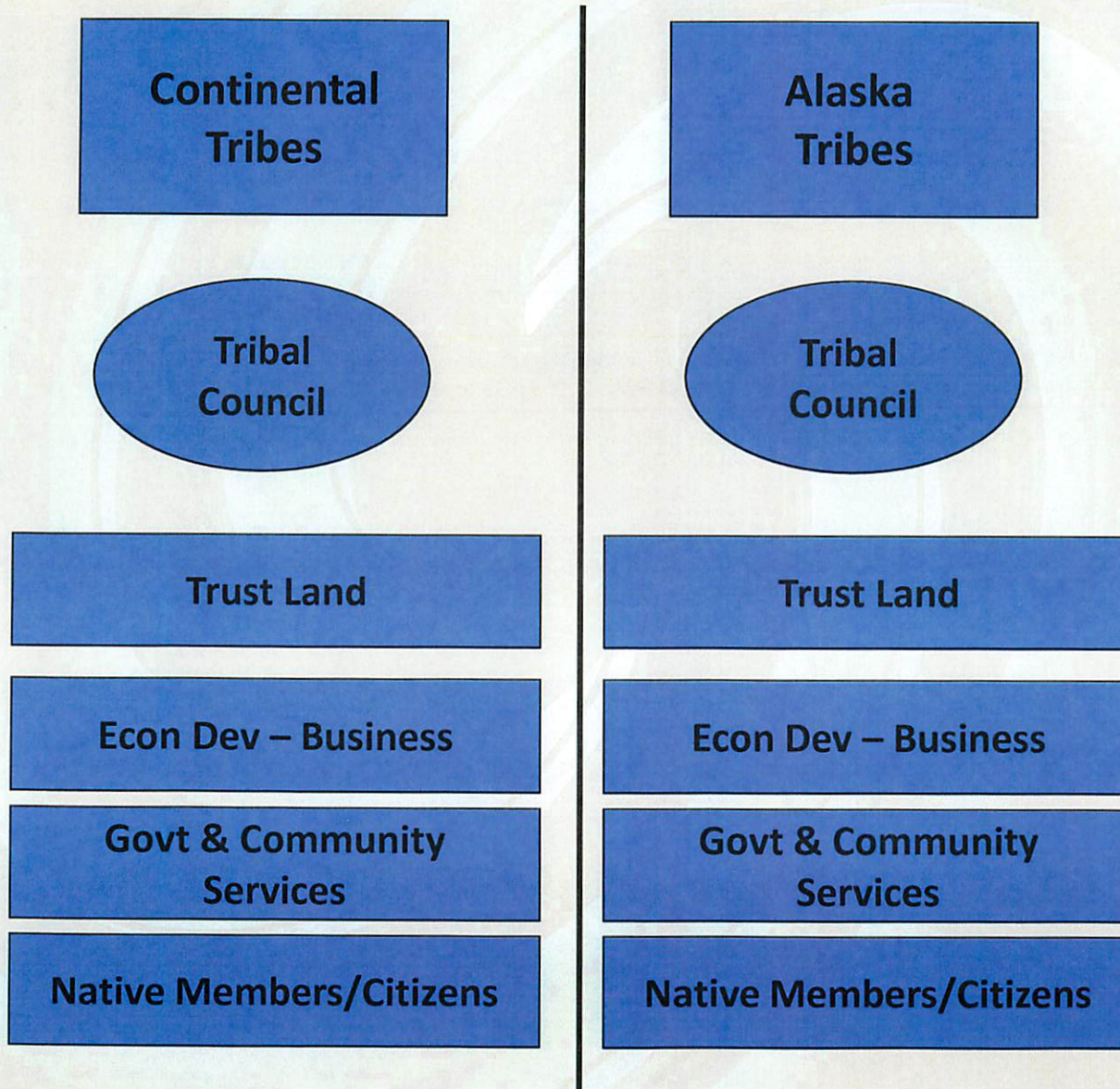
Tribes	Federally Recognized: 1936 & 1993
Regional Nonprofits	Healthcare, Education, Job Training
Regional Housing Authorities	Housing Development
Advocacy	Alaska Federation of Natives Alaska Inter Tribal Council
ANCs	By Congress 1971: Economic Development

Common Goal: Native Socio-Economic Well-being

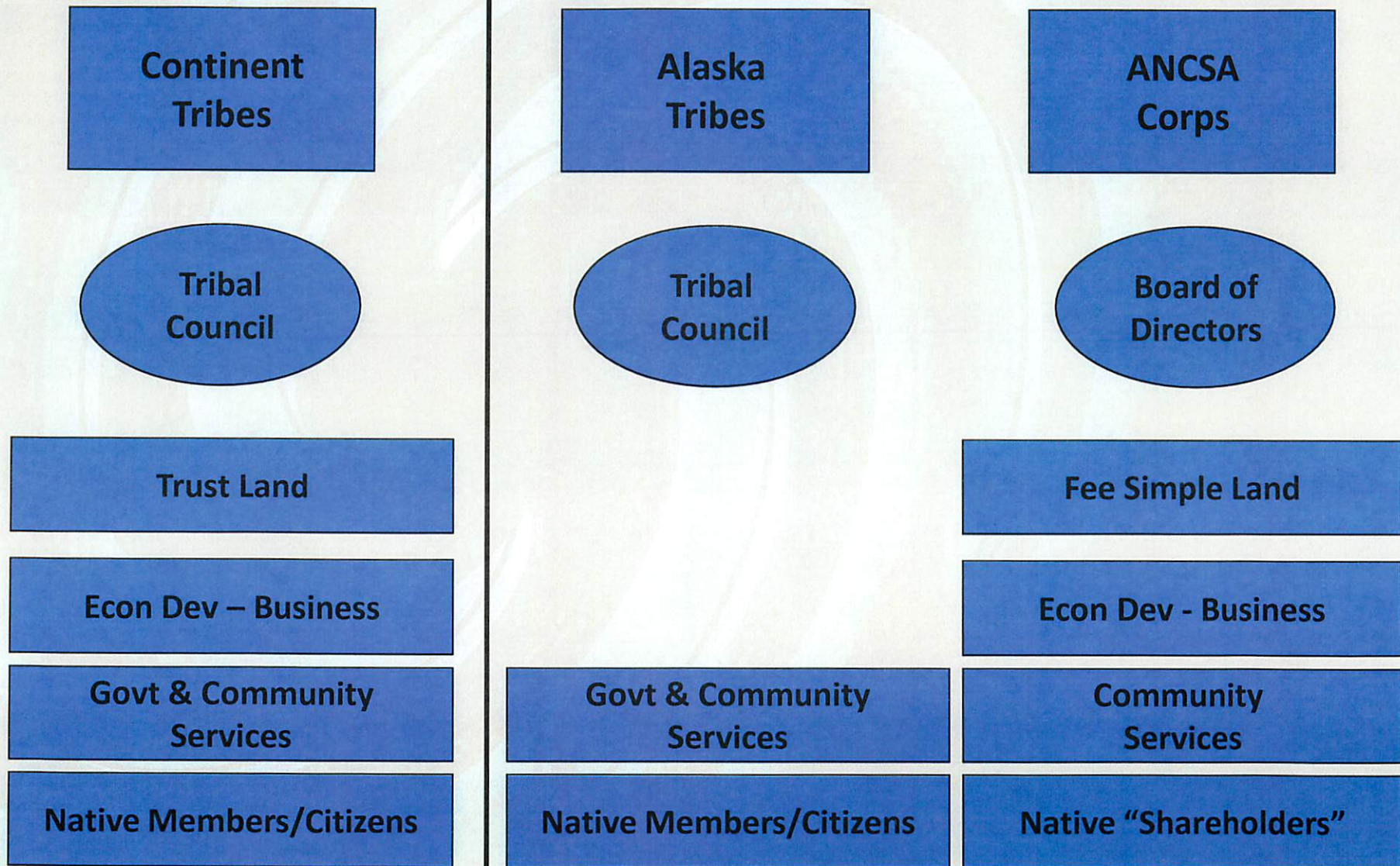
1971: A Defining Moment in Time

- The Alaska Native Claims Settlement Act (ANCSA)
 - Passed by Congress Creating Community Corporations
 - Deeding fee simple title to Alaska Natives through these corporations
- President Nixon Refuses to Sign w/o Native Viewpoint
 - AFN Convenes Statewide Delegates over 2 Days
 - Majority Vote (511 – 56)
 - Opposition Vote: Primary reason – Land Amount in the Bill of 12% Too Small
- President Nixon Signs on December 18, 1971
 - The Legislation was a Compromise, Not Perfect
 - Yet, All Agree, It was a Remarkable Moment for Native Peoples and the Country

Before 1971 & ANCSA



After ANCSA



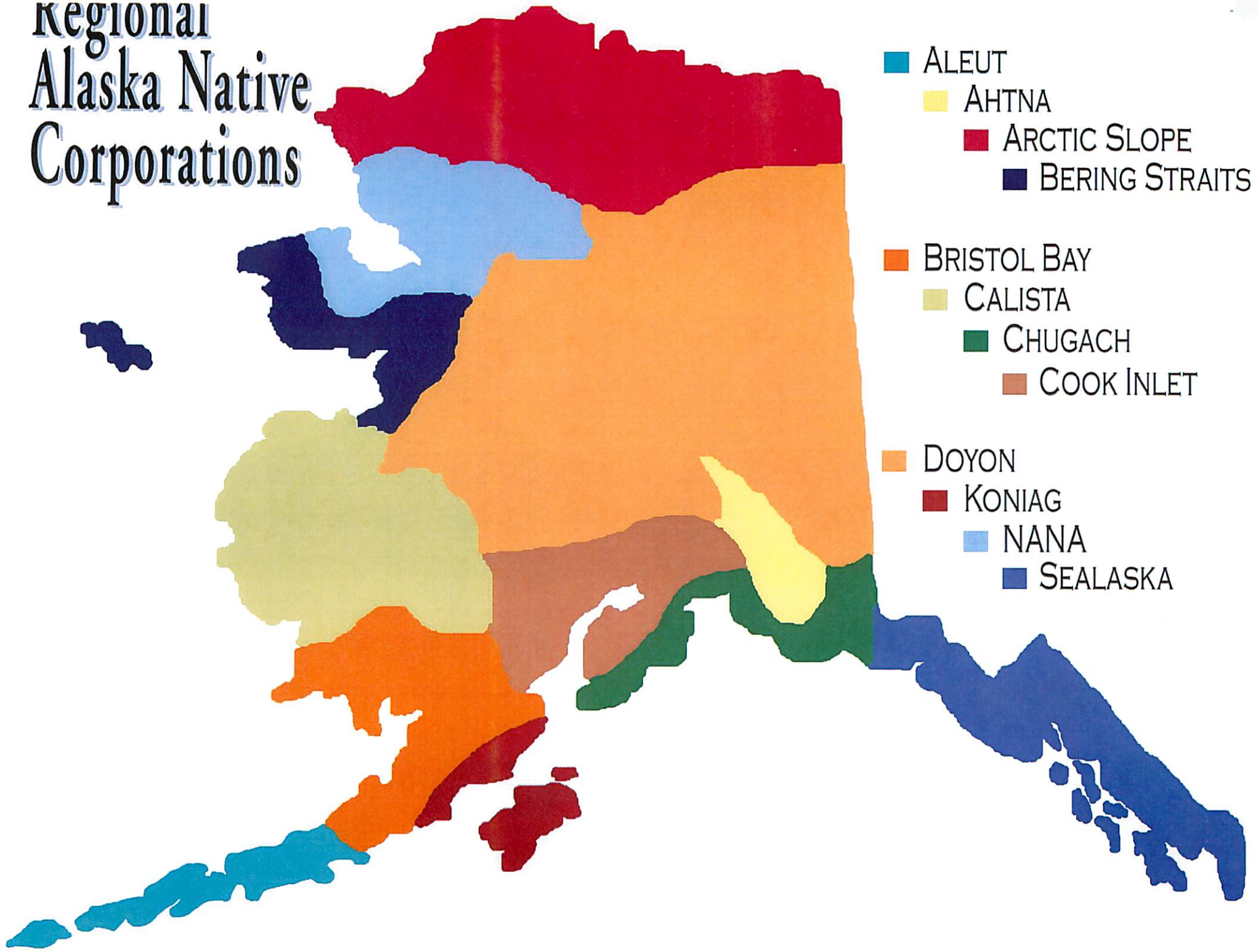
Some of the Details in the Bill - ANCSA

- The Act was a settlement of lands by Congress:
 - An experiment with Native “fee” land ownership over “trust land” reservation systems, would it serve them?
- Created Community Corporations Aside from Tribes
 - 13 Regional & 200+ Village Corporations
 - Representing different geographical regions & cultures
- Corporate Stock – Through an Enrollment Process
 - Enrolled Members Elect Board of Directors & Leadership
- Blood Quantum – Set in the Act at 25% to Enroll

Some of the Details in the Bill - ANCSA

- Alaska Natives received title to 44 million acres (12%)
 - Held by Community Corporations created by the Act
- Alaska Natives compensated for lands lost in the amount of \$962.5 million
 - U.S. Treasury established the Alaska Native Fund
 - State Govt dedicated 2% of mineral revenues to the Fund
 - Held by Community Corporations created by the Act
- Includes a Revenue Sharing Component
 - Multiple Native Peoples & Regions, Different Natural Resources
 - Requires Sharing of Natural Resource Revenue among the 200+ Community Corporations

Regional Alaska Native Corporations



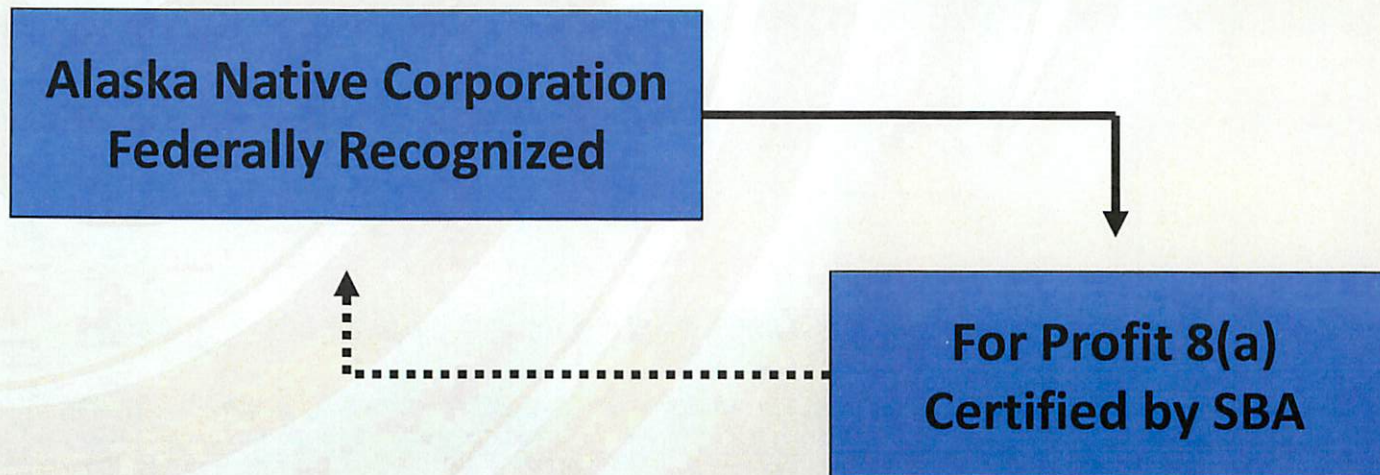
- ALEUT
- AHTNA
- ARCTIC SLOPE
- BERING STRAITS
- BRISTOL BAY
- CALISTA
- CHUGACH
- COOK INLET
- DOYON
- KONIAG
- NANA
- SEALASKA

ANC Summary

- Community Corporations Created by Congress
 - Over 200 Federally Recognized ANCs exist – each unique
 - Capacity and Ability Ranges Across the Board
 - Stewards of Lands and Resources of Native Communities
- ANC's not Investor Owned, But Community Owned
 - Similar to an NHO Nonprofit & Tribe
 - Accountable to Community, Leadership Elected
- Congress Primary Intent in 1971:
 - Community Corporations to Manage Land & Resources
 - Engage in Commerce & Business to Benefit Community
 - Extinguish Aboriginal Title to Lands for Federal, State and Private Use

Alaska Native Corporation 8(a)

- Since 1988
 - Growth has been very strong
 - Corporate structure established in ANCSA
 - Estimated at 225 ANC 8(a) Firms
 - Support Native Community with any Success



Tribe —ANC—NHO

Native Community Enterprise 8(a)

American Indian
Tribe

Alaska Native
Corporation

Native Hawaiian
Org Nonprofit

Elected
Tribal Council

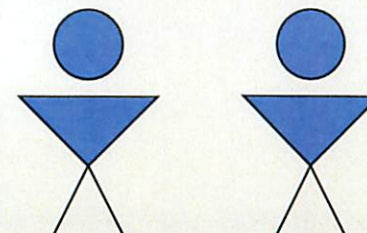
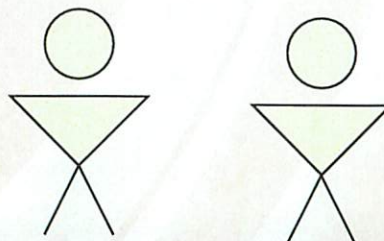
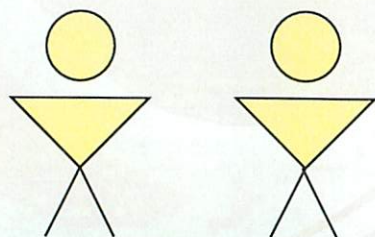
Elected
Board of Directors

Appointed
Board of Directors

Government &
Community Services

Asset Management &
Community Services

Nonprofit Mission &
Community Services



1982 - 560+
184 8as

1988 - 200+
65 own 225 8as

2002 - 150+
18 own 23 8as

Native Hawaiian Organizations (NHOs) An Orientation

“If we as Hawaiians, are to grow our business sector, we must foster growth and partnerships with each other and the larger business community of Hawaii”

Billy Ornellas, NHEA Vice President

3 Major Categories of Native Hawaiian Orgs/Agencies

Ali'i Trusts

Private Trusts created by Hawaiian Leaders

Public Trusts

Public Trusts created by Congress
Administered by State Agencies (OHA/DHHL)

Non-Profits

Health, Housing, Elders, Education, etc

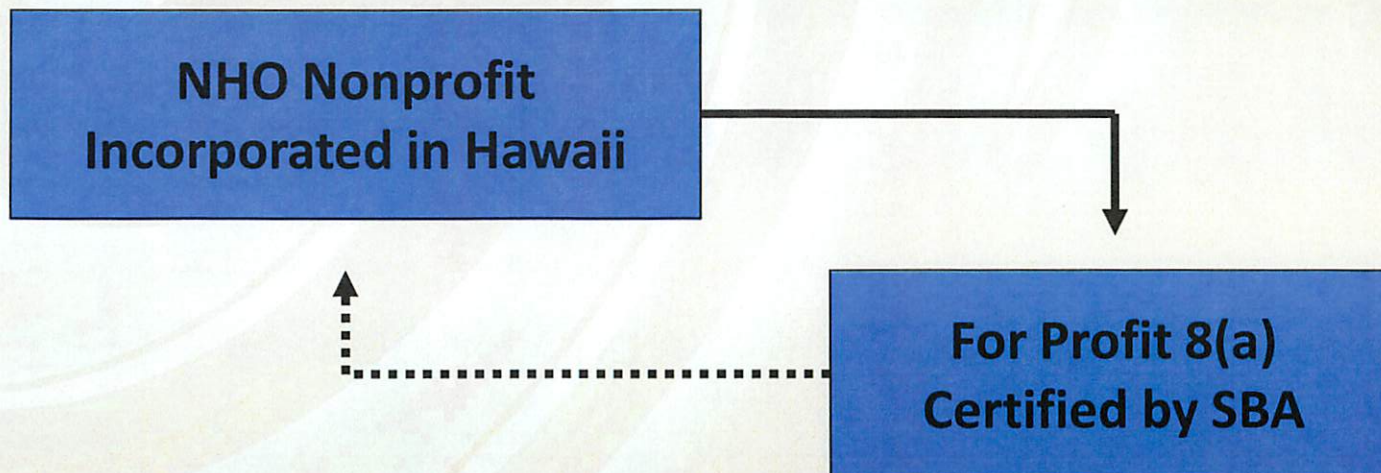
Common Goal: Native Socio-Economic Well-being

Native Hawaiian Organizations

- NHOs Added to SBA 8(a) in 2002
 - **Nonprofit** Incorporated in Hawaii that:
 - Is Controlled by Hawaiians
 - Principally Benefits Hawaiians/Community
 - May own an 8(a) firm
 - Contracting Vehicles similar to Tribes/ANC's
 - Not Investor Owned, But Community Owned

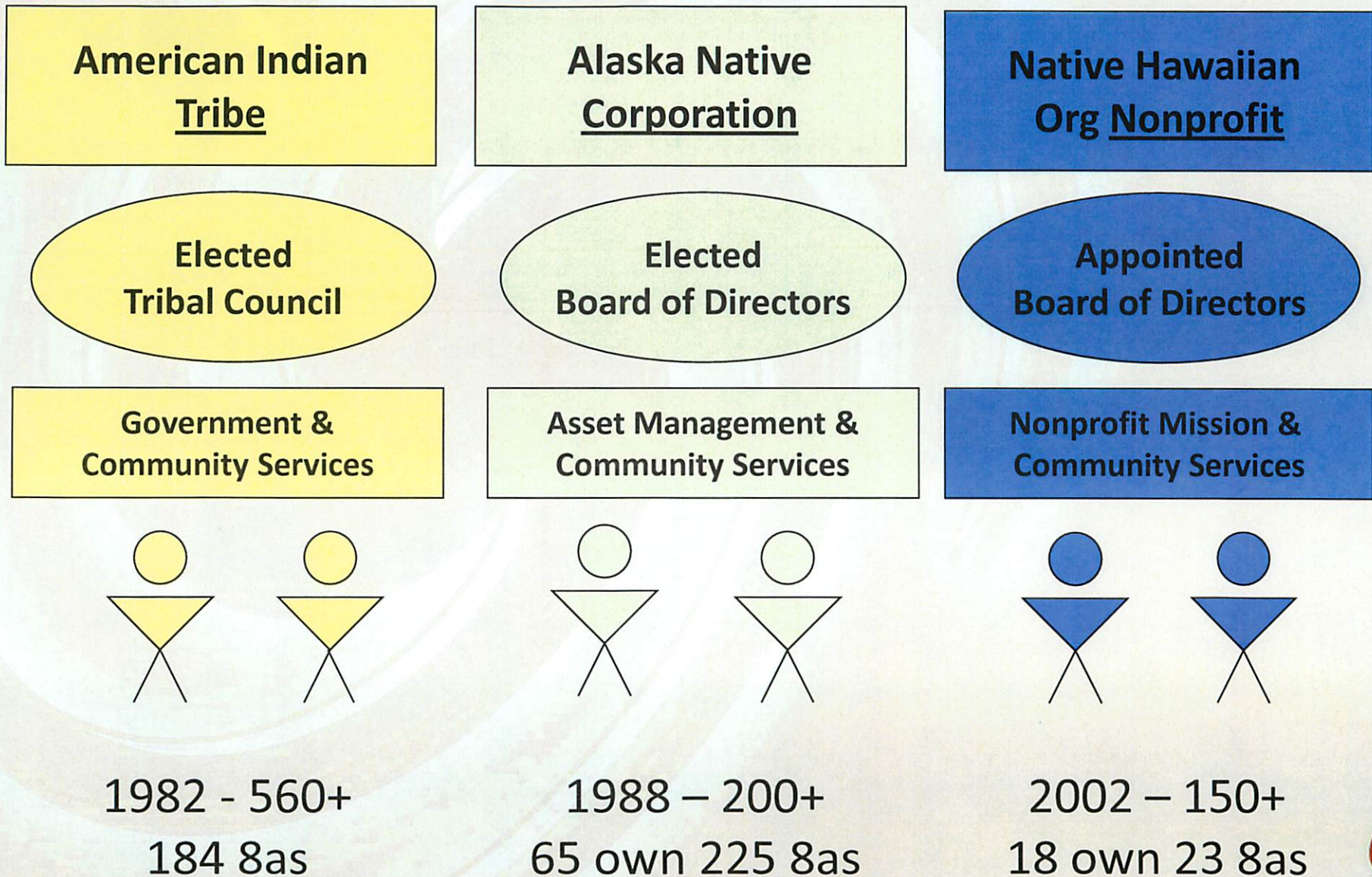
Native Hawaiian Organizations

- Since 2002
 - Very New in Comparison, but Growing Quickly
 - Higher Ability for Hawaii to Keep DoD Business Home
 - To Date: 18 NHO's in Hawaii have 23 8(a) Firms
 - Support Nonprofit Mission with any Success



Tribe —ANC—NHO

Native Community Enterprise 8(a)



Native 8(a) Timeline

1953 – Small Business Administration Act

1967– SBA 8(a) Program Created for Individually-Owned Firms

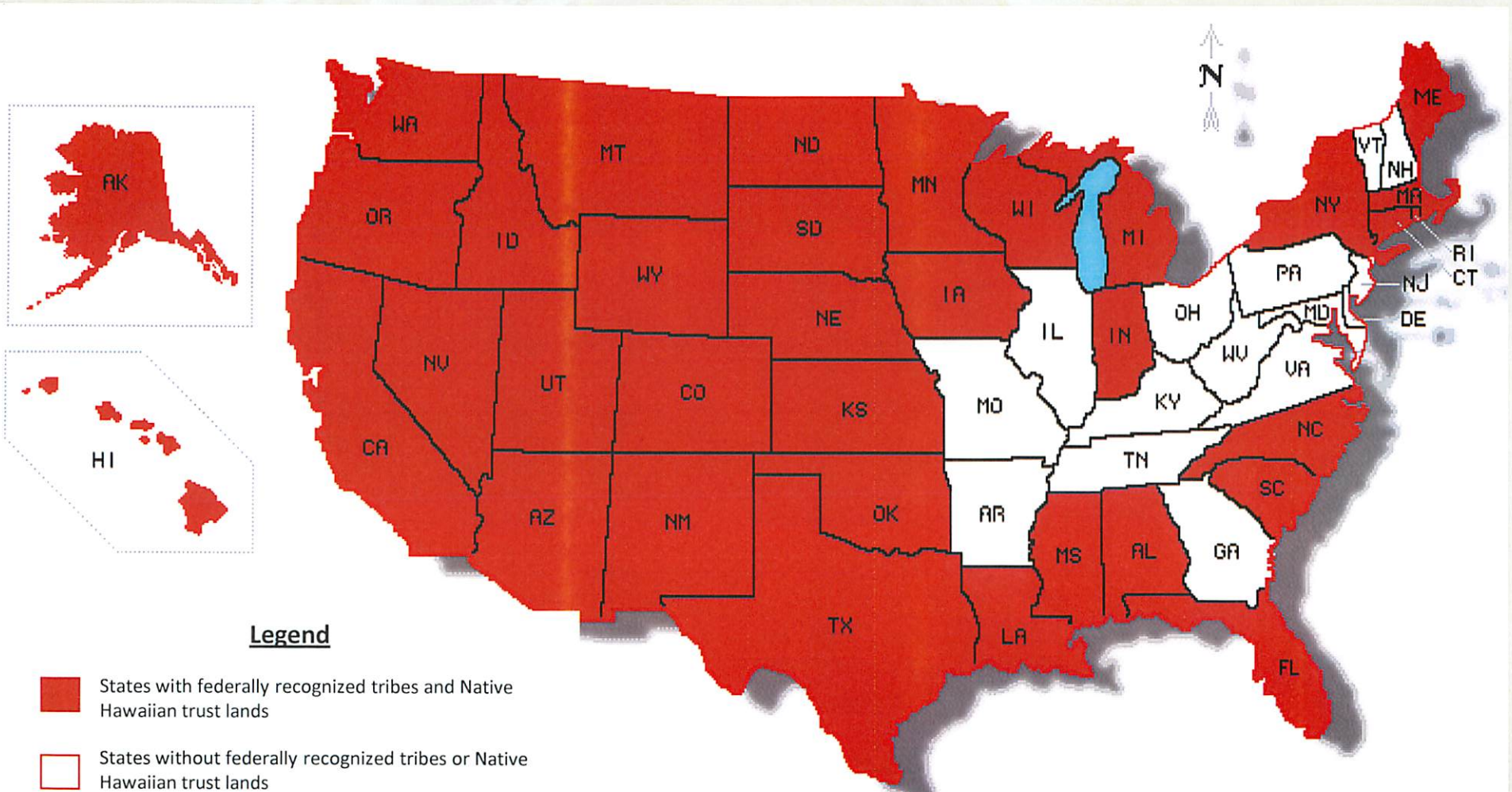
1975 – Indian Self Determination Act

1982 – Tribes Included in 8(a)

1988 – ANCs Included in 8(a)

2002 – NHOs Included in 8(a)

35 States with Federally Recognized Tribes & Native Trust Lands



Mahalo Nui Loa

Council for Native Hawaiian Advancement

www.hawaiiancouncil.org

Robin Puanani Danner is a Native Hawaiian business and community leader. She is from the island of Kauai, Hawaii, and has spent 25 years working in American Indian, Alaska Native and Native Hawaiian communities around the country.

