

# Doing Business on the Navajo Nation

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# CAUSAL DESIGN

Causal Design partners with international development clients to provide rigorous independent program evaluation, expand cultures of evidence within organizations, and join them in efforts to relieve human suffering and end poverty.

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# 1.0 EXECUTIVE SUMMARY

## WHAT IS “DOING BUSINESS ON THE NAVAJO NATION”?

Doing Business is a tool used by the World Bank to objectively measure business regulations across 190 countries across the world. Doing Business takes all the factors that a business owners would need to consider in the process of starting and operating a business, such as registering as a corporation, getting a location, enforcing contracts, or paying taxes, and benchmarks the business regulations that influence those processes. It measures how complex a process may be, how long it takes, how much it may cost, and if the regulations in place have specific qualities that have been shown to facilitate beneficial business activity. It is used by policy makers around the world to guide how they can create more economic opportunities in their communities. We adapted this type of analysis to understand the business environment facing Native entrepreneurs while also capturing the unique context of doing business on the Navajo Nation. We complete this analysis in two hubs of economic activity on Navajo Nation, Tuba City, AZ and Shiprock, NM, as well as the border town of Cortez, CO as a point of comparison.

## WHAT WERE THE FINDINGS?



### STARTING A BUSINESS

Starting a business takes a similar number of steps on Navajo compared to in Cortez. However, it takes 7x as long to complete those steps on Navajo compared to Cortez. It is also 2-3x more expensive to start a business on Navajo.



### DEALING WITH CONSTRUCTION PERMITS

Navajo Nation does not have a system for reviewing building applications and permitting for privately pursued construction. As a result, private contractors may deal with less bureaucracy, but experience higher levels of uncertainty and mixed outcomes of buildings standards.



### CERTIFYING A BUSINESS

Certifying a business is a straight-forward and inexpensive process. It requires checks by five different Navajo Nation government offices. While processing time should be two weeks, hold ups at these various departments often longates the amount of time it takes to become certified as a Navajo- or Native-owned business.



### GETTING ELECTRICITY

Getting electricity on Navajo requires 2 fewer steps than in Cortez, but it takes 6.5x as long and is 4x as expensive. In term of quality, the average NTUA customer does not experience a higher frequency of power outages than a customer of the Cortez utility provider, but when an outage does occur, it takes 90x longer to resolve on Navajo than Cortez.



### ACCESSING LAND

Accessing land on Navajo requires 4x as many procedures, resulting in a process that is 6x as long and 1.3x times more expensive than accessing land in Cortez. Additionally, the land administration system on Navajo is significantly less transparent than in Cortez.



### PAYING TAXES

The total tax burden is significantly lower on Navajo compared to Cortez. However, it does take longer to prepare and pay taxes on Navajo due to the lack of automated processes and online infrastructure and a higher frequency of payments.



## CREDIT ENVIRONMENT

Navajo’s credit environment, governed by the Navajo UCC, has 9 of the 12 protections for both lenders and borrowers that have been shown to facilitate lending in economies around the world. Despite this, there are still additional constraints on credit access that this analysis discusses in further detail.



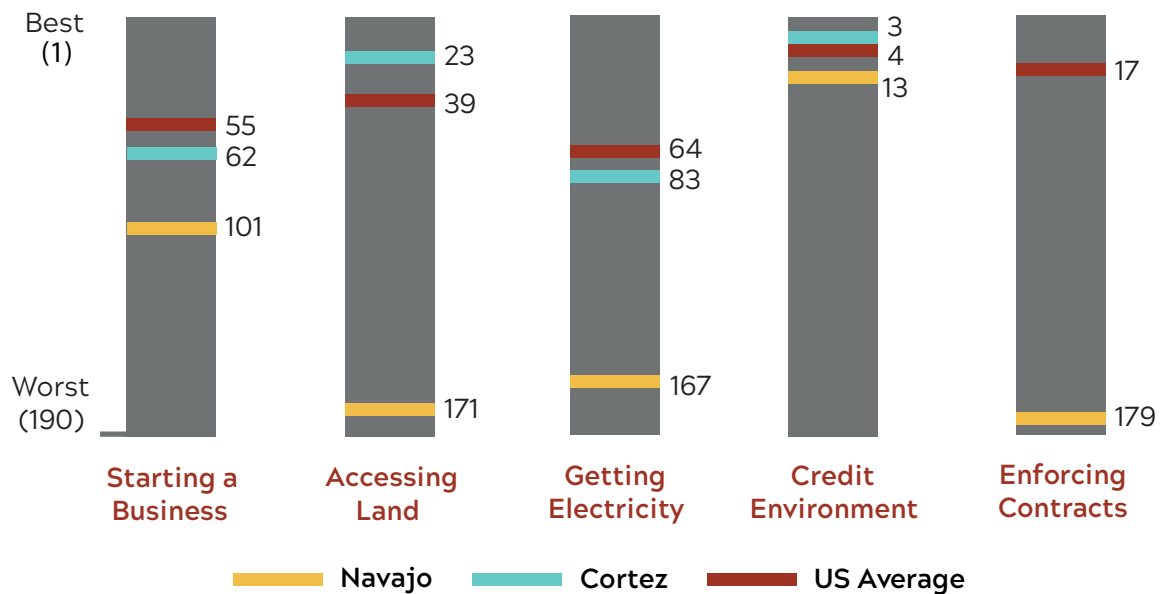
## ENFORCING CONTRACTS

Resolving a commercial dispute takes almost two full years on Navajo. The time length of trials exacerbates the cost of a trial, especially with respect to attorney fees, to be upwards of 85% of the claim value.

# HOW DOES THE NAVAJO NATION COMPARE GLOBALLY?

Five indicator sets, starting a business, accessing land, getting electricity, the credit environment, and enforcing contracts, are calibrated into Doing Business Scores which can be compared not just to Cortez, but to 190 economies across the globe. The most glaring comparisons come from accessing land, getting electricity, and enforcing contracts. Across these three areas, Navajo ranked in the bottom 15 percent of countries. This means that it is more difficult to access land, get a new electrical connection, or enforce contracts on Navajo than almost anywhere else in the world.

FIGURE 1. DOING BUSINESS SCORE RANKINGS



## WHAT CAN BE IMPROVED?

Doing Business on the Navajo Nation identifies cross-cutting themes that emerge from across the entirety of the Navajo business environment and develops a set of key recommendations that will improve the ease of doing business on Navajo Nation. The recommendations are framed against complexity, time, cost, and quality of regulation. The summary table below offers the topline recommendations and the relevant stakeholders. A full discussion of how to achieve policy reforms can be found in the recommendations section.

**TABLE 1. SUMMARY OF RECOMMENDATIONS**

What can be improved?	Who are the relevant stakeholders?
<b>Complexity</b>	
Create easier access to land for business purposes by identifying and limiting the number of procedures necessary for land acquisition.	Navajo Nation Land Department
<b>Time</b>	
Create easier access to land for business purposes by shortening the time it takes to get a business site.	Navajo Nation Division of Economic Development; Navajo Nation Land Department
Leverage technology to create more frictionless experience for business owners and other members of the business community to facilitate more economic activity.	Navajo Nation Division of Economic Development; Navajo Nation Tax Commission
Decrease the time and subsequent cost burden of judicial processes for entrepreneurs.	Navajo Courts
<b>Cost</b>	
Make accessing electricity cheaper.	Navajo Tribal Utility Authority
<b>Quality</b>	
Increase transparency and create clear processes.	Business Support Associations; Navajo Nation Business Regulatory Department, Navajo Nation Division of Economic Development
Define the building permitting process for private construction.	Navajo Nation Division of Community Development
Invest in electric infrastructure that eases burden on businesses.	Navajo Tribal Utility Authority



# 2.0 INTRODUCTION

Change Labs is a Native-owned, Native-led nonprofit organization focused on supporting Native entrepreneurs and business creation on tribal lands. Based in Tuba City, AZ, Change Labs programs were developed to strengthen the entrepreneurial ecosystem on the Navajo Nation by “affecting societal norms on how Native populations perceive entrepreneurship, highlighting role models, building a network of peer and mentorship support, developing leadership capacity of participants, and growing the community of entrepreneurs.” Change Labs is committed to fostering the creation of successful Native American small businesses that provide a social benefit to the tribal community. In order to achieve this, Change Labs invests in the necessary elements of the entrepreneurial ecosystem required to support and sustain business activity. Change Labs has grown into a comprehensive set of programs including a co-working space in Tuba City, AZ, a business incubator program, and an artist residency.

Causal Design is an independent monitoring, evaluation, and research firm that has worked with Change Labs since 2016 to develop and improve its ability to link program activities with outputs and outcomes to understand how its work affects the community around them. Causal Design’s work supports Change Labs in achieving its overarching goal: to support, enable and empower Native American entrepreneurs and business owners by providing leadership and technical skills training, by exposing them to role models, resources, and like-minded peers.

In 2019, Causal Design and Change Labs partnered to produce research aimed at understanding the broader business environment on Navajo Nation. To achieve this, Causal Design adapted the World Bank’s Doing Business Methodology,

a standardized way to quantify and measure a business environment, to understand the constraints regulatory constraints on tribal entrepreneurs while also capturing the unique context of doing business on Navajo Nation. doing business on Navajo Nation.

## WHY THE BUSINESS ENVIRONMENT MATTERS

Business regulation plays an important role in making sure that economies function for everyone. It protects laborers from mistreatment by employers (labor regulations), protects inventor’s products (patent and intellectual property regulation), and ensures that roads and bridges do not collapse (regulation of public procurement). However, there are instances in which regulations can overshoot their intended goals. Either through poor design or poor implementations, regulations can end up inhibiting the growth of the individual entrepreneurs and businesses that they originally sought to protect. As a result, businesses either seep into informal activity (which ignores registration and taxes), locate their businesses in places with less regulatory burden, or worse of all, choose not to start or operate businesses at all, dissuaded by the initial costs, whether financially or in time and stress.

The relationship between regulatory burden and entrepreneurial activity is well documented. Empirically, the cost of regulation has been shown to disproportionately affect small firms;<sup>1</sup> limit the growth, job creation, and survival rate of startups;<sup>2</sup> exacerbate fear of failure and thus further discourage business start-up.<sup>3</sup> In reverse, institutions that help lower the cost of doing business—either through tax policy, start-up costs or effective regulation—will encourage entrepreneurship.<sup>4</sup>

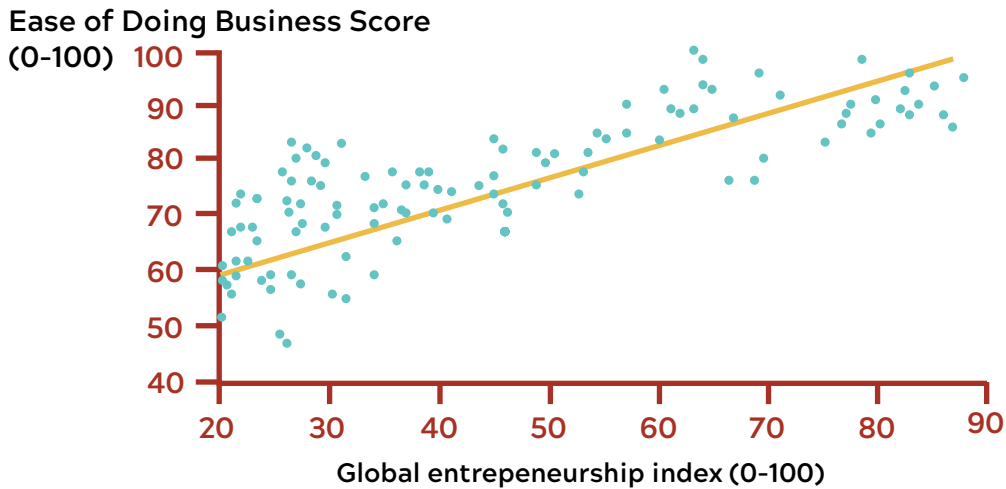
1 Nicole V. Crain and W. Mark Crain. The Impact of Regulatory Costs on Small Firms. Small Business Administration. September 2010.

2 Bruce D. Phillips and William J. Dennis, Jr. Better Measures of Regulatory Costs as Support for Entrepreneurship. National Federation of Independent Business Research Foundation. August 2001.

3 Silvia Ardagna and Annamaria Lusardi. Where does regulation hurt? Evidence from new businesses across countries. Harvard University; Dartmouth College and NBER. February 2009.

4 Garrett, Thomas. Entrepreneurs Thrive in America—Federal, State Policies Make a Difference for Those Facing Risk. Federal Reserve Bank of St. Louis. April 2005.

FIGURE 2. GREATER EASE OF DOING BUSINESS IS ASSOCIATED WITH HIGHER LEVELS OF ENTREPRENEURSHIP



Source: Doing Business database. Global Entrepreneurship and Development Institute. Note: The relationship is significant at the 1% level after controlling for income per capita. The sample comprises 135 economies.

Even intuitively, however, it is easy to see how regulatory burdens may inhibit growth within the formal economy. When building permits and inspections costs thousands of dollars and require several interactions with engineers, surveyors, and inspectors, the baker down the street is less likely to expand his operations from a small, take-out bakery to a dine-in restaurant. If it takes several days and head-scratching steps to formally incorporate a business, a computer programmer is less likely to leave her current corporate role to set up her own shop. When buying land requires thousands of dollars in closing costs, it makes it more difficult for a small-time barber to buy and run their own salon.

These may seem like small impacts—one less restaurant to visit or a more expensive haircut from a salon in another neighborhood. These small impacts add up, however, into missed opportunities that can define entire economies. All of a sudden, the three waiters, chef, and hostess the baker would have hired are jobs that never materialize. The summer intern the computer programmer would have hired means a college student missed an opportunity to learn how to apply his coding skills in a full-time role. The \$10 and 20 minutes you could have saved with the barber who wanted to open a shop in your neighborhood are lost, as you travel further

for a more expensive haircut. When it is easier to do business, more people can see themselves as entrepreneurs, more jobs are created, and as a result, economies thrive, and all the benefits of increased economic activity reverberate through the population.

## WHY CREATING A BETTER BUSINESS ENVIRONMENT ON THE NAVAJO NATION MATTERS

Creating an environment that enables entrepreneurship and business growth is an important tool for creating sustainable economic growth and alleviating poverty. Because of this, it is especially important within the context of Navajo Nation. Poverty rates on Navajo Nation (38%) are more than twice as high as poverty rates in the state of Arizona (15%).<sup>5</sup> The unemployment rate on the Nation was as high as 50% in 2016, compared to a national rate of 4.7%<sup>6</sup> that same year. Despite these obstacles, Navajo people still go on to maintain their livelihoods, earn money, and buy the goods and services necessary to support their families.

<sup>5</sup> Arizona Rural Policy Institute, Northern Arizona University. Demographic Analysis of the Navajo Nation Using 2010 Census and 2010 American Community

<sup>6</sup> Communications Office, Office of the President and Vice President, Navajo Nation. Navajo Nation - A Window of Economic Opportunities. 16 January 2016.

<sup>7</sup> Navajo Nation Division of Economic Development. Navajo Nation Comprehensive Economic Development Strategy. April 2018.

In doing this, however, and despite the immense need to channel spending internally within Navajo communities, Navajo people travel to border towns to do their shopping. On average, for every dollar earned by a Navajo person, less than 35 cents are spent within the Nation itself.<sup>7</sup>

While a burdensome regulatory business environment is by no means the sole cause or perpetuator of poverty on the Navajo Nation, improving the business environment is one tool to retain the 65% of money that flows off the reservation every year, and to grow a more vibrant, Native-owned economy. For centuries, the Navajo people have been resilient to constant shocks and threats to their sovereignty and wellbeing. By improving the environment on the Nation for business activity, it makes it easier for Navajo entrepreneurs to do what they do best— create new and innovative ways to support themselves and their communities.

The goal of this research is to provide a benchmark of where the Navajo business environment stands today. With a more comprehensive understanding of which aspects of the Navajo business environment present the largest challenges for tribal business owners, Change Labs can create new programs and adapt and improve existing ones to support Native entrepreneurs on tribal lands. It is also our hope that this research can serve as a policy tool for tribal council members, members at the Division of Economic Development, and tribal leaders across

## 3.0 METHODS

This analysis uses an adapted form of the World Bank’s Doing Business methodology. The Ease of Doing Business Report is one of the World Bank’s flagship reports, assessed annually since 2002. The project provides objective measures of business regulations and their enforcement across 190 economies and selected cities across the globe.

The framework collects quantitative data on several important dimensions of the regulatory environment affecting domestic firms. It uses case studies with standardized assumptions to benchmark aspects

of business regulation and practice. These data are compiled into individual indices for each category studied in the report. A higher score on these indices corresponds to a business environment which embraces best practices as established by the World Bank. These data are then compiled and calibrated into an Ease of Doing Business score. By standardizing the methodology across contexts, the Ease of Doing Business Scores can be utilized to compare and contrast across localities and economies.

## HOW CHANGE LABS SUPPORTS NAVAJO SMALL BUSINESSES

The Change Labs programs were developed to strengthen the entrepreneurial ecosystem on the Navajo Nation by “affecting societal norms on how Native populations perceive entrepreneurship, highlighting role models, building a network of peer and mentorship support, developing leadership capacity of participants, and growing the community of entrepreneurs.” Change Labs is committed to fostering the creation of successful Native American small businesses that provide a social benefit to the tribal community. In order to achieve this, Change Labs invests in the necessary elements of the entrepreneurial ecosystem required to support and sustain business activity. Change Labs has grown into a comprehensive set of programs including a co-working space in Tuba City, AZ, a business incubator program, and an artist residency. A policy and regulatory environment that complements these efforts, however, will be essential to maximizing impact, and to effectively stimulate entrepreneurship and economic growth within Navajo communities.

This analysis understands the business environment in both absolute and relative terms. The use of the WorldBank's Doing Business indices allows for a comparison of the Navajo business environment with the World Bank's definition of a "best practice regulatory environment." From this vantage point, readers of this report can then clearly identify which areas of the Navajo business environment fall short of World Bank benchmarks in absolute terms. However, by aggregating these indices into a Doing Business "score," this report also facilitates a

comparison of the Navajo business environment to other economies, in relative terms.

While gauging where the regulatory environment stands in absolute terms identifies which policy areas are in need of reforms, the comparative analysis gleaned from its relative status aids in prioritizing which aspects of the business environment may be the most important to address, first, and thus suggests a sequence of policy responses.

FIGURE 3. VISUALIZING THE BUSINESS ENVIRONMENT



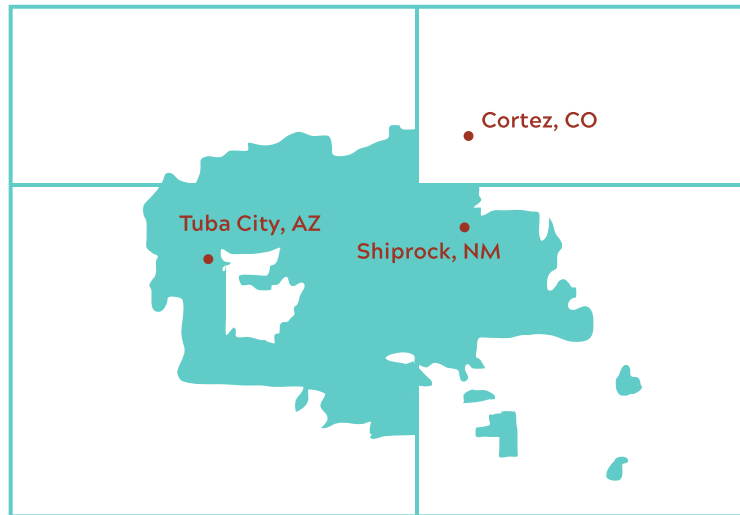
## 4.0 SAMPLING

Generally, Doing Business focuses on the main business city of an economy. In France, for example, the World Bank quantifies the environment in Paris, the Nigerian report focuses on Lagos, and Mexico's Doing Business measures the environment of Mexico City. However, for large economies, the analysis is conducted in the two largest cities. For the United States, Doing Business is conducted in New York City as well as Los Angeles. However, instead of cities, Navajo Nation's local administrative structure is a Chapter. There are 110 Chapters across the Navajo Nation. Modeled after counties or townships, they are semi-self autonomous and serve as precincts for the elections of tribal council delegates. In order to capture the vastness of the Navajo Nation, this analysis focused on two chapters that are hubs of economic activity in two different state systems, Tuba

City, AZ and Shiprock, NM.

Additionally, this analysis takes advantage of the comparison capabilities made possible through the Doing Business methodology by completing the analysis in a valid comparison city outside of the Nation. While it is helpful to compare the Navajo business environment to other environments around the globe, the most useful comparison would be between cities on Navajo and another city where many entrepreneurs could reasonably choose to locate their businesses. By comparing the business environment on Navajo to a border town (to where a large portion of that 65 cents of every dollar flows), this analysis can offer even more valuable insights of which aspects of the environment are most important

**FIGURE 4 . SELECTED SAMPLE CITIES**



to support in order to retain businesses on the Nation.

The city of Cortez, Colorado, located just 40 miles from the Shiprock is most closely comparable to the cities of Tuba City and Shiprock. Cortez has a similar population size of roughly 8,000 residents, has a similar sectoral make-up of local industry, and

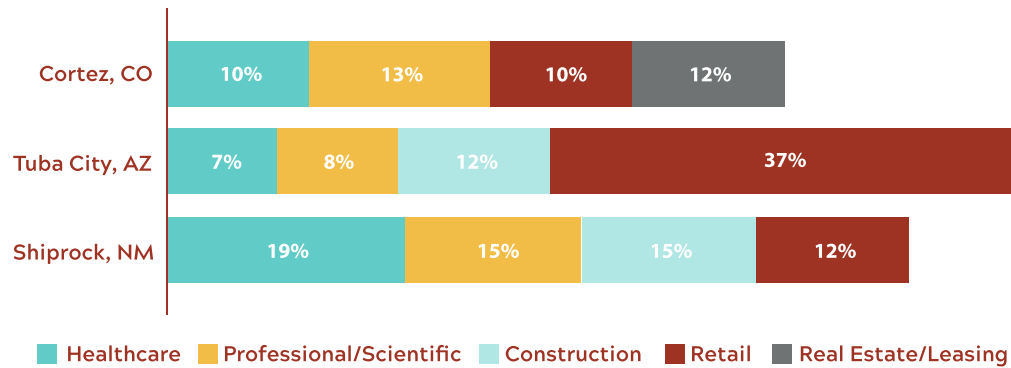
shares several other economic-demographic trends, including poverty rates and per capita income. By comparing Cortez to other cities on Navajo Nation, the research provides insight into what the most pressing trade-offs southwestern entrepreneurs might confront when considering locating a business either on, or off, Navajo Nation.

**TABLE 2. ECONOMIC PROFILES OF SELECTED SAMPLE CITIES**

	Shiprock, NM	Tuba City, AZ	Cortez, CO
<b>Population</b>	8,295	8,606	8,721
<b>Number of Reported Businesses</b>	226	466	1,078
<b>Per Capita Income</b>	\$14,828	\$15,959	\$21,500
<b>Median Household Income</b>	\$37,568	\$46,946	\$40,048
<b>Percent of population in poverty</b>	29.8%	31.2%	25.2%
<b>Percent of adults (25+) with college education</b>	12.5%	18.1%	25.6%

All data collected from Census.gov; Annual Census 2010 & Survey of Business Owners (SBO) 2012

FIGURE 5 . TOP 4 INDUSTRIES IN SAMPLE CITIES (BY % OF INCORPORATED BUSINESSES)



While Farmington, NM and Gallup, NM are some of the most popular border towns, they differ quite drastically in economic profiles. Shiprock and Tuba City have populations of 8,295 and 8,606, respectively. Farmington, in comparison, has a population size of 45,000 and Gallup a population of over 20,000. The industrial profile of the selected cities on Navajo Nation are made up largely of retail, construction, professional/scientific, and healthcare businesses. Gallup’s economy is tilted toward wholesale trade and manufacturing, which make up 25% and 10% of the businesses incorporated in the cities. Farmington on the other hand has some similarities to the Navajo-economy, with retail (13%) and construction (9%) making up large parts of its local economy. However, Farmington also has a more significant presence of manufacturing and mining/oil and gas, which make up 11% of the incorporated

businesses collectively.

Another potentially comparable city would be Page, AZ which has a similar sectoral make up of its local economy<sup>8</sup> and population size.<sup>9</sup> However, Page is also home to two of the largest electrical generation units in the western US, the Glen Canyon Dam and the Navajo Generating Station, a coal-fired power plant. The latter generator ceased commercial generation at the end of 2019, but the decommissioning process takes 3 years to complete. Given Page is in a distinct shift in its industrial profile, it makes it a less desirable comparison point to other points on the Nation, which are not undergoing such a tremendous economic transition. Because of these differences in economic makeup and conditions, it is more difficult to attribute differences in the business environment to being on vs. off Navajo.

## 5.0 DATA

The original methodology analyzes ten different areas of business regulation, listed in the box to the right. This analysis uses six of these indicator sets in their original form, highlighted in yellow, and entirely omits three of the original categories. Additionally, it modifies one to be more applicable to the Navajo context, as well as includes one additional indicator set to capture the unique context of doing business on Navajo.

### ORIGINAL INDICATOR SETS

This analysis uses six of the ten original indicator sets

in their original form: starting/registering a business, dealing with construction permits, getting electricity, the credit environment, paying taxes, and enforcing contracts.

- Starting/Registering a Business
- Registering Property
- Dealing with Construction Permits
- Getting Electricity
- Credit Environment
- Paying Taxes
- Enforcing Contracts
- Trading Across Borders
- Protecting Minority Investors
- Resolving Insolvency

<sup>8</sup> Top three industries are real estate/leasing (19%), retail (12%), and construction (11%) per the US Census’ Survey of Business Owners.

<sup>9</sup> Population of Page, AZ is 7,247.

FIGURE 6. WHAT IS MEASURED IN DOING BUSINESS ON NAVAJO NATION



## NAVAJO-SPECIFIC INDICATOR SETS

Additionally, this analysis also sought to capture the unique context of the Navajo Nation – particularly its unique land administration regime and business site leasing process as well as its certification process for Navajo- and Native-owned businesses.

## EXCLUDED INDICATOR SETS

This analysis excludes three categories, protecting minority investors, trading across borders, and resolving insolvency. Navajo Nation’s unique position within the United States as a sovereign nation means that indicator sets, such as trading across borders, overlap largely with US trade regimes and are unlikely to present meaningful constraints to individual Native entrepreneurs. By excluding these, the analysis focuses on the factors which most immediately affect small business and entrepreneurs as opposed to larger macroeconomic concerns.

# 6.0 METHODOLOGY LIMITATIONS

The Doing Business methodology is designed to be an easily replicable way to benchmark specific aspects of business regulation. However, readers of this report should understand its limitations as a measure of a business environment.

at the expense of generality, but they also help to ensure the comparability of data. This ensures that the data, and their resulting conclusions, are comparable across economies, which is one of the main strengths of this methodology.

## STANDARDIZED CASE SCENARIOS

Almost all of the indicators use a standardized case study business to understand the order of procedures that a typical business would go through in order to accomplish a given indicator, from registering a business to getting an electrical connection. Many aspects of the case study business, including its owners, structure, operations, and activities, are assumed into a very basic firm. This limits the scope of the data to only the most general business, potentially missing nuanced regulations aimed at particular sectors, entrepreneurs, or other business characteristics. Such assumptions come

## FOCUS ON THE LAW AND RELIANCE ON OFFICIAL DATA SOURCES

The Doing Business methodology’s main focus is what rules governments make for small- and medium-sized businesses laid down in laws, regulations or resolutions. Additionally, it relies mainly on data reported by the relevant official government entities and departments. Therefore, there will always be a divergence between what is “on the books” and an entrepreneur’s lived experience. Indicators in this methodology are less

able to capture variation in experiences among entrepreneurs. By focusing on the official rules of business operation, this approach makes indicators “actionable” – because the law is what policy makers can change.<sup>10</sup> However, this is a significant limitation given how widely a business’s experience can differ from the official guidance on Navajo, especially for time to complete procedures with the tribal government. To reconcile this shortcoming, this analysis notes in the narrative when reported regulations, processing times, and other regulatory practices are typically not implemented in practice as reported by entrepreneurial experiences.

## FOCUS ON THE FORMAL SECTOR

# 7.0 FINDINGS

The following section outlines the findings from six months of data collection on the eight indicator sets for Tuba City, AZ, Shiprock, NM, and Cortez, CO. Each section outlines what is measured, their data sources, the Navajo and Cortez cases, and a comparison of the two contexts. Each category is assessed through a combination of the following four frameworks: complexity, or the number of procedures and how complicated it is to complete a process; time, and the investment of time or number of days an entrepreneurs must make in

Because Doing Business focuses on formal business regulation, it is expressly limited to measuring the environment for firms that operate within the formal business environment. As a result, it is unable to reflect the reality of a business in the informal sector, which is an important shortcoming on Navajo where the informal sector is estimated to be substantial. However, Doing Business covers regulations that determine whether people decide to operate formally or informally i.e. the benefits of being formal (e.g. ability to access land, access credit or enforce contracts) and the costs of being formal (e.g. burdens imposed by processes and tax obligations). As a result, the Doing Business methodology covers key policy levers that often go into the decision of an entrepreneur to formalize their business and ultimately determine the extent of informality.

order to complete a process; cost, the monetary cost of completing a business activity; and quality of regulation, or a study of the regulations that have been shown to facilitate beneficial business activity.

A summary of the findings is offered in the table below. It illustrates whether a process is significantly less, moderately less, the same, moderately more, significantly more complex, time intensive, or costly on Navajo relative to the Cortez experience.

TABLE 3 . SUMMARY OF FINDINGS

		Complexity	Time	Cost	Quality
<b>Opening a business</b>	Starting a Business				
	Certifying a Business				
<b>Getting a location</b>	Getting Land				
	Construction Permitting				
	Getting Electricity				
<b>Accessing Finance</b>	Credit Environment				
<b>Day-to-day Operations</b>	Paying Taxes				
<b>Operating in a Secure Environment</b>	Enforcing Contracts				

Does not exhibit constraint     
 Moderate constraint     
 Severe constraint     
 Not measured in this analysis

10 World Bank. About Doing Business: Advantages and Limitations of the Methodology. The World Bank. 2019.



# 7.1 STARTING A BUSINESS

## WHAT IS MEASURED?

This analysis measures all the procedures necessary (or commonly done) for an entrepreneur to formally incorporate and begin operating a commercial business. These procedures include the processes entrepreneurs undergo when obtaining all necessary approvals, licenses, permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. It also measures the time and costs required for these steps, as well as the paid-in-minimum capital requirement. Additionally, it examines whether there are any gendered differences, or whether there are significant differences in steps, time, or costs depending on whether the owner is a man or a woman. Finally, this information is calibrated into an 'Ease of Starting a Business Score,' which is the simple average of the scores for each of the indicators' components.

For standardization purposes, an identical case study business is used to study the differences in the start-up process both on Navajo and in Cortez. It is assumed that the firm is a 100% domestically owned LLC that performs general industrial or commercial activities, such as the production or sale to the public of goods. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.

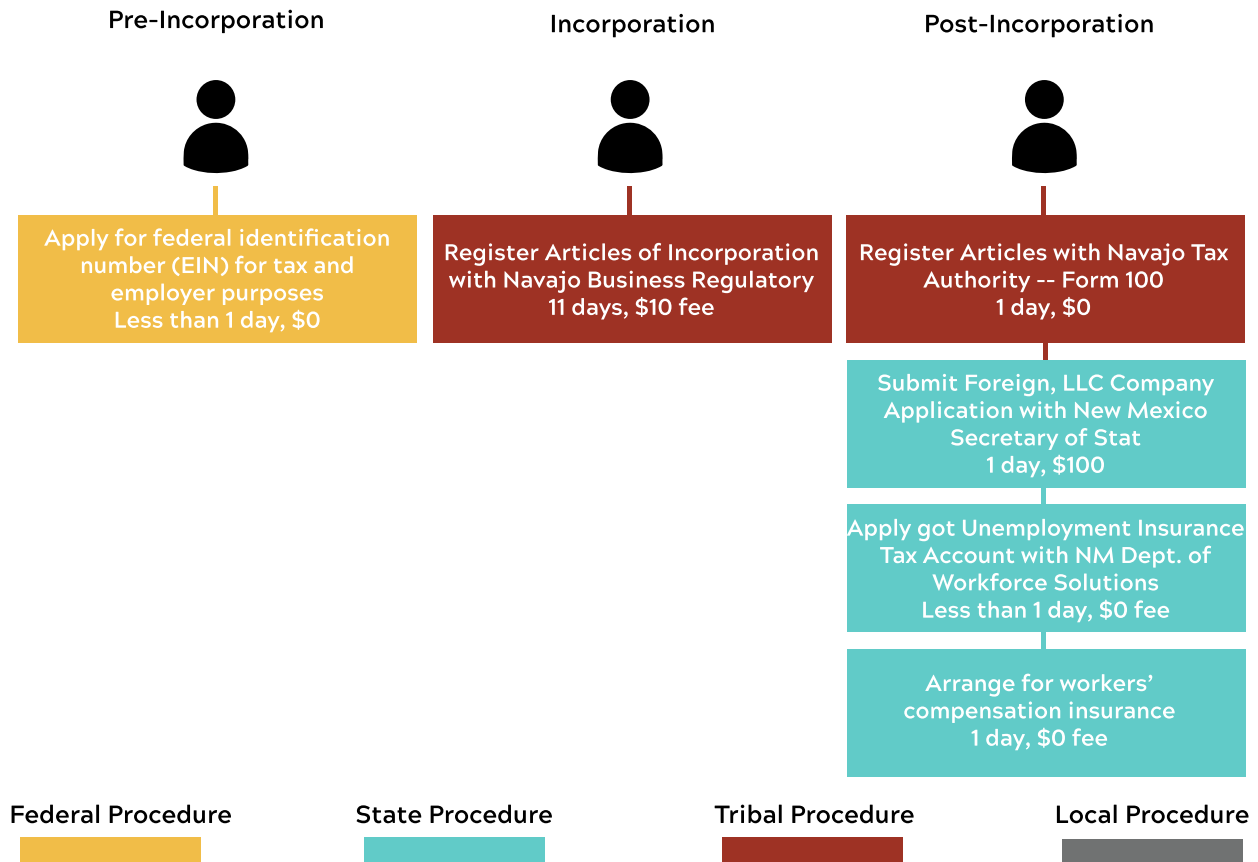
This information was collected through officials at the Navajo Nation Business Regulatory Department for Navajo data and through the Colorado Department of State, Code of Colorado Regulations Administrative Rules Department, for Cortez, Colorado.

## HOW DOES STARTING A BUSINESS WORK ON NAVAJO?

The process for registering a business is similar in both Shiprock and Tuba City with only a few procedural differences. Prior to incorporation,

companies must register for US federal taxes by applying for a federal tax identification number (EIN). Founders must file IRS Form SS-4 (available from the US Internal Revenue Service). Applications can be filed online and is processed immediately. It is also possible to apply by telephone (processing time: immediate), by fax (processing time: 4 business days) or by mail (processing time: 4 weeks). After obtaining an EIN, all corporate businesses must register as a foreign or domestic corporation as a means to gain permission to conduct business on the Navajo Nation. This registration process permits the formation of various corporate entities comprised of individuals, officers, and/or investors and is defined by the Navajo Corporation Act, Title 5, Chapter 19. The case study firm incorporates as a domestic LLC, which means it is not registered with any other US state. Firms seeking incorporation must draft and submit its Articles of Incorporation to the Navajo Nation Business Regulatory Department. The Articles must comply with Navajo Nation Corporation Code. A draft template of an Articles of Incorporation is available with the Navajo Nation Business Regulatory Department, both hard copy in their office and online. This template is an acceptable form for Articles of Incorporation. However, businesses may include additional provisions governing the corporation so long as they are consistent with the corporation code and other applicable laws. It is advised by the Business Regulatory Department to seek legal consultation on filing Article of Incorporation; however, it is not required, and a large portion of businesses utilize the basic template provided by the Business Regulatory Department. Electronic submission is not allowed for Navajo business incorporation, and instead, all filings must be mailed in or submitted in-person to the Business Regulatory Department in Window Rock, AZ. A \$10 filing fee is assessed when submitting an Articles of Incorporation. Department guidelines indicate that Articles are processed within 10 calendar days and approved. However, it has also been reported that this does not always occur in practice. If the Articles are determined not to comply with the Navajo Nation Corporation Code, they are returned to the applicant along with an explanation of the reason(s) for rejection. Applicants must refile a corrected application with a resubmission fee of \$5.

FIGURE 7 . STARTING A BUSINESS IN SHIPROCK REQUIRES 6 STEPS



Additionally, businesses must also register with the Navajo Tax Commission by filing a Form 100. Similar to business incorporation, Form 100s must be submitted in person to the Office of the Navajo Tax Commission or mailed in. There is no filing fee associated with a Form 100.

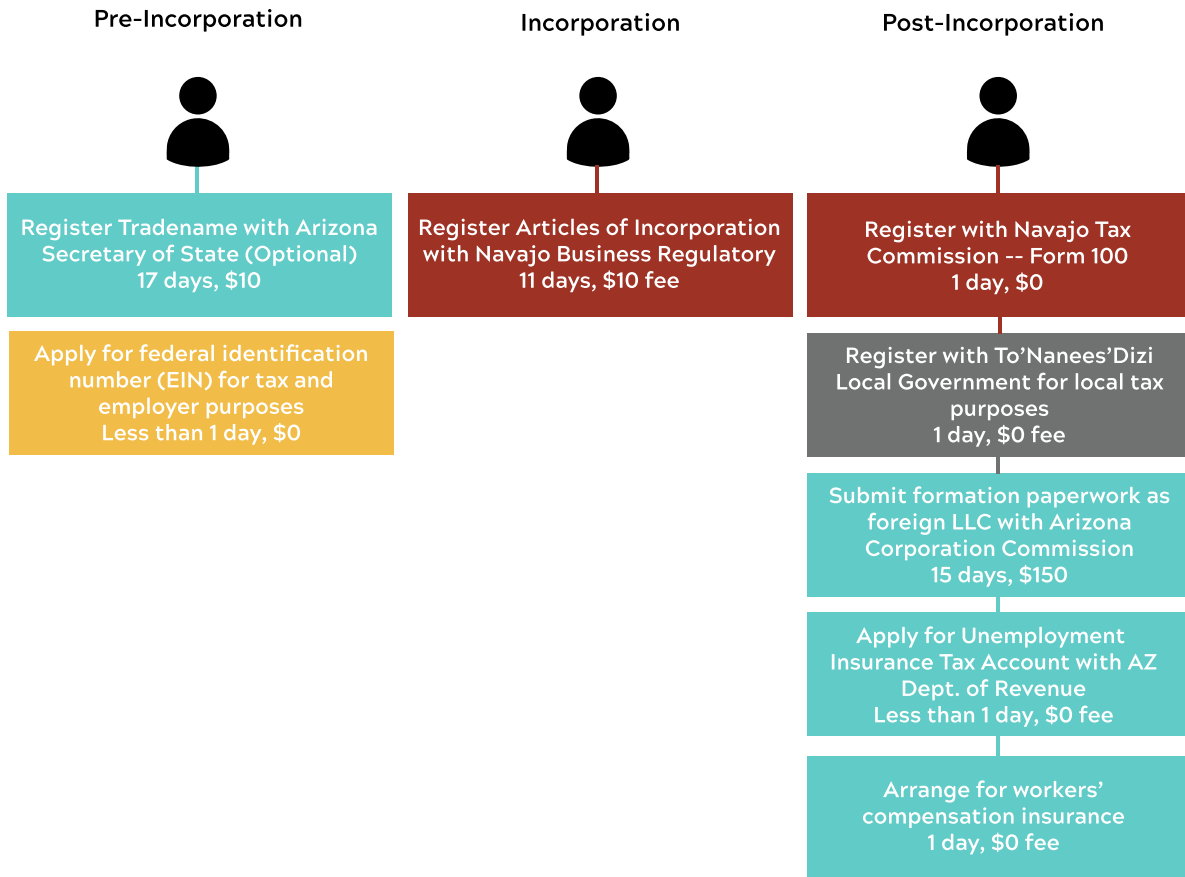
Additional to its registration with the Navajo Nation, businesses in each location must adhere to state standards by registering as a foreign LLC (because the business is domestic to Navajo) in their respective states of Arizona or New Mexico, applying for an unemployment insurance tax account, and arranging for workers compensation.

Businesses in Tuba City have two additional steps compared to a business in Shiprock. Tuba City, or the To’Nanees’Dizi Local Government, has some home-rule authorities – meaning it collects some local taxes separate from those on Navajo. As a result, businesses must register with the local Chapter House in Tuba City and pay taxes for

transactions completed in Tuba City Chapter. If a business operates exclusively in Tuba City (and all sales are in Tuba), then they would only register with the To’Nanees’Dizi Local Government and not the Navajo Tax Commission. However, assuming they make some sales outside Tuba, as is the case with our case study business, they must register with both Navajo Tax Commission and the To’Nanees’Dizi Local Government.

Businesses must file a Form-100 with the Tax Manager of the To’Nanees’Dizi Local Government by mail. The forms are not yet available online but can be accessed in the Chapter House or by emailing the tax manager. There is no fee associated with registration. Additionally, businesses in Tuba have the option to register their trade name with the Secretary of State of Arizona. While this is not a mandatory step, it is advised because it facilitates future lending opportunities. This option does not exist for Shiprock because the Secretary of State of New Mexico does not have a registry of trade names.

FIGURE 8 . STARTING A BUSINESS IN TUBA CITY REQUIRES 7-8 STEPS



## HOW DOES STARTING A BUSINESS WORK IN CORTEZ, CO?

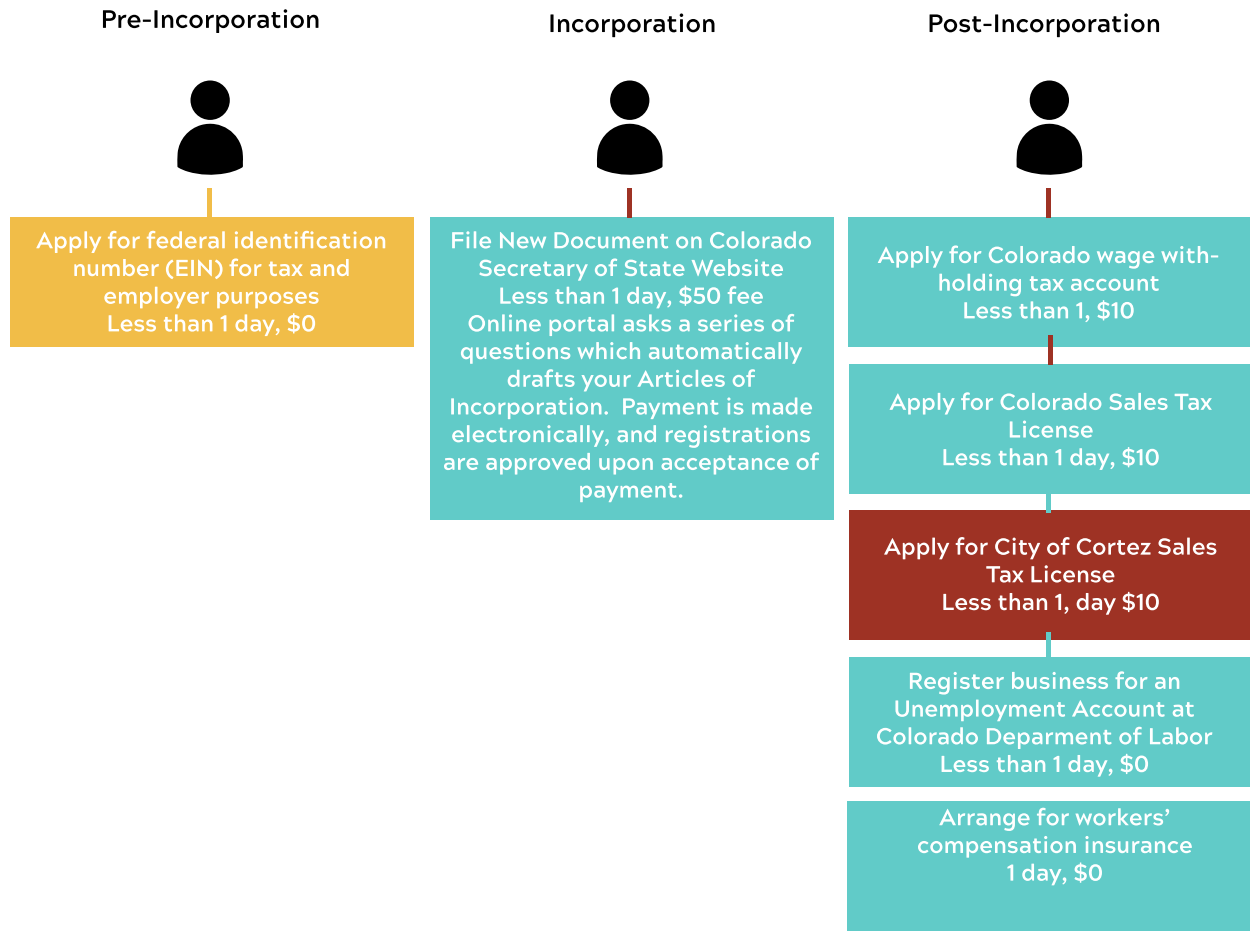
Business registration for Cortez is available through the Colorado Secretary of State. Applications can be completed through an online portal which asks a series of questions on ownership, addresses, and structure. These questions automatically fill in a business’ Articles of Incorporation. Businesses have the option to upload additional documents if desired. An attorney is not required to file Articles of Incorporation. A \$50 filing fee is assessed when the business registration form is submitted and is processed electronically. Upon confirmation of the payment, the business is formally registered with the State of Colorado.

Following incorporation, businesses in Cortez must register for federal, state, and local taxes. For federal purposes, the company needs to apply for the federal

EIN, the same process as a business on Navajo. For state taxes, the business must apply for a Colorado wage withholding tax account. The application is online and there is no fee for the account. Additionally, there is no renewal requirement for a withholding tax account. The case study business must also apply for a Colorado Sales Tax License. The application can be completed online and requires a variable fee depending on date of registration, but on average is \$10. All registration state taxes in Colorado is done through the same state portal, MyBizColorado.

Cortez is a “home-rule” city, meaning it has the authority to collect additional taxes. Businesses must apply online for a local sales tax license. While the application can be completed in less than a day, processing time is eight calendar days and costs \$10. Lastly, a business must register for an unemployment account with the Colorado Labor Department—accomplished through the same online portal as that for registering for state taxes—and arrange for state law mandated workers compensation insurance.

FIGURE 9 . STARTING A BUSINESS IN CORTEZ REQUIRES 7 STEPS



## HOW DO THE TWO COMPARE?

Businesses on Navajo, average between Tuba City and Shiprock, complete the same number of procedures in order to formally register and start a business. Despite this, it takes an average of five to six times as long to start a business on Navajo compared to neighboring Cortez. This is largely because of the number of processes which can be completed online in Cortez as opposed to on Navajo.

Six of the seven procedures necessary in Cortez are completed online, many of which are done in the same centralized web portal to further eliminate friction. In comparison, zero of the procedures on Navajo are completed online. The time estimates for Navajo are likely conservative, given that the analysis assumes only one day for in-person procedures. Navajo Nation is expansive and, when

compounded by the quality of transportation infrastructure, it could realistically take multiple days to travel to Window Rock to submit in-person forms. Alternatively, mailed-in forms will take several days to arrive before they are processed. Internal mail routes within Navajo are limited, and in general, mail is routed to border towns (or to larger cities such as Albuquerque) and then back within the Nation itself – severely increasing the amount of time it takes for a letter from Tuba City or Shiprock to reach Window Rock.

When only taking into account the Navajo-specific procedures (i.e., not registering as a foreign corporation in Arizona/New Mexico), costs are slightly lower on Navajo. There is a difference of \$60, or almost a third of a percentage point of per capita income. However, whenever the additional steps of incorporating outside of the Nation as well are taken into account, it is more than twice as costly in terms of percent of per capita income.

TABLE 4 . COMPARISON OF STARTING A BUSINESS ACROSS CONTEXTS

	# of Procedures	Time (Calendar Days)	Cost (Total \$ Ammount)	Cost (% of Income of Capita)
Shiprock, NM	6	15.5	\$110	.74%
Tuba City, AZ	7-8	30-45	\$160-\$170	1.00-1.07%
Cortez, CO	7	4	\$70	.33%

Another issue, which could be overlooked given the scope of this analysis, is the necessity of a physical address in order to apply for a federal tax identification number (EIN). Many locations (both home and business sites) do not have physical addresses, which makes it difficult, if not impossible, to apply for an EIN. Without an EIN, it makes it impossible to submit an Articles of Incorporation. While there are no publicly available, updated, official statistics on how many properties on the Nation lack physical addresses, MC Baldwin, the

coordinator for the Navajo addressing initiative, reported to news sources at the end of 2019 that there are about 10,000 “addressable structures,” which includes everything from homes, businesses, schools and government buildings.<sup>11</sup> In addition to the difficulties of formally registering a business, this also presents an additional hurdle to less formal but commonly done practices for starting a business, such as setting up a Google business profile, advertising, and receiving inventory or other supplies by mail.

## 7.2 CERTIFYING A BUSINESS - NAVAJO BUSINESS CERTIFICATION

### WHAT IS MEASURED?

Business certification is a tool meant to ensure that money spent by the tribal government is channeled internally to Navajo and broader Native American communities. As mentioned previously, approximately 65% of spending residents on Navajo Nation is spent outside of the Nation. This trend is also true for the Navajo tribal government. Although 90% of residents on the Nation are Navajo, approximately 76% of the contracts issued by the Navajo Nation government between the years of 1994 and 2003 went to non-Navajos.<sup>12</sup> The Navajo Business Preference Act, later the Navajo Business Opportunity Act, was the Nation’s effort to keeping this spending internal. There have been no updated

statistics on what percent of Navajo Nation tribal government contracts are issued to Navajo- or Native-owned certified businesses. Anecdotally, it has been reported that this law often does not translate into practice.

The Navajo Business Opportunity Act of 2005 built off a predecessor law, the Navajo Business Preference Act, to formally give “first opportunity and/or preference in contracting to Navajo and/or Indian owned and operated businesses”<sup>13</sup> The act created two priority classes of businesses. Business that are 100% Navajo owned and controlled are eligible to be classified as priority one. Businesses that are 51% to 99% Navajo or 51% to 100% other Indian owned and controlled are eligible

11 Jeremias, Sofia. Waiting for 911: Ambulance drivers struggle to find rural homes without addresses. Desert News. September 2019.

12 Resolution of the Navajo Nation Council. Title 5, Navajo Nation Code. Commerce and Trade. Chapter 2. Navajo Nation Business Opportunity Act. §201. Part B.

13 Resolution of the Navajo Nation Council. Title 5, Navajo Nation Code. Commerce and Trade. Chapter 2. Navajo Nation Business Opportunity Act. §201. Part C.

to be classified as priority two businesses. These classifications give businesses preference in the procurement and bidding process for Navajo Nation issued contracts.

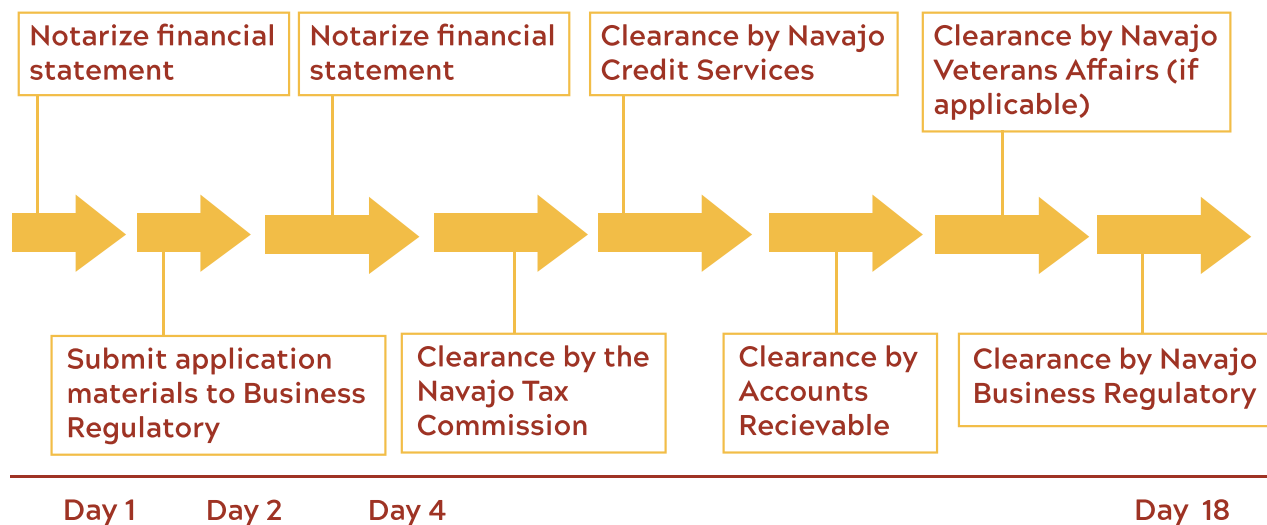
This indicator set records the procedures, along with their associated time and costs, for a business to formally certify themselves as a Navajo-owned business. Similar to the registering a business category, the 'Business Certification Score' is calibrated as the simple average of the scores for each of the component indicators. Data for this indicator set was collected from staff at the Navajo Business Regulatory Department.

## HOW DOES BUSINESS CERTIFICATION ON NAVAJO WORK?

Navajo business certification is handled at the central tribal government level in Window Rock, AZ. In order for a business to become certified, they must first get a financial statement notarized in the company's name. This service can be completed in one day and typically costs \$10. Following notarization, businesses submit their applications to the Navajo Business Regulatory Department. Materials include the notarized statement, IRS number, the resumes of company owners, list of previous projects, the company's organizational chart, a description of

duties of the owners or top executives, the relevant Certificates of Indian Blood, and a business plan. Applications are not able to be submitted online and must be either mailed in or submitted in person in Window Rock. There is no application fee. After submission, the application is reviewed by Business Regulatory to ensure that the business is not just Navajo- or Native-owned, but also that a large majority of the day to day operations are under the jurisdiction of Navajo or Native people. After passing the initial review by Business Regulatory, the business must pass through a series of procurement clearances. This includes review by five Navajo Nation departments: the Tax Commission, Credit Services, Accounts Receivables, the Department of Economic Development, and Veterans Affairs (if applicable) to ensure that the applicant business is in good standing with the Nation and has no outstanding debts to the tribal government. Procurement clearances do not occur at all five departments simultaneously. Instead, they are cleared by one and passed on to the next. Officials at Business Regulatory reported that the entire takes two weeks on average. However, if there is a delay at one department, either caused by the fault of the applicant or other internal circumstances at a given department, then it can delay the entire process of business certification. It has been reported that this occurs often and frequently elongates the waiting time for business certification. Businesses must renew their certifications annually.

FIGURE 10. PROCESS FOR BUSSINESS CERTIFICATION ON NAVAJO NATION



# 7.3 REGISTERING PROPERTY / ACCESSING LAND

## WHAT IS MEASURED?

The indicator for the business site leasing process replaces the registering property indicator from the original methodology on Navajo. The original registering property category records the procedures, as well as their associated time and costs, for one business entity to sell land to another business entity. However, land on Navajo Nation is not privately owned. Instead, all land is held “in trust” by the federal government and is allocated through the tribal government. The goal of this policy was originally to keep Native Americans contained to certain lands. Now, it has shifted to preserving these lands for indigenous peoples. The allocation of land on Navajo is largely moderated by the tribal government (with oversight by the Bureau of Indian Affairs), who leases it out to individuals for “Home Site Leases” or “Business Site Leases.” The original registering property indicator seeks to measure how easily businesses can obtain land. Because obtaining land is regulated through the business site leasing process, this analysis altered that original indicator to utilize the same case study assumptions, except instead of negotiating the sale through private brokers and registering the title change with a county assessor, it measures how a business would interact with the tribal government in order to obtain land in Tuba City and Shiprock.

This indicator set collects the same data points, the number of procedures, time, and costs, for both the land withdrawal (formally designating a piece of land for commercial purposes) and the business site leasing (obtaining the right to use the land) process. Additionally, the registering property indicator includes the Quality of Land Administration Index, which is also captured in the business site leasing index.

This index has five dimensions: reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution, and equal access to property rights. Navajo Nation’s ‘Business Site Leasing Score’ is calibrated as

the simple average of the scores for each of the component indicators. For standardization purposes, the following assumptions are applied to the property registration and business site leasing process. The pursuant business is a 100% domestically- and privately-owned LLC that performs general commercial activities. The property has no mortgages or other land disputes attached to it, is registered in the land registry, and is located in a periurban commercial zone (that is, on the outskirts of the city but still within its official limits), and no rezoning is required. The property consists of a land and a building (two-story warehouse). The warehouse is 10 years old, is in good condition, has no heating system and complies with all safety standards, building codes and other legal requirements. The property, consisting of land and a building, will be transferred in its entirety. The property is worth 50 times the income per capita of its locality.

Data for this indicator was collected from the Shiprock Regional Business Development Office (RBDO) and the Navajo Land Department. Efforts were made to incorporate information from the Western RBDO in Tuba City. However, staff refused to contribute to the analysis, and as such, this analysis is limited to analyzing this process in Shiprock only. As one of the few indicators that does vary by Chapter and Agency, this presents a large limitation of the research. However, the analysis is still able to offer high level insights when comparing this process on Navajo vs. the border town of Cortez. Information from Cortez was collected through the Montezuma County Assessor’s Office as well as the Mon Do Title Company.

# HOW DOES ACCESSING LAND ON NAVAJO WORK?

Land tenure and administration on Navajo is a complex system, resulting from a complex history of Anglo-colonization and a fight for restoration of sovereignty over the Navajo homelands. The land system involves actors ranging from local chapters, to tribal government, to US federal agencies. The central tribal government manages much of the land allocation process, with approval by local communities and oversight by the Bureau of Indian Affairs.

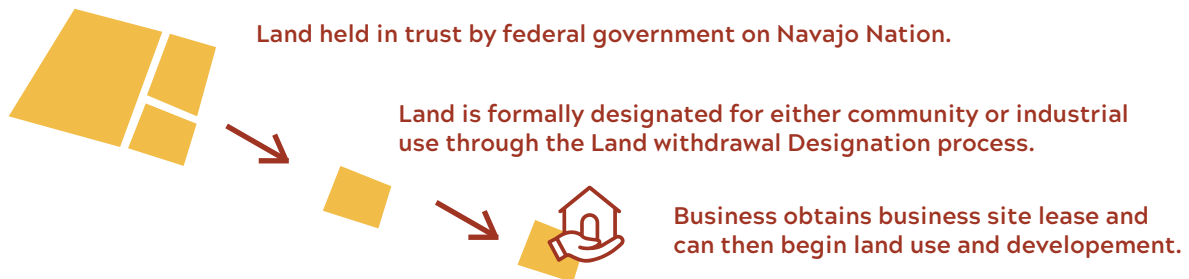
Because land is held in trust by the federal government and allocated by tribal entities, land must first be withdrawn and designated in order for any land development or use to occur. A land withdrawal designation does not authorize development or disturbance on Navajo Nation land in and of itself. But having a designated piece of land is a prerequisite to obtain a site lease, which

includes a cover letter and a planned use of the land, as well as the legal or GPS survey results formally indicating the location.

The survey process includes a series of correspondences with private surveyors around Navajo to attain favorable price for a select swath of land that will need to be surveyed. The survey will need to include GPS coordinates at the point of beginning, legal description, and stamped and signed by a registered land surveyor. This component typically costs \$2,000-\$3,000 for a private surveyor. These application materials must be submitted as a hard copy to the Land Department, either in-person or by mail.

The process also must include the Grazing Official for the requested area. The Grazing Official is found at the Chapter level and manages all the valid grazing permit holders for an area. For land withdrawal to occur, the Grazing Official must gather consent from all permit holders for the designation through the form of signatures or thumb print. Each

FIGURE 11. LAND ALLOCATION PROCESS ON NAVAJO NATION



gives an individual (or business) the right to develop and use the land. To frame this in the business context, a piece of land must be designated for commercial activity through the withdrawal process, and then the specific business may apply to lease that designated area. Upon receiving a business site lease, the business may develop and use the land for business purposes.

The land withdrawal process requires four steps: application to the Navajo Land department, a legal or GPS survey of the requested land, letter from the grazing official that governs that land, and a supporting Chapter resolution. The application

giving permittee signs (or thumb prints) a form that gives consent for development of the specified piece of land for the specific business. Once that form is submitted to the Land Department by the Grazing Official, the consent is recorded. Grazing permittee consent is tied specifically to the pursuant business and must be redone if another individual or land use purpose seeks that plot of land in the future. At this point, an intermediary person from Navajo general land development department may also be a witness to the consent process.

The case study for this analysis assumed that there would be no grazing permittees for simplicity.



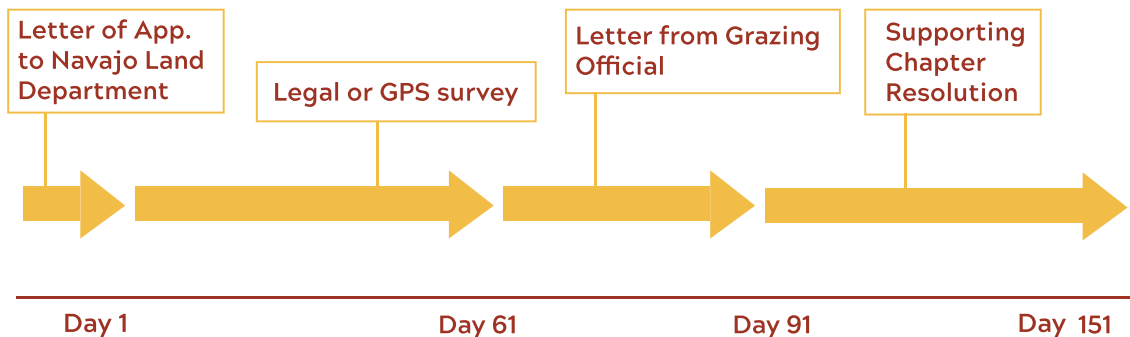
However, it should be noted that this component of the land withdrawal process often presents significant delays or indefinite suspension of land withdrawal. Grazing permittees have priority to land for their livestock and if a pursuant business is unable to secure their consent, land withdrawal on the original piece of land will not be able to proceed.

Lastly, the pursuant business needs a supporting Chapter Resolution. The applicant will need to first get on the chapter's agenda and introduce themselves and the project to the quorum. Then, the quorum may vote on whether to not they support the project and a resolution is produced with the specific acreage, location and legal language from the Land Withdrawal Designation Regulations included. This is a resolution of support not approval. Getting on the agenda may be difficult if the project is contested or controversial. It is also common practice for the person introducing the project to have a translator or a Navajo speaking individual with them. One of the main obstacles cited in this portion of the process is bridging the gap between

The site leasing process involves a variety of stakeholders, most substantially the Regional Business Development Office of the business location's agency. The RBDO serves as the liaison for the applicant business throughout the leasing process. In total, business site leases are processed by ten different tribal government offices: local RBDO, Navajo Nation Fish and Wildlife, Heritage and Historic Preservation Department, Division of Economic Development (DED) Department Manager, DED Division Director, Division of Finance, Department of Justice, DED Approving Committee, Real Estate department, and the Office of the President and Vice President. It should be noted that the review by DED Department Manager, Division Director, Finance Department, and Navajo Department of Justice are folded into one procedure in figure 11 but are treated as four separate procedures for the purpose of this analysis.

The applicant business must first submit application materials to the RBDO, including a letter of intent, business plan, and a certificate of good standing

**FIGURE 12. LAND WITHDRAWAL DESIGNATION REQUIRES 4 STEPS**



local chapter members and off-Navajo based business practices.

The land withdrawal is a lengthy process, taking over five months to complete on average. This is also only the first step in securing property for business use. It reserves the land for five years for the designation holder to pursue two additional clearances, a biological clearance from Navajo Nation Fish and Wildlife (BRCF) and a cultural clearance issued by the Heritage and Historic Preservation Department (CRCF) and to move forward with the business site leasing process.

with the Navajo Nation. The business must also receive two additional clearances, a biological and a cultural/archaeological clearance through two separate tribal offices. Often, the RBDO will guide this process, but the business is able to be involved in monitoring the process to ensure timeliness. For the biological and cultural clearances, the pursuing business has the option of soliciting a private service to conduct the surveys for them and submitting the clearance form for approval to the relevant departments or having the relevant departments conduct the surveys themselves. If choosing to take the private route (timeline presented in Figure 11 below), the costs would be \$75 and \$750 for the

biological and cultural surveys respectively.

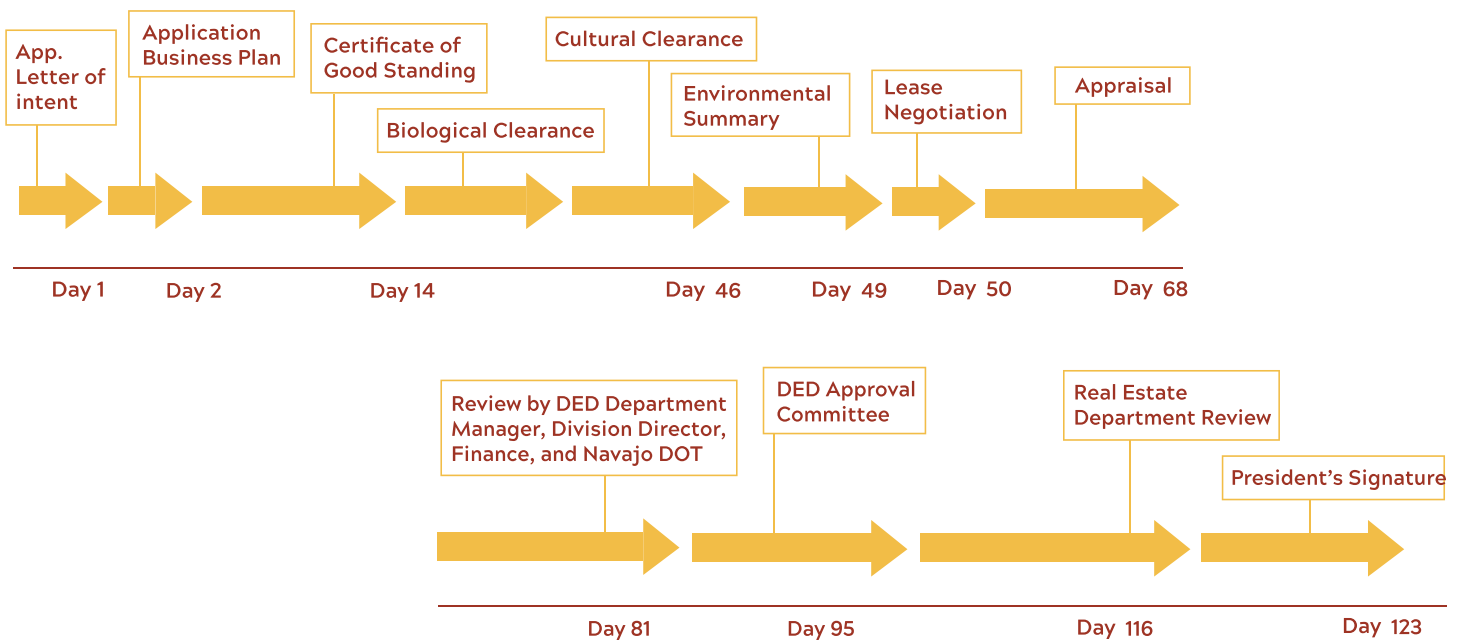
If the pursuing business does not hire private surveyors, the costs are \$40 and \$0 respectively, but the timeline shifts from the four and a half weeks offered by the private sector to three months for tribal government-offered services. The RBDO packages the clearances into the environmental summary for the lease package. The RBDO also serves as a liaison for the pursuing business in the appraisal and lease negotiation process – which determines the rental rates and lease term length, among other details of the leasing package. The appraisal process can take two forms to arrive at the rental rate: market approach or market data research.

For the market approach, an appraiser uses comparable off-reservation sales to come up with a

research approach, and instead rely on contracted appraisers and the market approach. Lastly, the agreed upon lease terms go through a series of approvals, including by DED Department Manager, DED Division Director, Finance Department, Navajo Department of Justice, the DED Approval Committee (who meets to approve leases every two weeks), Real Estate Department, and lastly, a signature by the Office of the President and Vice President.

An important nuance in the process of obtaining land is that businesses may also pursue leases on land that has already been formally withdrawn and designated for business purposes. If this is the case, then some procedures that were completed by the land withdrawal process by our case study firm would be incorporated into the business site leasing process. This includes the legal or GPS survey,

**FIGURE 13. BUSINESS SITE LEASING REQUIRES 15 STEPS**



value to assign the business site. The market data research approach uses the rates from existing leases on the Nation to make the determination of a similar rental based on activity and market area of the business. The rental rates are compiled by an in-house appraiser, as the data on lease rates are not publicly available. However, at the time of data collection, the Division of Economic Development does not have an appraiser on staff so RBDOs/DED are unable to use the market data

grazing permittee consent, and the supporting Chapter Resolution.

While designating land and obtaining a business site is the main avenue to gain land on Navajo, there are additional ways to access land outside of this traditional pathway. Because of the complexity of land tenure and ownership on Navajo, there are several other land management types throughout the reservation. One of which is Fee Land, which is

owned by the tribal government instead of being held in trust by the federal government. There is also land that is owned and controlled by the Bureau of Indian Affairs and land controlled by the US county (such as Coconino for Tuba City). These different land types have different processes and stakeholders. However, there is not a centralized or clear way to approach these processes. There is no central authority which records which entity (BIA, County, Chapter, or trust) controls different land plots nor a database that an entrepreneur could easily search this information. Instead, this information is largely shared through connections, word-of-mouth, or calling each individual stakeholder. These different land types are not in a larger supply than trust land (which would be pursued through the designation and business site lease process depicted in this section), nor are they necessarily easier to obtain; however, they are sought as alternatives because the traditional process is so arduous, long, and often unsuccessful.

## HOW DOES PROPERTY REGISTRATION IN CORTEZ WORK?

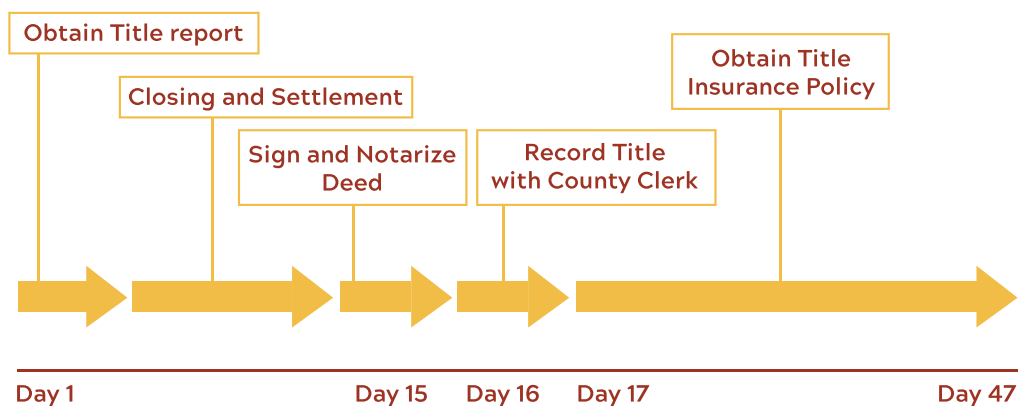
In order to obtain property in Cortez, a business is required to follow five procedures. Procedures one and two include utilizing a title company to obtain a title report on the property and close on the property. In total, this process takes about two weeks, depending on if there is financing or if it

is a cash payment, and costs an estimated \$3,500 including title insurance. The deed must be signed and notarized with a notary public. The deed establishes the terms of the sale. Generally, the title company's closing agent will be a notary. If the parties are unable to attend the closing, then they will be required to find a notary at their location. Notary charges are \$20, and it can generally be done in the same day as closing. The title is then recorded with the County Clerk, which charges a fee of .0001% of the purchase price, in this case is \$107 and a filing fee of \$13 for the first page and \$5 for each additional page. Lastly, after documents are received back from the County Clerk & Recorder the final policy will be issued in usually 30 days.

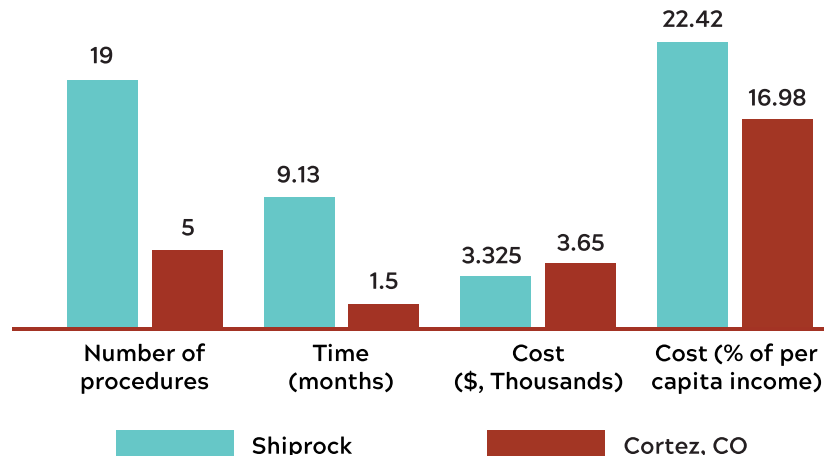
## HOW DO THE TWO COMPARE?

The system for land acquisition on Navajo is significantly more complex than on Cortez, largely for reasons outside of the control of tribal authorities. The need for land withdrawal designation and leasing is a result of a land tenure system born out of Anglo-colonialism and imposition of US policies. This complexity results in longer processing time and relative costs for the average business on Navajo versus in Cortez. The Navajo system requires almost 4 times as many procedures as neighboring Cortez and takes almost eight months longer. While the costs are comparable in absolute terms, getting land on Navajo is 5 percentage points more expensive as a percent of per capita income.

FIGURE 14. REGISTERING PROPERTY IN CORTEZ REQUIRES 5 STEPS



**FIGURE 15 . ACQUIRING LAND ON NAVAJO IS MORE COMPLEX, TAKES LONGER, AND IS MORE EXPENSIVE COMPARED TO CORTEZ**

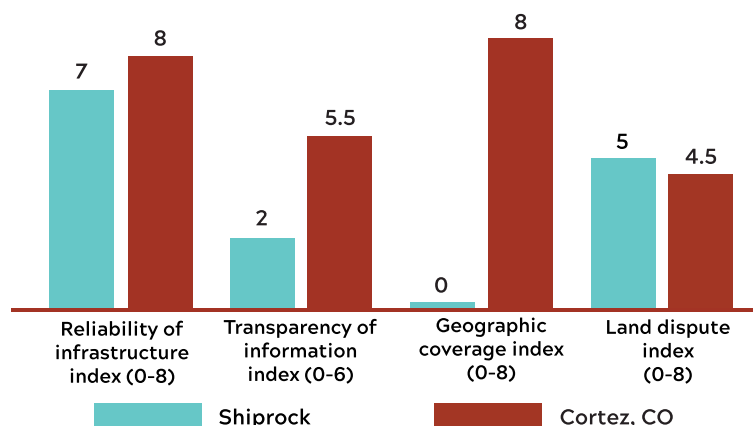


While the process laid out in this analysis highlights the complexity of accessing land on Navajo, it largely leaves out the role that grazing permittees play in the land allocation process. An analysis by the Diné Policy Institute explores the role of grazing permits in the Navajo land system.<sup>14</sup> Their analysis highlights how the Navajo land system was created by external entities, grounded in policies and perceptions that are not natural to Navajo traditional values. The permitting system disrupted communal and cultural land, used as a way to regulate and monitor Navajo grazing, and overtime, these policies have begun to shape how Navajo communities view and perceive land “ownership.” Permission from grazing permittees is a requirement for land to be designated and a business site lease to be

granted. As was noted anecdotally by contributors to this analysis, this can often be one of the biggest barriers that delay or halt the process all together. When combining the role of grazing permittees in the land system and the process of land acquisition – an entrepreneur seeking a place to start a business faces a land system that prioritizes grazing on the ground and a long, complex system to contend with at the tribal and federal government level.

A second component of the analysis surrounding land is the quality of land administration index, which measures reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution, and equal access to property rights.

**FIGURE 16 . COMPARISON OF THE QUALITY OF LAND ADMINISTRATION INDEX**



14 Sage, Franklin et al. Land Reform in the Navajo Nation: Possibilities of Renewal for our People. Diné Policy Institute. 2017.

Navajo Nation's land administration performs well on the reliability of infrastructure index. The Nation has a land registration system in place that records immovable property registration and cadastral map in scanned and computerized forms, respectively. However, the coverage of these systems is incomplete across the Nation. Across the Nation, only half of the site leases or withdrawn land is recorded with the land department, and only a quarter are mapped. A major constraint to this task is the fact that records date back to 1910 and there are only a handful of mappers available. The department has recorded and mapped incoming projects and is working to record and map inherited documents.

Another area where the Navajo land administration system exhibits deficits relative to Cortez is the

transparency of information. On Navajo, information on land leases is restricted to those on the lease or those connected to the proper applicant, whereas this data is freely and publicly available in Cortez. Similarly, official statistics tracking the number of transactions at the Navajo land department are tracked within the department, but not publicly available. From a customer service and ease of use perspective, the Land Department does not commit to deliver formally binding documents that proves land withdrawal status nor updated maps/plans within a specified timeframe. It also does not have a specific and independent mechanism for filing complaints about a problem at the immovable property registry at the mapping agency.

## 7.4 DEALING WITH CONSTRUCTION PERMITS

### WHAT IS MEASURED?

Doing Business on Navajo records all the procedures a business in the construction industry must complete in order to build a standardized warehouse, along with the time and costs to complete each procedural step. Additionally, this indicator set includes the Building Quality Control Index, which evaluates the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. This information is calibrated into an 'Ease of Dealing with Construction Permits Score,' which is the simple average of the scores for each of the indicators' components.

The standardized warehouse is assumed to be used for general storage activities, such as storage of books or stationary. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals, or pharmaceuticals. The warehouse is two stories, will have road access and be located in the periurban area of the respective locality (that

is, on the fringes of the city but still within its official limits).

For Navajo information, this data was collected through an independent contracting and engineering firm who completes construction projects on tribal lands – including several projects on Navajo Nation.<sup>15</sup> For Cortez, this data was collected through the City of Cortez, Planning and Building Division.

### HOW DOES DEALING WITH CONSTRUCTION PERMITS ON NAVAJO WORK?

Navajo Nation does not have its own set of building laws or regulations. Buildings for government purposes adhere to the International Building Code (IBC) 2012 standards. In these cases, the Division of Community Development is the one that shepherds that process and administers the proper construction permits. Private contractors and engineers who work on Navajo Nation funded projects are required to have the proper insurance coverage, including

<sup>15</sup> The Department for Community Development was also consulted, although they were unable to provide substantive weigh-in given this case study was a private firm seeking to build a warehouse rather than the tribal government.

Latent Defect Liability Insurance. Otherwise, the standards used for the construction project are generally driven by the funding source (Bureau of Indian Affairs, Indian Health Service, etc.), which will hold its contractors to various standards. However, when the funding source is private, as is the case within our case study parameters, there is no clear set of standards that the building process must adhere to. Private contractors typically follow the county standards of the project location or the IBC 2012 standards that Navajo Nation issued contracts are held to. However, there is no clear permitting process for private construction.

An exception exists for getting a new water and sewage connection, for which the Navajo Tribal Utility Authority would oversee.

While it may not be necessary to get construction permits through an authority for private buildings on Navajo, private contractors typically follow the county standards for building codes and inspections. For Tuba City, that is Coconino County, who follows the International Building Code 2018 standards. The eight required inspections are footing and foundation, concrete slab and underfloor, lowest floor elevation, frame, lath, gypsum board, and panel gypsum panel product, fire- and smoke-penetration, energy efficiency, and final inspection. For Shiprock, the contractor would follow the San Juan County standards, which are an adaptation of the IBC. The eleven required inspections are footing and foundation, concrete slab and underfloor, rough electrical, plumbing, heating ventilation, frame, stucco lath, insulation, electrical final, plumbing final, mechanical final, fire final, and building final. All inspections are carried out by third-party, private inspection services. In both Tuba City and Shiprock, parties would be required to work with NTUA in order to get the proper sewage and water connection, which has its own permitting process.

## HOW DOES DEALING WITH CONSTRUCTION PERMITS IN CORTEZ WORK?

The City of Cortez has adopted the 2015 International Building Code (IBC) with minor modifications to tailor it to the local context including modification of fee schedules, violation

penalties, and energy/conservation standards. While some residential buildings may be completed without a licensed engineer or architect, all commercial projects must be prepared by a Colorado licensed design professional. New commercial project plans require civil, architectural, structural, mechanical, electrical, plumbing, and energy efficiency plans as part of the plan package. Upon receipt of plans, Cortez City Hall offices conduct a plan review to check for compliance with the locally adopted building codes in order to issue the appropriate building permit.

The City of Cortez website clearly lays out the specifications required to adhere to local standards for building, accessibility, mechanical, plumbing, energy, and electrical codes to speed up plan processing and code compliance. Phased inspections occur through the construction process for building quality control, including footing and foundation, concrete slab and underfloor, lowest floor elevation, frame, lath, gypsum board, and panel gypsum panel product, fire- and smoke-penetration, energy efficiency, and final inspection. Additionally, state inspectors manage the plumbing inspection process, which adheres to the 2015 International Plumbing Code. This includes three main inspections: underground inspections after trenches or ditches are excavated and bedded piping installed, and before any backfill is put in place, a rough-in inspection after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and all water distribution piping is roughed-in and prior to the installation of wall or ceiling membranes, and a final inspection after the building is complete and ready for occupancy. Montezuma County does not issue Certificates of Occupancy, so a qualified, private inspector will do so after the final inspection.

## HOW DO THE TWO COMPARE?

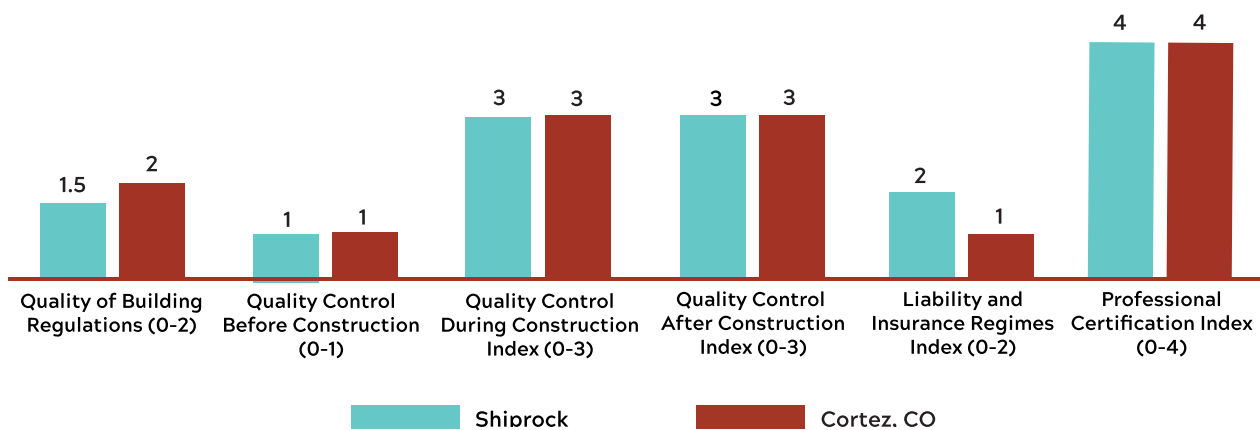
The major difference between the two jurisdictions is the lack of a regulatory framework for private construction on Navajo. While it is true that the lack of a regulating body likely decreases the complexity and timing of building permits, it does not ensure a very transparent or consistent process across building projects. This increased uncertainty is potentially a huge deterrent to private construction activity. When construction activity does occur, this leaves open massive opportunities for poorly constructed buildings, leading to brand new buildings that cannot pass an inspection. At worst, it poses serious dangers for individuals who choose to work, shop, and otherwise occupy these buildings.

The analysis also covers building quality control index, which takes into account the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. Because legislated regulations only truly exist for building contracted by the Navajo government,

this measures the building standards for tribal-contracted, public buildings. The Navajo Nation adheres to the IBC 2012 standards. While they are not publicly available through a permit-issuing authority website, you may request them through the NTUA free of charge.

In Cortez, however, regulations for building and plumbing are both readily available online. Private, external firms are required to verify building plans and private, third-party firms conduct phased inspections before, during, and after construction both on Navajo and in Cortez. Risk-based inspections are not mandated in either contexts. The contracted architects and construction company are held liable for structural flaws or problems in the building both on Navajo and in Cortez, but only on Navajo are they required to have Latent Defect Liability Insurance to conduct projects contracted by the tribal government. Architects and engineers must hold a professional certification administered through the state where the work is being conducted, both on Navajo and in Cortez. New Mexico, Arizona, and Colorado predicate these certifications on a minimum number of years of experience, university degree, and passing a certification exam.

FIGURE 17 . COMPARISON OF BUILDING QUALITY REGULATIONS ACROSS CONTEXTS



# 7.5 GETTING ELECTRICITY

## WHAT IS MEASURED?

Doing Business records all procedures required for a business to obtain a permanent electricity connection and supply for a standardized warehouse. These procedures include applications and contracts with electricity utilities, all necessary inspections and clearances from the distribution utility as well as from other agencies, and the external and final connection works between the building and the electricity grid. The process of getting an electricity connection is divided into distinct procedures and the study records data for the time and cost to complete each procedure.

The standardized warehouse is privately-owned and is located in an area where similar warehouses are typically located. In this area a new electricity connection is not eligible for a special investment promotion regime (offering special subsidization or faster service, for example). Its location has no physical constraints, for example, it is not near a railway. It is new, being connected to electricity for the first time, and is two-stories with approximately 14,00 square feet area. The connection is a permanent, three-phase, four-wire Y connection with a subscribed capacity of 140-kilovolt- ampere (kVA) with a power factor of 1, when 1 kVA = 1 kilowatt (kW). The connection is 150-meter, underground connection that requires works that involve the crossing of a 10-meter wide road (by excavation) but are all carried out on public land. There is no crossing of other owners' private property because the warehouse has access to a road. It does not require work to install the internal wiring of the warehouse. This has already been completed up to and including the customer's service panel or switchboard and the meter base. However, internal wiring inspections and certifications that are prerequisites to obtain a new connection are counted as procedures. It is assumed that the monthly energy consumption is 26,880 kilowatt-hours (kWh); hourly consumption is 112 kWh.

In addition, Doing Business includes an index on the reliability of supply and transparency of tariffs and collects data on the price of electricity. The Reliability of Supply and Transparency of Tariffs Index

encompasses quantitative data on the duration and frequency of power outages, as well as qualitative information on the mechanisms put in place by the utility for monitoring power outages and restoring power supply, the supervision of power outages by a regulator, the transparency and accessibility of electricity tariffs, and whether the utility faces a financial deterrent aimed at limiting outages (such as a requirement to compensate customers or pay fines when outages exceed a certain cap). The ranking of economies on the ease of getting electricity is the simple average of the scores for all the component indicators except the price of electricity.

This data was collected from Navajo Tribal Utility Authority for Navajo and Empire Electric Association for Cortez, Colorado.

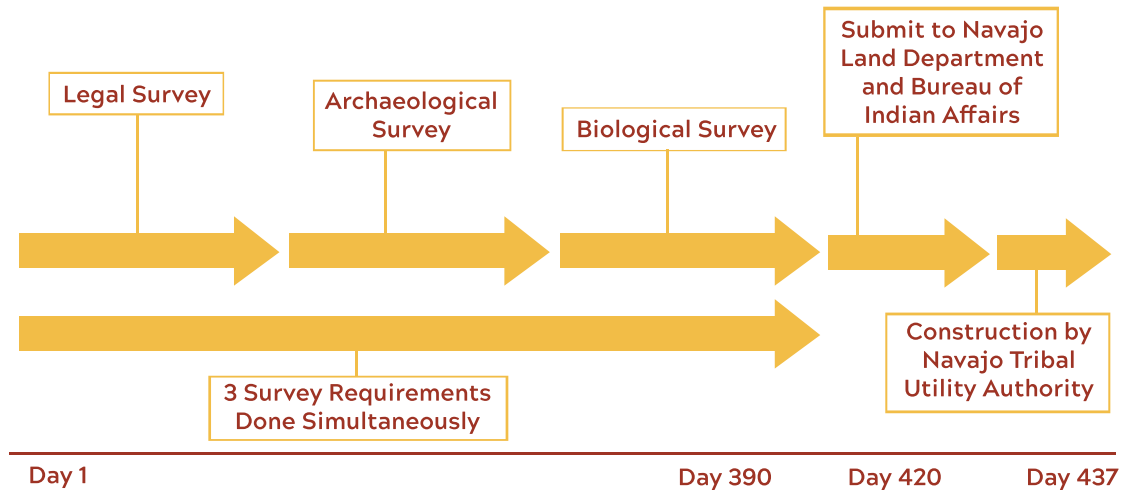
## HOW DOES GETTING ELECTRICITY ON NAVAJO WORK?

The main utility provider on the Navajo Nation is the Navajo Tribal Utility Authority (NTUA), who provide distribution of electricity, water, wastewater, natural gas, solar energy, and communications services across the 27,000 square miles of the Navajo Nation. NTUA is a tribal enterprise, meaning it is part of the tribal government but is entirely funded by its own revenue and is not subject to the tribal council for general day-to-day operations.

In order to get connectivity on the Nation, a business would follow five procedures. The first step is to undergo three surveys on the requested connection site: a legal survey, archaeological survey, and a biological survey. These three surveys can run simultaneously and take on average 13 months to complete. After these surveys are completed, the utility packages the results and sends the connection request to the Navajo Land Department and the Bureau of Indian Affairs (BIA) for reviews, which takes on average 1 month. After their approval, NTUA can begin construction, which for the case study connection, takes 2.5 weeks. In total, the process takes 14.5 months to complete on average.



FIGURE 18 . A NEW ELECTRICAL CONNECTION ON NAVAJO REQUIRES 5 STEPS



Because NTUA covers the majority of Navajo Nation, the process does not differ between the two sample cities of Tuba City and Shiprock. The cost estimates provided by NTUA suggest that the average new connection costs \$40,000-\$50,000 for construction, as well as \$13,500 per mile for right-of-way across the Navajo Nation. NTUA did not report an expectation that this estimate would differ significantly between Shiprock and Tuba City. Within the contexts of the case study for this analysis, that totals to \$60,000 for a new electrical connection.

## HOW DOES GETTING ELECTRICITY IN CORTEZ WORK?

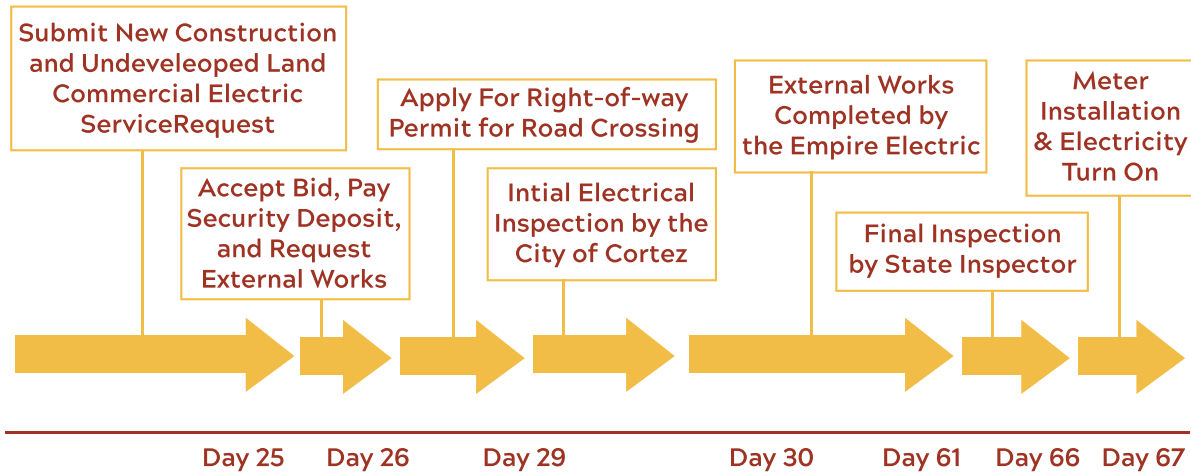
Empire Electric Association is the main service provider for the City of Cortez. New service requests can be submitted through their website. This application includes project information (including site plans and electrical single line drawing with NEW load calculations), company responsible for billed electric usage, Architect, Engineer, or Contractor Authorization, Electric load information, and an electronic signature. The request is usually processed within 3-4 weeks, but most of the time variation depends on consumer response time. The only up-front costs a \$2,000 engineering deposit, which is credited toward the construction. Once the plans have been accepted, the party seeking the new connection will submit a security deposit, in this case of \$7,659, which is refunded after twelve consecutive months of on-time payments, and requests external works. The contractor and/or

the utility must request a right-of-way construction permit from the City of Cortez for a road crossing, which takes 3 working days for City staff to review and costs \$30. A state inspector must inspect the site inspection prior to any concrete pour, patch back, or utility connection. State inspector, Gary Freeman, conducts these inspections for the City of Cortez.

Following the inspection, the state inspector will submit the electrical permit to the state of Colorado. Permit fees (which include the cost of inspection) for the case study connection are \$210 and take 7 days to conduct and process. Once the permit has been received by the utility, the external works is usually done within 2-3 weeks, depending on weather or if the consumer must provide trench (consumer trenches, utility installs conduit and wire for underground). Empire Electric was unable to offer the Calculated Contribution in Aid of construction for the case study project. Although an imperfect proxy, the costs on external works and construction for New York City and Los Angeles are available. The average of the two comes out to \$15,000. This is likely biased upwards, as costs in these contexts are likely higher than the Cortez area. Lastly, there is a final inspection done by a state electrical inspector, which takes 5 days and the cost is included in the cost of the permit. After the final inspection, the meter is installed usually within one day of the project being "green-tagged" by the state inspector and there is a \$20 connection fee.

In total, the process of a new electrical connection in Cortez requires 7 procedures, which takes 67 days and costs \$15,260 to complete.

FIGURE 19 . A NEW ELECTRICAL CONNECTION IN CORTEZ REQUIRES 7 STEPS



## HOW DO THE TWO COMPARE?

While getting an electrical connection in Cortez requires more steps, those steps are completed 6.5 times more quickly in Cortez compared to on Navajo. Further, the cost of electrical connection in Cortez, which is likely overestimated in this analysis, is still one quarter the cost of gaining a connection on Navajo. When taking into account relative per capita income, a new connection on Navajo is almost 400% the per capita income, while Cortez it is 70%. Overall, businesses in Cortez can expect a more efficient—both in terms of time and costs—connection than a business owner on Navajo.

A second component of the Getting Electricity indicator is reliability of supply and transparency of tariff index. Navajo Nation experiences significant

lapses in the reliability of supply. While the utility does have automated tools for detecting and monitoring power outages, it still relies on manual resources for service restoration (unless the issue extends to the substation). Additionally, there is no entity separate from the utility that monitors the utility’s reliability of supply nor are there financial deterrents aimed at limiting power outages, such as fines by a regulatory body or customer compensation mechanisms in place.

Likely as a result, Navajo Nation experiences considerably high levels of system outages. The NTUA system as a whole experienced an average power outage duration of 54.89 hours and a frequency of .66 outages per customerserved. In Cortez, Empire Electric Association reports an average outage duration of about 40 minutes and less than .1 outages per customer served.

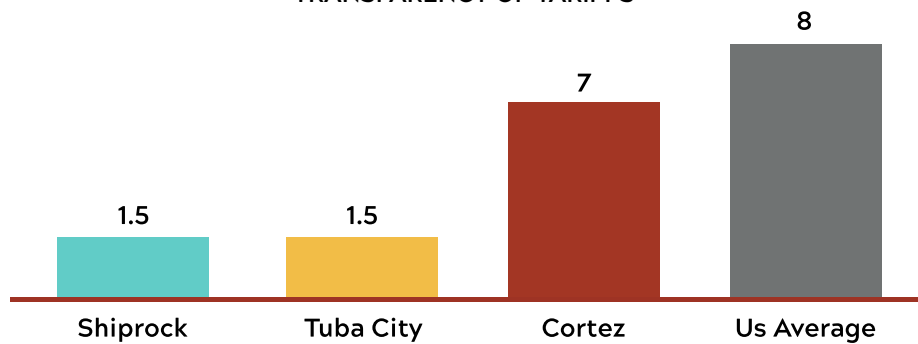
TABLE 5 . COMPARISON OF TIME AND COST OF NEW ELECTRICAL CONNECTION

	Navajo	Cortez
Number of Procedures	5 steps	7 steps
Number of days	437 days	67 days
Costs (\$)	\$60,000	\$15,260
Costs (as a % of per capita income)	389%	71%

The Navajo system at large does not experience an unreasonably high number of outages compared to other economies, as the average customer experiences less than one power outage per year. However, when the duration of power outages is factored in, the NTUA system reports an average of over 36 hours of annual outages per customers, while Cortez falls below a minute per customer. A power outage on Navajo lasts 90 times as long as a power outage in Cortez. The area of coverage on Navajo is much wider, with less adequate roads and perhaps fewer manual resources than Cortez. However, the duration time could also be attributed to the fact that Empire Electric Association uses automated tools to restore power supply, while NTUA does not.

The large number of power outages and large duration time of outages, measured by the system average interruption duration index (SAIDI) and system average interruption frequency index (SAIFI), and the lack of automated tools for power restorations were the main contributors to the gap between Navajo electric distribution systems and Cortez. However, it also falters in the transparency of tariffs. Customers of NTUA are notified of a change in tariff a full billing cycle (that is, one month) ahead of time. However, the effective tariff schedule is not available online, which is the case in Cortez and other US cities surveyed.

**FIGURE 20 . NAVAJO EXPERIENCES SIGNIFICANTLY LOWER LEVELS OF RELIABILITY OF SUPPLY AND TRANSPARENCY OF TARIFFS**



## 7.6 CREDIT ENVIRONMENT

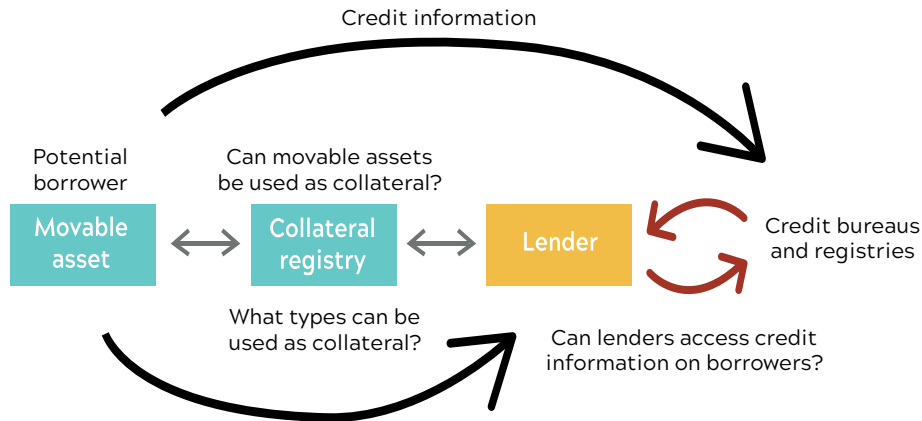
### HOW IS IT MEASURED?

Doing Business measures the legal rights of borrowers and lenders with respect to secured transactions through the strength of legal rights of borrowers and lenders index. This index aims to measure if an economy has laws that have been shown to facilitate lending, including whether they allow all assets, namely movable assets, to be used as collateral, provide for a unified registry of security interests, and enforcement of secured interests on behalf of creditors. It also measures the reporting of credit information through the depth of credit information index, which measures the coverage, scope and accessibility of credit information available through credit reporting service providers such as credit bureaus or credit registries. However, the entirety of the United States, including Navajo

Nation, is covered by the same credit bureaus, such as Experian, Equifax, and TransUnion. Therefore, Navajo Nation’s score on credit information is identical to that of the broader United States. The ranking of economies on the ease of getting credit is determined as the sum of the scores for the strength of legal rights index and the depth of credit information index.

An important note on the limitation of this indicator is what it does not measure. It does not measure the availability or access to credit by individuals or businesses in practice. Nor does it measure the willingness of financial institutions to lend within a particular economy. While in theory, the existence of the certain laws and regulations measured in this section should lead to more credit being offered, that may not always be

FIGURE 21. VISUALIZING THE CREDIT ENVIRONMENT



the case and there could be other regulatory, social, or geographic barriers which limit credit availability and access.

Information for the strength of legal rights index was collected through Navajo attorneys and financial lawyers in Montezuma County for Cortez, CO. Navajo Credit Services was consulted, but did not provide data for this analysis.

## WHAT IS THE CREDIT ENVIRONMENT ON NAVAJO LIKE?

In terms of the legal rights of creditors and borrowers, the Navajo Nation Uniform Commercial Code, Article 9 establishes an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of four functional equivalents to security interests in movable assets: fiduciary transfers of title; financial leases; assignments or transfers of receivables; and sales with retention of title. Navajo law has favorable protections for potential borrowers with respect to movable assets. It allows a business to grant a nonpossessory security right in a single category of movable assets (such as accounts receivable, tangible movable assets and inventory), without requiring a specific description of the collateral. However, in these cases, particularity might more strongly secure the interest. Navajo law allows a business to grant a nonpossessory security right in substantially all its movable assets in general terms. A security right can be given over future and after-acquired assets, and extends automatically to the

products, proceeds, and replacements of the original assets. All debt and obligations types can be secured between the parties, and a general description of such debts and obligations is permitted in the collateral agreement and in registration documents.

In terms of collateral registry infrastructure, a notice-based registry exists – a registry that files only a notice of the existence of a security interest (not the underlying documents) and does not perform a legal review of the transaction. However, it does not have modern features that allow secured creditors (or their representatives) to register, search, amend or cancel security interests online.

In terms of protections for lenders, secured creditors are paid first when a debtor defaults outside of an insolvency procedure and when a business is liquidated. However, Navajo legislation does not offer guidance for secured creditors when a debtor enters a court-supervised reorganization either within a general insolvency or bankruptcy procedure. Lastly, Navajo law allows parties to agree on out of court enforcement mechanisms and allows assets to be sold through public or private auctions and the secured creditor to take the asset in satisfaction of the debt.

## WHAT IS THE CREDIT ENVIRONMENT IN CORTEZ LIKE?

The Colorado Revised Statutes Title 4. Uniform Commercial Code, Article 9 establishes an integrated or unified legal framework for secured

transactions. It allows all the protections for borrowers described above for the Navajo context measured by this index, which allow businesses to grant security rights in a myriad of movable assets, present and future, in general terms. All debt types can be secured between parties in general terms for collateral agreements and in registration documents.

A notice-based collateral registry exists with the Colorado Secretary of State and has modern features that allow secured creditors to register, search, amend, and cancel security interests online.

Colorado offers substantial protection for secured creditors in the case of default outside of an insolvency procedure, business liquidation, and court-supervised reorganization. It also allows parties to agree to out-of-court enforcement mechanisms, such as the sale of assets through public or private auctions and permits the secured creditor to take the asset in satisfaction of the debt.

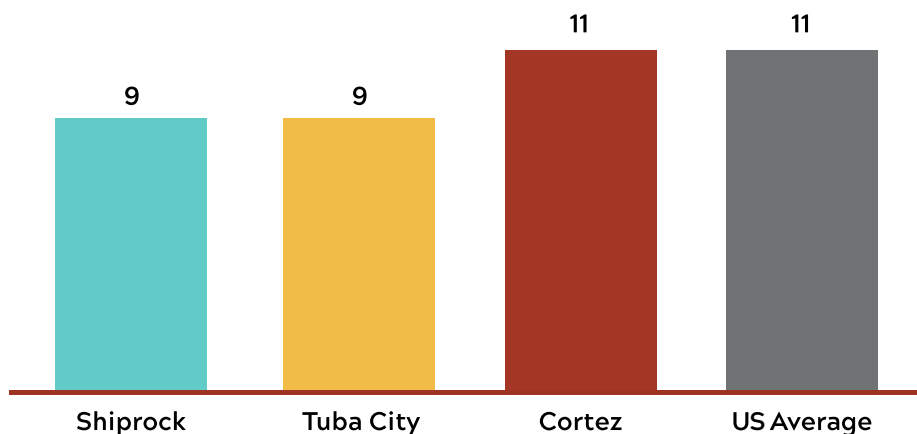
## HOW DO THE TWO COMPARE?

The Navajo UCC provides ample opportunity for borrowers to access credit through the use and description of movable assets. However, it has two lapses in terms of collateral registries and protection

for creditors when a debtor enters a court-supervised reorganization procedure. While a notice-based collateral registry exists, it is not accessible online for creditors. Additionally, NNUCC does not offer any guidance on a judicial reorganization procedure. Ideally, secured creditors would be subject to an automatic stay on enforcement proceedings when a debtor enters a court-supervised reorganization procedure, but there would be clear grounds for providing relief from the automatic stay and setting a time limit for it.

Navajo’s two deviations from Cortez’s credit environment have been shown to be more strongly linked to an increase in lending. Using microlending data from 12 emerging economies, Calomiris et al. (2017) study the link between creditors’ rights and credit from banks. When the protection of creditors’ rights for movable collateral improves, however, banks lend one-third more using the same level of collateral. The authors tested which aspects (creation of protections, monitoring through collateral registries, or enforcement of secured credit r’s rights) matter more for increased lending and find that the monitoring and enforcement components are the most relevant, implying that the results are driven by the existence of collateral registries and the possibility of out-of-court enforcement, and not by the mere existence of laws.<sup>16</sup>

FIGURE 22. COMPARISON OF THE STRENGTH OF LEGAL RIGHTS INDES



16 Calomiris, Charles, Mauricio Larrain, José Liberti, and Jason Sturgess. How Collateral Laws Shape Lending and Sectoral Activity. Journal of Financial Economics. 2017.

## WHAT DOES THIS INDICATOR MISS?

This indicator set measures the rules and regulations in place that have been shown to facilitate lending, such as allowing a general description of collateral, maintaining a modern collateral registry, protecting secured creditors' rights during an automatic stay when a debtor enters a court-supervised reorganization procedure, and allowing out-of-court enforcement. However, despite these measures of a credit environment, it neglects to measure if this environment is actually translating into access to credit for Native entrepreneurs. From existing research<sup>17</sup> and the experiences shared by Change Labs entrepreneurs, it is evident that access to capital is still a major challenge for Navajo entrepreneurs. As an addendum to this indicator set, this analysis would also like to highlight some of the structural issues that may limit access to credit despite having an overall "good" credit environment as measured by the World Bank's methodology.

The first limitation of the original methodology is its focus on movable assets and exclusion of immovable assets, such as land or buildings, as a form of collateral. Entrepreneurs outside of Navajo Nation are able to use their land as capital for their business by using their land ownership as collateral for loans. However, that is not an option on Navajo because a vast majority of these lands are held in tribal trust by the U.S. federal government. While there have been some motions to make site leases collateralizable, they are not widely accepted among lending institutions.

Additionally, there is also a severe limitation in the availability of lending or other financial institutions available to Navajo entrepreneurs. Because Navajo

Nation is so large and remote, many people who live on the reservation cannot easily access banking services. Throughout the 27,413 square miles, there are only seven banks and six of them are in the outside border towns.<sup>18</sup> Those who need regular visits to banks must drive long distances to banks. Driving far distances can be difficult for entrepreneurs, especially if they do not have a reliable form of transportation. Online banking services have moderately ameliorated this constraint. However, establishing a new business loan and relationship with a bank is difficult, if not impossible, completely virtually. Without physical access to the banks, many residents on Navajo go underbanked, severely limiting access to capital for entrepreneurs.

Outside of these constraints, there are still access issues surrounding the willingness of financial institutions to lend on tribal lands. Even when there is sufficient collateral and a nearby lending institutions, many banks still are hesitant to issues loans on tribal lands. A number of potential issues have been explored in previous research, including that banks still believe that that the risk factor is too high risk and the profit is too low to provide business loans on tribal lands.<sup>19</sup> Perception of the risk profile of investments on tribal lands has been shaped by a myriad of factors, including stereotyping or discriminatory perceptions of Native borrowers,<sup>20</sup> belief that tribal bureaucratic processes are slow and nontransparent,<sup>21</sup> poor understanding of regulatory frameworks (UCC) and Sovereign Immunity,<sup>22</sup> and lack of financial knowledge or experience by the borrower due to systemic lack of access.<sup>23</sup> Additionally, even banks willing to lend loans of this risk profile often do not have the expertise to work at that local level,<sup>24</sup> specifically the skills to value and accept alternative forms of collateral, including loan guarantees and assets such as leaseholds, vehicles, equipment, etc.<sup>25</sup> Native CDFIs and other specialized lending

17 According to the 2007 Census Survey of Business Owners, 52% of American Indian and Alaska Native business owners reported startup capital of \$5,000 or less, compared to only 45% of white-owned businesses. Almost all of this difference is accounted for at the top end of the investment scale: 9% of American Indian and Alaska Native business owners reported a startup investment of at least \$100,000 as compared to 14% of White business owners.

18 Yonk, Ryan; Hoffer, Sierra; Stein, Devin. Disincentives to Business Development on the Navajo Nation. *Journal of Developmental Entrepreneurship*. 2017.

19 Dewees, Sarah and Sarkozy-Banoczy. Investing in Native Community Change: Understanding the Role of Community Development Financial Institutions. Community Development Financial Institutions Fund. October 2008.

20 Community Development Financial Institutions Fund. The Report of the Native American Lending Study. U.S. Department of the Treasury. 2001.

21 Native Nations Institute. Access to Capital and Credit in Native Communities. Native Nations Institute. 2016.

22 Community Development Financial Institutions Fund. The Report of the Native American Lending Study. U.S. Department of the Treasury. 2001.

23 Native Nations Institute. Access to Capital and Credit in Native Communities. Native Nations Institute. 2016.

24 Dewees, Sarah and Sarkozy-Banoczy. Investing in Native Community Change: Understanding the Role of Community Development Financial Institutions. Community Development Financial Institutions Fund. October 2008.

25 Native Nations Institute. Access to Capital and Credit in Native Communities. Native Nations Institute. 2016.

institutions have begun to fill the gap by increasing the flow of capital to Native Communities for business development. However, Native CDFIs

already report that the demand for their capital far outstrips its supply.<sup>26</sup>

# 7.7 Paying Taxes

## HOW IS IT MEASURED?

Doing Business records the taxes and mandatory contributions that a standardized, medium-size company must pay in a given year as well as measures of the administrative burden of paying taxes and contributions and complying with post filing procedures. Taxes and contributions measured include the profit or corporate income tax, social contributions and labor taxes paid by the employer, property taxes, property transfer taxes, dividend tax, capital gains tax, financial transactions tax, waste collection taxes, vehicle and road taxes, and any other small taxes or fees.

The standardized company is a limited liability, taxable company. It is 100% domestically owned and performs general industrial or commercial activities. Specifically, it produces ceramic flowerpots and sells them at retail. It does not participate in foreign trade (no import or export) and does not handle products subject to a special tax regime, for example, liquor or tobacco.

Information for this category was collected through corporate Certified Public Accountants in Cortez,

CO and Navajo. The Office of the Navajo Tax Commission was also asked to provide insight, although they did not provide any contribution to the research.

## HOW DOES PAYING TAXES ON NAVAJO WORK?

The tax regime on the Navajo Nation functions largely like paying taxes in any US state – businesses on the Nation must pay the same federal taxes, however, state taxes are replaced with taxes paid to the Navajo Nation. Navajo Nation generally has a lower tax burden than surrounding business environments.

## FEDERAL TAXES

The federal taxes a firm on Navajo would be liable for are the federal corporate income taxes, federal old-age, survivors and disability insurance tax (OASDI), employer paid - hospital insurance contributions, and federal unemployment tax (FUTA). However, there are several federal tax incentives that have been put

TABLE 6 . COMPARISON OF REGULAR DEPRECIABLE LIVES WITH NAVAJO NATION DEPRECIABLE LIVES

Federal Tax Depreciation Time Outside Tribal Lands	Federal Tax Depreciation Time on Navajo Nation
3 years	2 years
5 years	3 years
7 years	4 years
10 years	6 years
15 years	9 years
20 years	12 years

26 First Nations Oweesta Corporation. Certified Native CDFIs: Funding, Capitalization, and Unmet Financing Demand. First Nations Oweesta Corporation. 2012.

into place to encourage businesses to expand on to the Navajo Nation. The Indian Investment and Employment Tax allows for faster depreciation of machinery and equipment if used on the Navajo Nation, regardless of if the company is Navajo- or Native-owned. Usually, many types of machinery are depreciable over seven years. Under the act, however, property used on tribal lands is depreciable over four years. This incentive reduces the business' cost of capital by allowing the investor to receive the resulting tax savings sooner. It also improves a business' profitability sooner than it would outside of Navajo Nation, which incentivizes business creation and growth.

Another federal tax incentive for companies on Navajo Nation is the Indian Employment Credit Act, which provides private employers a 20% credit against income tax liability for the first \$20,000 dollars of wages and benefits paid to an Indian worker.

## TRIBAL TAXES

The Navajo Nation's tax regime taxes significantly fewer activities than surrounding states, as it does not tax corporate income, inventories, and personal income. The Nation does not have a property or unemployment tax. It does however have a sales tax. The tax is imposed on all sales of goods or services within the Navajo Nation, with the legal incidence on the seller and is generally passed on to the consumer. A business in Shiprock (whose transactions occurred in Shiprock) would only pay

its sales taxes to the central tribal governments, the Navajo Tax Commission. However, since Tuba City, or To'Nanees'Dizi Local Government, has some home-rule authorities, they have a local tax manager in Tuba City. The transactions that take place in Tuba City are therefore omitted from the tax burden to Navajo Tax Commission and instead paid to the To'Nanees'Dizi Local Government. Note that this is not an additional local sales taxes, but simply in lieu of the taxes that would otherwise be paid to the central tax authority on the Nation. The sales tax rate on Navajo Nation is 6%, both in the broader Nation and in Tuba City.

In addition to the required sales taxes, firms on Navajo are liable for a possessory interest tax (PIT). A possessory interest is the right to be on Navajo land performing a particular activity. There are different classifications, and thus varying rates and tax bases, for extractive industries, electrical generation, general commercial use, and residential use set forth by the Possessory Interest Tax Statute. In this case, the PIT liability is on the business site lease that the case study firm holds. The tax base for a business site lease is 10% of its appraised price, for which the Office of the Navajo Tax Commission uses common appraisal methods to place a market value on the possessory interest. The tax rate assessed is 3%. Possessory interests with a taxable value of less than \$100,000 are not taxed.

Find below the schedule of Navajo taxes applicable to the case study firm:

TABLE 7 . NAVAJO SPECIFIC TAXES APPLICABLE TO CASE STUDY BUSINESS

	Tax Rate	Tax Base	Number of Payments (per year)	Payment Mechanism
Navajo Sales Tax	6%	Sales	4	Mailed in
To'Nanees'Dizi Sales Tax (if in Tuba City)	6%	Sales	4	Mailed in
Possessory Interest Tax	3%	Taxable value. In this instance, its 10% the appraised value of the business site lease	2	Mailed in
Fuel Excise Tax	0.18¢ per gallon	Fuel consumption	0	At the pump



The Navajo Nation also imposes a Business Activity Tax (BAT), which is a 5% tax on gross receipts from sales of all personal property produced, processed, or extracted within the Nation, including coal, oil, uranium, gas and other natural resources. It also applies to the gross receipts from services performed within the Nation. However, if there is an instance in which the Sales Tax and BAT would both apply to a particular transaction, then the Sales Tax must be paid and the seller may exclude the transaction from any reporting due under the BAT. Because the case study business is assumed to produce and sell all products domestically (within Navajo Nation), it would be excluded from the BAT.

## HOW DOES PAYING TAXES IN CORTEZ WORK?

A firm in Cortez pays taxes to the federal

government, the State of Colorado, and the City of Cortez.

## FEDERAL TAXES

A firm in Cortez would face the same federal tax liability as a firm on Navajo. These taxes include federal corporate income taxes, federal old-age, survivors and disability insurance tax (OASDI), employer paid - hospital insurance contributions, and federal unemployment tax (FUTA). However, they would not receive the same tax incentives for doing business on tribal lands.

## STATE AND LOCAL TAXES

The state of Colorado and City of Cortez have a few additional taxes that the case study business would be liable for. At the state level, all firms must pay a

TABLE 8 . CORTEZ STATE AND LOCAL TAXES APPLICABLE TO CASE STUDY BUSINESS

	Tax Rate	Tax Base	Number of Payments (per year)	Payment Mechanism
Colorado State Business Income Tax	4.63%	Taxable income	1	Online
Colorado State Sales Tax	2.9%	Sales	1	Online
Cortez City Sales Tax	4.05%	Sales	1	Online
Colorado State Unemployment Tax	1.7%	Gross salaries	1	Online
Colorado State and City Property Tax	5.74%	Assessed value (Actual Value x 29%)	1	Online
Colorado State Real Estate Transfer Tax	0.1%	Sale price	1	Time of sale
Colorado State Sales and Use Tax of Leased Truck	5.74%	Leasing expenses	1	To dealership
Fuel Tax	18.4¢ + 8¢ per gallon	Fuel consumption	0	At the pump

state business income tax and unemployment tax. Additionally, the case study firm pays a sales tax both to the state of Colorado and the city of Cortez. Other extraneous tax regimes, which do not exist on Navajo, are taxes on property transfers and the sales and use of leased vehicles. There is also a property tax, which is similar to the Navajo Possessory Interest Tax, however, the tax burden in Cortez is much greater than that of Navajo, who has a lower rate as well as tax base calculation.

## HOW DO THE TWO COMPARE?

While this analysis was unable to calculate the exact tax burden of a case study firm within the two contexts, it does ascertain that tax burden on Navajo

is lower than in the city of Cortez. This is made true by the federal tax incentives that lower tax liability at the federal level, the lower comparison between that State of Colorado taxes and the Navajo Nation tax regime, most notably by the lack of a corporate income tax, and the lack of additional local taxes. However, it is likely that taxes would take longer to prepare on Navajo Nation than in the City of Cortez— a result of the lack of automated processes and online infrastructure and a higher frequency of payments.

# 7.8 ENFORCING CONTRACTS

## WHAT IS MEASURED?

Doing Business measures the time and cost for resolving a standardized commercial dispute through a local first-instance court and the quality of judicial processes index, evaluating whether each economy has adopted a series of good practices that promote quality and efficiency in the court system. An economy's 'Enforcing Contracts Score' is calibrated as the simple average of the scores for each of the component indicators.

The standardized commercial dispute concerns a lawful transaction between two businesses (Seller and Buyer), both located in the respective locality. Pursuant to a contract between the businesses, Seller sells some custom-made furniture to Buyer worth 200% of the locality's income per capita. After Seller delivers the goods to Buyer, Buyer refuses to pay the contract price, alleging that the goods are not of adequate quality. Because they were custom-made, Seller is unable to sell them to anyone else. Seller (the plaintiff) sues Buyer (the defendant) to recover the amount under the sales agreement. Because the court cannot decide the case on the basis of documentary evidence or legal title alone, an expert opinion is given on the quality of the goods. Following the expert opinion, the judge decides

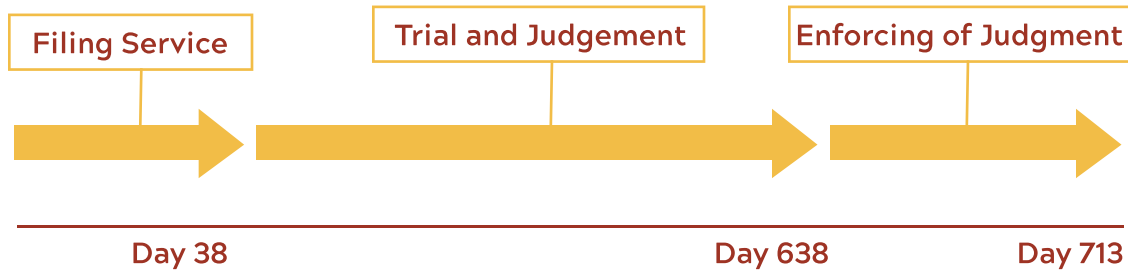
that the goods delivered by Seller were of adequate quality and that Buyer must pay the contract price. The judge thus renders a final judgement that is 100% in favor of Seller. Buyer does not appeal the judgment. Seller decides to start enforcing the judgment as soon as the time allocated by law for appeal lapses. Seller takes all required steps for prompt enforcement of the judgement. The money is successfully collected through a public sale of Buyer's movable assets.

Data for this indicator set was collected from Navajo attorneys for Navajo and from financial lawyer in Montezuma County for Cortez, CO.

## HOW DOES CONTRACT ENFORCEMENT ON NAVAJO WORK?

Commercial dispute claims are handled through the district court system, which in the case study cities would be the Tuba City Judicial Court and the Shiprock Judicial Court. The Tuba City Judicial Court serves eight chapters and the Shiprock Judicial Court serves eighteen. Each court has one judge. Despite the different courts, there were no substantial

FIGURE 23 . COMMERCIAL DISPUTE RESOLUTION ON NAVAJO TAKES 713 DAYS



differences between the two courts reported, as they are guided by the same court fees and administrative systems. Resultingly, this analysis presents the commercial dispute resolution across the two locations uniformly as Navajo. The claim value in this instance in \$30,787.

The judicial process is broken into three distinct phases: filing and service, trial and judgement, and enforcement. The filing and service phase includes writing a non-litigious demand letter before finally writing and filing an initial complaint with the court's registrar. The trial and judgement phase includes the time from when the case is served, pre-trial conference, hearings, trial activities such as briefs and evidence, and to when the final judgement is rendered. The enforcement phase includes the time it takes to obtain an enforceable copy of the judgement, the time to locate and seize the losing party's moveable assets, public auction, until the winning party fully recovers the value of the claim.

The three phases are estimated to take 38, 600, and 75 days, respectively. Trial and judgement account for 85% of the entire judicial process. The main causes of delay are cited to be a backlog of cases, long waiting periods between hearings, and limited availability of experts and delays caused by the expert's activity.

Despite the long periods between hearings, receiving judgement itself takes several months. Lawyers may have to file several motions in order to get the court to render judgement. The length of trials extends the number of hours necessary for a lawyer to put into a case, increasing the amount paid in attorney fees. Attorney fees for a case like this would amount to \$26,000 – almost the full claim value of the case. Court fees are \$535 and there are no enforcement fees. The cost of pursuing legal action amounts to over 85% of the claim value. This is two

to four times more costly than in other US cities. New York's judicial process takes an estimated 22% of the claim value and Los Angeles takes 42%. On Navajo, this means that after trial the plaintiff business would only profit \$4,252 from an almost two year long judicial process. However, Navajo court systems do allow for self-representation, which in an option that an individual could pursue to avoid the attorney fees for a lengthy case. In this case, they would only bear the court fees, which amount to \$535.

## HOW DOES CONTRACT ENFORCEMENT IN CORTEZ WORK?

While this analysis sought several data sources for contribution to the enforcing contracts indicator for Cortez, both within the judiciary and Montezuma County lawyers, we were unable to gather this data for the City of Cortez. Complications arose from the transition of the judiciary to remote work given the COVID-19 pandemic, and unfortunately court staff and lawyers were unable to donate time or expertise to this analysis given the heightened constraint on their work presented by the pandemic.

# 8.0 RECOMMENDATIONS

Based on this analysis, a few cross-cutting themes emerge from across the entirety of the Navajo business environment. These recommendations fall into a framework that considers recommendation dimension, timeframe, and relevant stakeholders.

The framework measures the recommendations out into the short-, medium-, and long-term, as well as identifies the key stakeholders who would be involved in policy reform. The four dimensions recommendations are framed against are:

**TIME** the investment of time or number of days an entrepreneurs must make in order to complete a process

**COST** the monetary cost of completing a business activity

**COMPLEXITY** the number of procedures or how complicated it is to complete a process

**QUALITY OF REGULATION** regulations that have been shown to facilitate beneficial business activity

## TIME

Recommendations to address the investment of time or number of days an entrepreneurs must make in order to complete a process

Recommendation 1		
Create easier access to land for business purposes by shortening the time it takes to get a business site.		
Key Stakeholder	Navajo Nation Land Department	
SHORT TERM	LONG TERM	
Change Labs and ESOs can work closely with small business owners in the short term to assess where they are in the business site process and identify the most time efficient way forward.	A number of procedures may be completed more quickly through private services, such as GPS land surveys, cultural clearances, biological / environmental surveys, and contractors. In the near term, Change Labs and ESOs could compile a catalogue of resources necessary for privately pursued procedures. By having a number of trusted resources available for businesses seeking site leases or land withdrawal, it reduces the amount of time a business may spend negotiating with tribal services or seeking out external resources on their own.	In the long term, relationships with supporting agencies such as DED and NN Land Department can be established and leveraged to bring officials into community meetings to specifically discuss bottlenecks to the business site process with the goal of identifying priority areas for reform.

## Recommendation 2

Leverage technology to create a frictionless experience for business owners and other members of the business community to facilitate more economic activity.

### Key Stakeholders

Navajo Nation Division of Economic Development; Navajo Nation Land Department

### SHORT TERM

In the near term, Change Labs can continue to build, update, and promote Build Navajo (buildnavajo.org) as a central database of how to complete essential business functions, such as registration and tax compliance. Additionally, Build Navajo can serve as a virtual hub to access forms and provide guidance on where & when to file them.

### LONG TERM

In the long term, Change Labs can use its position as a central business resource to encourage conversations with relevant tribal government stakeholders (DED and Tax Commission) on how to easily facilitate essential business functions (such as registration or taxes) and encourage technological progress. This is especially relevant given "the new normal" and the decreased accessibility of in-person activity. An example advocacy goal for Change Labs is for the Navajo DED and Tax Commission to compile a Navajo business portal that can serve as the single virtual place that a business could visit to access resources and file essential forms online, such as business registration, Navajo certification, registering for and paying taxes, and submitting forms for land withdrawal and site leasing.

## Recommendation 3

Decrease the time and subsequent cost burden of judicial processes for entrepreneurs.

### Key Stakeholder

Navajo Courts

### SHORT TERM

Change Labs and other ESOs can serve as a mediator for commercial disputes to achieve a fair compromise/consensus outside of a trial in order to avoid the onerous judicial process altogether.

When a dispute cannot be settled external of the judicial process, Change Labs and ESOs can minimize the financial impact of long commercial dispute trials through grant or loan programs for businesses in the judicial process.

Change Labs and ESOs can help businesses avoid legal fees altogether by creating Self-representation guidance for commercial disputes. This research found that the exaggerated length for commercial dispute resolution dramatically increases the cost of attorney fees to be upwards of 85% of the claim value. However, self-representation is a way around these legal fees, with the caveat on the time and stress it would impose on businesses. Change Labs and ESOs would mitigate this by creating guidance documents for this process in order to ease the burden on firms.

### LONG TERM

Change Labs and ESOs can advocate for judicial improvements that lower the time and implicit cost burden to entrepreneurs. For example, strict time limits on the amount of time to schedule hearings and issue judgement, incentives to adhere to these time limits, such as sanctions on judges or lower court fees if the time limits are violated, and increasing the amount of judges & clerks available at each district court.

## COST

Recommendations to address the monetary cost of completing a business activity.

<b>Recommendation 1</b> Make accessing electricity cheaper.	
Key Stakeholder	Utility Service Providers (Navajo Tribal Utility Authority)
SHORT TERM	LONG TERM
In the medium term, Change Labs and ESOs can begin engaging NTUA around the potential for providing supportive subsidies and streamlining service delivery to Navajo small business owners.	By actively tracking the benefits of such programs, a long term strategic goal may include the creation of government or privately backed programs are meant to support small business in meeting this financial burden while engaging utility service providers on ways to reduce costs.

## COMPLEXITY

Recommendations to address the number of procedures or how complicated it is to complete a process.

<b>Recommendation 1</b> Create easier access to land for business purposes by identifying and limiting the number of procedures necessary for land acquisition.	
Key Stakeholder	Navajo Nation Land Department
SHORT TERM	LONG TERM
In the short-term, Change Labs and ESOs can compile and make available the various processes and steps necessary for land acquisition along with the direct and indirect costs of each approach.	In the longer term, Change Labs and ESOs should develop an active engagement or partnership with the Navajo Nation Land Department to provide a long-term strategy for addresses bottlenecks around land acquisition. This might include initial workshops to better understand critical barriers from multiple stakeholders that transition into collaborative study of potential solutions.
Illustrative policy solutions include: Reduce the number of reviewers for business site leases; set a time limit for each stage of the site leasing process; create incentives for the departments to adhere to the time limits, such as cases automatically advance to the next stage if they are not reviewed in time, or financial compensation to the applicant; expedited processes for industries that are not highly extractive or environmentally harmful, such as tourism, retail, arts, culture, food and food security.	

# QUALITY OF REGULATION

Recommendations to improve the regulations that have been shown to facilitate beneficial business activity.

<b>Recommendation 1</b> Increase transparency & create clear processes.		
<b>Key Stakeholders</b>	Business Support Associations; Navajo Nation Business Regulatory Department, Navajo Nation Division of Economic Development	
SHORT TERM		LONG TERM
Positioning Change Labs further as an aggregator of necessary regulatory information is an immediate action that can be undertaken to increasing transparency of the overall business regulatory environment.	In the medium term, understanding whether or not partnering organizations focused on specific regulatory areas can be leveraged to create fuller network of business support services, such as associations united around specific sectors like tourism, can be the first step in actively creating a more supportive ecosystem.	Long term goals would include advocating for reform and initiating processes for internal review of government policies or tracking the impacts of reform.

<b>Recommendation 2</b> Define the building permitting process for private construction.		
<b>Key Stakeholder</b>	Utility Service Providers (Navajo Tribal Utility Authority)	
SHORT TERM		LONG TERM
Because clear construction standards do not exist, it is largely up to the private contractor to adhere to county standards. Change Labs can utilize its experience building its own co-working space and other contacts to connect businesses seeking construction activity to qualified, Navajo contractors & engineers who will be able to build safely without tribal government oversight in the near term.		In the longer term, Change Labs and ESOs can engage Community Development to create an internal structure for setting building standards that apply to privately pursued construction (as they already do so for tribal government construction), as well as the systems to accept, review, and issue permit applications.

### Recommendation 3

Invest in electric infrastructure that eases burden on businesses.

#### Key Stakeholder

Utility Service Providers (Navajo Tribal Utility Authority)

#### SHORT TERM

In the short term, Change Labs and ESOs can compile all the ways of accessing support for addressing electricity needs, whether it centers on service delivery or establishing connection.

In the medium to long term, detailing the primary issues facing local business owners or working closely with an association that does would allow for Change Labs and ESOs to assist utilities and government agencies in better understanding the administrative and implementation difficulties facing the business community. Creating a strategy that leverages this into dialogue between small business and utility providers can be a strategy for ensuring meaningful change and reform to the current process.



# 9.0 APPENDIX

Below is a breakdown of the indices used throughout the analysis:

## 9.1 DEALING WITH CONSTRUCTION PERMITS: Building Quality Control Index

Sub Indices	Components
Quality of Building Regulations (0-2)	How accessible are building laws and regulations in your economy? (0-1)
	Which requirements for obtaining a building permit are clearly specified in the building regulations or on any accessible website, brochure or pamphlet? (0-1)
Quality control before construction (0-1)	Which third-party entities are required by law to verify that the building plans are in compliance with existing building regulations? (0-1)
Quality control during construction index (0-3)	What types of inspections (if any) are required by law to be carried out during construction? (0-2)
	Do legally mandated inspections occur in practice during construction? (0-1)
Quality control after construction index (0-3)	Is there a final inspection required by law to verify that the building was built in accordance with the approved plans and regulations? (0-2)
	Do legally mandated final inspections occur in practice? (0-1)
Liability and insurance regimes index (0-2)	Which parties (if any) are held liable by law for structural flaws or problems in the building once it is in use (Latent Defect Liability or Decennial Liability)? (0-1)
	Which parties (if any) are required by law to obtain an insurance policy to cover possible structural flaws or problems in the building once it is in use (Latent Defect Liability Insurance or Decennial Insurance)? (0-1)
Professional certifications index (0-4)	What are the qualification requirements for the professional responsible for verifying that the architectural plans or drawings are in compliance with existing building regulations? (0-2)
	What are the qualification requirements for the professional who supervises the construction on the ground? (0-2)

## 9.2 GETTING ELECTRICITY: Reliability of Supply and Transparency of Tariff Index

Sub Indices	Components
Total duration and frequency of outages per customer a year (0-3)	System average interruption duration index (SAIDI)
	System average interruption frequency index (SAIFI)
	What is the minimum outage time (in minutes) that the utility considers for the calculation of SAIDI/SAIFI
Mechanisms for monitoring outages (0-1)	Does the distribution utility use automated tools to monitor outages?
Mechanisms for restoring service (0-1)	Does the distribution utility use automated tools to restore service?
Regulatory monitoring (0-1)	Does a regulator—that is, an entity separate from the utility—monitor the utility’s performance on reliability of supply?
Financial deterrents aimed at limiting outages (0-1)	Does the utility either pay compensation to customers or face fines by the regulator (or both) if outages exceed a certain cap?
Communication of tariffs and tariff changes (0-1)	Are effective tariffs available online?
	Are customers notified of a change in tariff ahead of the billing cycle?

# 9.3 REGISTERING PROPERTY:

## Quality of Land Administration Index

Sub Indices	Components
<p><b>Reliability of infrastructure index (0-8)</b></p>	What is the institution in charge of immovable property registration?
	In what format land title certificates are kept at the immovable property registry of the largest business city of the economy –in a paper format or in a computerized format (scanned or fully digital)?
	Is there a comprehensive and functional electronic database for checking for encumbrances (liens, mortgages, restrictions and the like)?
	Institution in charge of the plans showing legal boundaries in the largest business city:
	In what format cadastral plans are kept at the mapping agency of the largest business city of the economy–in a paper format or in a computerized format (scanned or fully digital)?
	Is there an electronic database for recording boundaries, checking plans and providing cadastral information (geographic information system)?
	Is the information recorded by the immovable property registration agency and the cadastral or mapping agency kept in a single database, in different but linked databases or in separate databases?
	Do the immovable property registration agency and cadastral or mapping agency use the same identification number for properties?
<p><b>Transparency of information index (0-6)</b></p>	Who is able to obtain information on land ownership at the agency in charge of immovable property registration in the largest business city?
	Is the list of documents that are required to complete any type of property transaction made publicly available-and if so, how?
	Is the applicable fee schedule for any type of property transaction at the agency in charge of immovable property registration in the largest business city made publicly available-and if so, how?
	Does the agency in charge of immovable property registration agency formally commit to deliver a legally binding document that proves property ownership within a specific timeframe -and if so, how does it communicate the service standard?
	Is there a specific and independent mechanism for filing complaints about a problem that occurred at the agency in charge of immovable property registration?
	Are there publicly available official statistics tracking the number of transactions at the immovable property registration agency?

	Who is able to consult maps of land plots in the largest business city?
	Is the applicable fee schedule for accessing maps of land plots made publicly available—and if so, how?
	Does the cadastral/mapping agency formally specifies the timeframe to deliver an updated cadastral plan—and if so, how does it communicate the service standard?
	Is there a specific and independent mechanism for filing complaints about a problem that occurred at the cadastral or mapping agency?
<b>Geographic coverage index (0-8)</b>	Are all privately held land plots in the largest business city formally registered at the immovable property registry?
	Are all privately held land plots in the economy formally registered at the immovable property registry?
	Are all privately held land plots in the largest business city mapped?
	Are all privately held land plots in the economy mapped?
<b>Land dispute resolution index (0-8)</b>	Does the law require that all property sale transactions be registered at the immovable property registry to make them opposable to third parties?
	Is the system of immovable property registration subject to a state or private guarantee?
	Is there a is a specific, out-of-court compensation mechanism to cover for losses incurred by parties who engaged in good faith in a property transaction based on erroneous information certified by the immovable property registry?
	Does the legal system require a control of legality of the documents necessary for a property transaction (e.g., checking the compliance of contracts with requirements of the law)?
	Does the legal system require verification of the identity of the parties to a property transaction?
	Is there a national database to verify the accuracy of government issued identity documents?
	How long does it take on average to obtain a decision from the first-instance court for such a case (without appeal)?
<b>Equal access to property rights index (2-0)</b>	Are there publicly available statistics on the number of land disputes at the economy level in the first instance court?
	Do unmarried men and unmarried women have equal ownership rights to property?
	Do married men and married women have equal ownership rights to property?

## 9.4 GETTING CREDIT: Depth of Credit Information Index

Sub Indices	Components
Depth of credit information index (0-8)	Are data on both firms and individuals distributed?
	Are both positive and negative credit data distributed?
	Are data from retailers or utility companies - in addition to data from banks and financial institutions - distributed?
	Are at least 2 years of historical data distributed? (Credit bureaus and registries that distribute more than 10 years of negative data or erase data on defaults as soon as they are repaid obtain a score of 0 for this component.)
	Are data on loan amounts below 1% of income per capita distributed?
	By law, do borrowers have the right to access their data in the credit bureau or credit registry?
	Can banks and financial institutions access borrowers' credit information online (for example, through an online platform, a system-to-system connection or both)?
	Are bureau or registry credit scores offered as a value-added service to help banks and financial institutions assess the creditworthiness of borrowers?

## 9.5 GETTING CREDIT: Strength of Legal Rights Index

Sub Indices	Components
Strength of legal rights index (0-12)	Does an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets exist in the economy?
	Does the law allow businesses to grant a non possessory security right in a single category of movable assets, without requiring a specific description of collateral?
	Are data from retailers or utility companies - in addition to data from banks and financial institutions - distributed?
	May a security right extend to future or after-acquired assets, and does it extend automatically to the products, proceeds and replacements of the original assets?

	Is a general description of debts and obligations permitted in collateral agreements; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?
	Is a collateral registry in operation for both incorporated and non-incorporated entities, that is unified geographically and by asset type, with an electronic database indexed by debtor's name?
	Does a notice-based collateral registry exist in which all functional equivalents can be registered?
	Does a modern collateral registry exist in which registrations, amendments, cancellations and searches can be performed online by any interested third party?
	Are secured creditors paid first (i.e. before tax claims and employee claims) when a debtor defaults outside an insolvency procedure?
	Are secured creditors paid first (i.e. before tax claims and employee claims) when a business is liquidated?
	Are secured creditors subject to an automatic stay on enforcement when a debtor enters a court-supervised reorganization procedure? Does the law protect secured creditors' rights by providing clear grounds for relief from the stay and sets a time limit for it?
	Does the law allow parties to agree on out of court enforcement at the time a security interest is created? Does the law allow the secured creditor to sell the collateral through public auction or private tender, as well as, for the secured creditor to keep the asset in satisfaction of the debt?

## 9.6 ENFORCING CONTRACTS: Quality of Judicial Processes Index

Sub Indices	Components
Court structure and proceedings (0-5)	Is there a court or division of a court dedicated solely to hearing commercial cases?
	Small claims court: a) Is there a small claims court or a fast-track procedure for small claims? b) if yes, is self-representation allowed?
	Is pretrial attachment available?
Case management (0-6)	Are there laws setting overall time standards for key court events in a civil case? a) If yes, are the time standards set for at least three court events? b) Are the time standards respected in more than 50% of cases?

<b>Case management (0-6)</b>	Does the law regulate the maximum number of adjournments that can be granted?
	Are adjournments limited to unforeseen and exceptional circumstances?
	If rules on adjournments exist, are they respected in more than 50% of cases?
	Can two of the following four reports be generated about the competent court: (i) time to disposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?
	Is a pretrial conference among the case management techniques used before the competent court?
	Are there any electronic case management tools in place within the competent court for use by judges?
	Are there any electronic case management tools in place within the competent court for use by lawyers?
<b>Court automation (0-4)</b>	Can the initial complaint be filed electronically through a dedicated platform within the competent court?
	Is it possible to carry out service of process electronically for claims filed before the competent court?
	Can court fees be paid electronically within the competent court?
	Publication of judgments a) Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in newspapers or on the internet or court website? b) Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?
<b>Alternative dispute resolution (0-3)</b>	Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?
	Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?
	Are valid arbitration clauses or agreements usually enforced by the courts?
	Is voluntary mediation or conciliation available?
	Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects (for example, definition, aim and scope of application, designation of mediator/conciliator, initiation of the process, principles governing the process, enforcement)?
	Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credits or the like)?