INTER-OFFICE MEMO

DATE: February 9, 1983

TO: Eddie F. Brown
Office of Intergovernmental Operations

FROM: Robert S. Segelbaum
Assistant Attorney General

SUBJECT: Job Training Partnership Act (JTPA)

I have reviewed the material which you have provided me with regard to the JTPA and have had a meeting with Joe Sparks, Attorney for ITCA. Both Joe and I firmly believe that the JTPA does permit the development of a Tribal SDA separate and apart from the SDA for non-reservation areas.

Not only would such a Tribal SDA meet the requirements of the JTPA but same would be preferred based on an historical basis alone.

1) THE GOVERNOR CAN DESIGNATE AN ALL-RESERVATION SERVICE DELIVERY AREA.

This conclusion is based on the fact that an all-reservation SDA would meet the three criteria set forth in this statute, Section 101 (a) (1) (A) (B) (C). Such an ADA would be comprised of the entire state; would promote effective delivery of job training services, and is consistent with areas in which related services are provided under other state or federal programs.

There is no statutory language which prohibits a designation of a single state service delivery area for the Indian tribes and designation of one or more SDA comprised of other units of local government.
The Act requires units of local government to petition for the formation of an SDA. Indian tribes are not units of local government since they are not a political subdivision of a state. They enjoy a sovereign relationship with regard to the State government and a dependent sovereign relationship with regard to the Federal government. However, Section 101 (4) allows the Governor to approve a request for the designation of an SDA for a rural area served as a prime sponsor under CETA. 

The Senate-House Conference Report of September 26, 1982 concerning the JTPA states:

"The whole state service delivery area in arrangement has worked well in several states. Conferrees encourage governors to designate service delivery areas to correspond with labor market areas and/or to coordinate with other federal or state program boundaries. It is not intended that the job training partnership act should establish an arbitrary design of new sub-state jurisdiction which will not enhance services to clients... The Governor should be allowed to structure the service delivery areas in the state to enhance coordination to serve labor market areas and increase the effectiveness of the job training services." (Emphasis added.)

While the Act provides that Indian tribes are to be represented on local PIC's the potential of abuse and sub-liminal descrimination is present. It should be noted that experience has shown a less than satisfactory relationship between Tribal Governments and local units of Government or consortiums thereof. Obviously in order to obtain the most effective program and participation by the Indian tribes, they should be dealt with separately and apart from the other SDA's. If the Indians were forced to deal with local PIC's the programs run a strong risk of non-participation by the majority of the Indians affected or who would be targeted for training under the JTPA.

The recognition of an all reservation SDA would not be creating a new "sub-state" jurisdiction but would recognize the historical relationships between the Tribal Governments and the State Government. Reducing Tribal Governments solely to participation

\[1/\] Query whether or not one or more of the Indian tribes were sponsors under CETA and, if so, obviously they would be able to petition the Governor for an all reservation SDA separate and apart from the SDA's for other areas of concentrated population.
in the PIC's would represent a backward step in this historical perspective and would obviously be rejected by the Tribal Governments. Benefits under the JTPA for the tribes would thereby be restricted to Title IV, when the obvious intent of the Act was to broaden benefits through Title I, II and III programs.

This analysis seems to comply with the ideas contained in the recent executive order creating the Presidential Commission on Indian Reservation Economics of January 14, 1983 when it was declared the policy of the President to "develop a stronger private sector on Federally recognized Indian Reservations, lessen tribal dependence on Federal monies and programs and reduce the Federal presence in Indian Affairs."

The underlying principles of that commission are stated to be the government-to-government relationship, the established Federal policy of self determination and a Federal trust responsibility.

2) AN ALL RESERVATION SDA WOULD MEET THE REQUIREMENT SET FORTH IN THE STATUTE.

The statute requires the establishment of Private Industry Councils (PIC) in every service delivery area to consist of representatives of the private sector including owners of private businesses, chief executives of non-governmental employers and representatives of educational agencies, organized labor, rehabilitation agencies, community based organizations, economic development agencies and the public employment service.

Tribal governments are included within the definition of a "community base organization." Inasmuch as tribal enterprises are considered private sector employers, the PIC membership could be established so that Indians would constitute a majority of the members. Since the Act establishes a partnership between business and local elected officials in each SDA, the purposes of the Act would be better served by allowing the Tribal governments to deal with Tribal enterprises rather than non-reservation elected officials infringing on the prerogatives of the tribe. It is clear that the reservation PIC through a joint agreement with Tribal Officials could determine procedures for the development of a Job Training Program and select SDA recipients in the same fashion as non-reservation PIC's. This might also encourage a closer working relationship among the tribes.

Sections 104 and 105 the Act, provide that the Governor is responsible for the designating of service delivery areas and review and approval of job training plans. The designation,
of course, is subject to the Secretary of Labor's approval. However, under the regulations published January 10, 1983 it is made clear that the Secretary will logically accept the policy judgments made within the State except where there is a failure to conform to the requirements of the Act or regulations.

Conclusion: It is clear from reading the Act and the regulations that the JTPA does not preclude the formation of an all reservation SDA to administer the JTPA funding within the reservation areas.