



What is Prompt Pay and why does the Navajo Nation need it?

Background

Simply put, “prompt pay,” is paying a business or vendor in a timely manner. Many businesses, corporations, and enterprises around the world subscribe to the belief that paying vendors for a supply or service during an identified period of time is good business, and above all, virtuous.

However, the Navajo Nation (the Nation or NN) is notorious for not paying their contractors, vendors, and consultants for services rendered to the Nation. The Navajo Nation is intent on gaining profit and benefits through this practice costing the Navajo, and non-Navajo businesses, millions of dollars. This effort does not help “grow” the private business sector (private sector) on the Nation. A logical reason for this can only be that the leadership and Navajo Nation Administration oversight do not understand the need nor have any goals or plans for establishing a Navajo private sector economy.

- The public sector is made up of agencies and institutions owned and operated by the government, while the private sector is made up of small businesses, corporations, as well as profit and nonprofit organizations.
- The public sector is not driven by profit, while the private sector benefits from profits.
- The public sector provides services to the general public, while it is the general consuming public who take advantage of the goods and services offered for profit by the private sector businesses.

The Issue

The Navajo Nation has a history of disregarding and dismissing the needs of the private sector. The Navajo Nation Council (NNC) supported the private sector by supporting and passing the Navajo business Opportunity Act and other procurement legislation. But the laws are regularly and strategically ignored or reworked to favor the Administration and the NNC leadership. There is no enforcement of these laws by NNC, the Controller, or Attorney General. So tribal enterprises like Navajo Engineering Construction Authority (NECA) and Navajo Tribal Utility Authority (NTUA) are given top priority for contracts and financing while Navajo-owned businesses are overlooked or ignored especially when it comes to payment for services.

- Navajo businesses are “forced” to wait for payment while tribally owned businesses have an unlimited source of funds to request financial assistance and procurement advantages.
- Navajo businesses, in essence, end up financing tribal projects by waiting for payment, in some cases for three years or more.
- The Navajo Nation does not pay interest nor a penalty for these late payments.
- Often businesses are asked to resubmit invoices because they were “lost” in the system. These re-submitted invoices again have been “lost” and again re-submitted. It can be a vicious cycle.

For many Navajo small businesses getting awarded a Navajo Nation contract means a boost in productivity, pay for employees, revenue for the businesses, and stability for their families. However, those same Navajo businesses may share that after getting the contract and doing the work, they either never received payment or it took the Nation months or even years to pay the business.

Outside of the Navajo Nation, not paying a business in a timely manner for services rendered would likely result in some sort of legal action. It is good business practice, and common sense, to always pay vendors as it demonstrates virtuous character and prompts the vendor to return. However, the Navajo Nation operates under archaic systems and hand-signature authorizations which cause delays and unnecessary stalls in an-already troubled process.

The Negative Impacts

Dine people by nature are hard-working and strive to provide for their families, homes, livestock, etc. So as a Navajo business owner, your business becomes your life – you are financially dependent on it; your family is dependent on you thus they are dependent on your business doing well too. But what if something goes wrong? A poor month of sales or clients not paying on time can have a detrimental effect on cash flow. The Navajo Nation not paying their vendors on time has ripple effects.

There are certainly negative impacts for Navajo businesses that are awaiting payment from the Nation. Often the business or business owner may go into debt or collections because they cannot pay their bills – both business and personal. As an individual and business owner, late or no payments can negatively impact credit scores and result in becoming an unworthy applicant and possibly having to pay higher interest rates. All aspects of the business suffer, including the business owner(s).

- Debt and/or collections
- Penalties and/or interest
- Damaged supplier relationship
- Mental health impacts

Other public agency policies (federal, state, and county) pay interest on late payments and if it is caused by the government agency, a penalty fee is also paid to the vendor and/or contractor. There is no such legislation on the Navajo Nation to provide retribution for this delayed payment. This includes interest on the amount and rate of non-payment and a penalty amount and legislated language justifying the penalty which does not exist. The Navajo Nation Administration is, therefore, “protected” by this void in legislation and jeopardizes the Navajo business, its owners and their families, and ultimately the Navajo economy.

Finances are the top stressor among entrepreneurs and business owners. With cashflow problems being one of the main reasons start-ups fail, it is bound to make any business owner feel the pressure. Constant delays, empty promises, and unanswered calls from officials and accounts payable can take toll on one’s mental health. According to a Bank Rate survey, 47% of U.S. adults say money has a negative impact on their mental health, at least occasionally, including effects like anxiety, stress, worrisome thoughts, loss of sleep or depression, trauma, and desperation.

From a Superpowers article, below are statistics on how mental health differs between entrepreneurs and non-entrepreneurs:

- 72% of entrepreneurs are directly or indirectly affected by mental health issues compared to just 48% of non-entrepreneurs. (NIMH)
- 49% of entrepreneurs deal with mental health issues, while only 32% of their counterparts experience them. (NIMH)
- 45% of entrepreneurs report being stressed compared to 42% of “other workers.” (Gallup Wellbeing Index)
- Entrepreneurs are more likely to have “worried a lot” — 34% vs. 30%. (Gallup Wellbeing Index)

In addition, entrepreneurs were found to be more likely to experience the following in comparison to the general population:

- Depression: 30% compared to 15% and 16.6% (APA)
- ADHD: 29% compared to 5% and 4.4% (NIMH)
- Addiction: 12% compared to 4% and 8.4% (SAMHSA)
- Bipolar diagnosis: 11% compared to 1% and 4.4% (NIMH)

Examples of the Navajo Nation Poor Practices with Navajo-owned Businesses

>> A 15-month Installment Plan: *One company doing business with the Navajo Nation successfully completed a plan for one of the Divisions. The anticipated payment for the plan was \$15,000. After four months of submitting an invoice for the project, the company was notified that the Division would not be able to make any payments for any amounts greater than \$1,000. In other words, while the company was anticipating receiving payment of \$5,000 each over three installments, the Division indicated that it did not have authority to make payments but could find a way to pay the contractor if the contractor would only invoice for amounts of under \$1,000 on a monthly basis. The contractor had no alternative but to agree to the terms. So even though the contractor had largely completed the \$15,000 project, the contractor would only receive payments of between \$990 and \$999 each month for the following 15 months.*

>> Non-payment for Exercise Equipment Company: *A company was to provide exercise equipment for one of the Offices of the Navajo Nation. The contract would call for the provision of exercise equipment and maintenance of the exercise equipment. Despite providing the equipment and services, the company never received payment for any of the services.*

>> History of non-payment spans decades. *In 1985 when a new Chairman of the Navajo Nation was elected, SEVA Development was asked to stop design. The amount of the non-payment was \$900,000 which was finally paid after the then-Chairman was removed from office and a new administration resumed the government functions. This was caused by an internal Navajo political situation, but it was still ignored for payment as promptly as possible.*

>> *More recently Arrow Indian Contractor was not paid for approximately three (3) years in the amount of \$3,000,000 by the Navajo Department of Transportation for a road construction project. Again, Arrow Indian Contractors was not paid close to \$1,000,000 until almost two year later. Both eventual payments do not provide interest and no penalty was assessed the Navajo Nation.*

>> In comparison the US Government has “Accelerated Pay” for those companies the have BIA contracts. A Navajo owned Print and Mail Shop, 4 Directions Creative Services, Inc, enters its invoices into the payment portal and once accepted, payment is deposited into the company’s account within 2 days. There is no reason that a system for prompt pay cannot be developed and used by the Office of the Navajo Nation Controller.

There are other contractors of significance who have suffered the same demise but refuse to make an issue because they are afraid of “retaliation” by the tribal government or tribal enterprise. They are afraid of being “blacklisted” from other opportunities. There are a significant number of these “silent” victims.

The Positive Impacts

Paying Navajo business on time can have a positive domino effect that results in boosts in the Navajo economy. When the Navajo Nation is a good business partner and pays vendors in a timely manner, that business or vendor can now pay their bills, pay their employees, and their employees can pay their bills and take care of their families. Each of these entities and individuals put money right back into the Navajo economy via entities and businesses like the Navajo Tribal Utility Authority (NTUA) to pay their utilities, Navajo Petroleum for their fuel, and local vendors for food and other services.

Benefits for Businesses

- Willingness to bid on Navajo Nation RFPs
- Becomes a reputable company to engage
- Pay bills like rent, utilities, and insurance
- Pay employees and their insurance
- Build cash flow and capital
- Plan for the business’s financial future
- Hire more staff, add locations thus creating jobs
- Purchase supplies and equipment thus completing more jobs
- Generate additional revenue
- Use revenue to make purchases, seek vendors, seek services, to put money back into the community to enhance local economy

Benefits for Business Owners and Employees

- Ability to support their family, parents, grandchildren, etc.
- Pay for health, dental, life, and vehicle insurance
- Pay for their home and vehicles and make repairs
- Pay for their children’s education and activities
- Plan for retirement and save

Navajo Economy Benefits

- Tribally-owned enterprises get paid
- Navajo owned small businesses get business
- Create partnerships with Navajo businesses and entrepreneurs
- Build trust among Navajo business community
- Stabilize revenue
- Put revenue back into Navajo community’s needs and services

The Recommendations

- 1) Draft, introduce, and advocate for a Prompt Pay legislation through the Navajo Nation Council (NNC). The legislative body of the Navajo Nation has the authority and duty to 1) listen to their constituents; and 2) propose and support legislation, policies, and laws that generally and greatly benefit the Dine people. As elected officials, they work for the Navajo people not the Administration or the Speaker of Council.
 - a. The Dineh Chamber of Commerce, as a voice for Dine businesses and entrepreneurs, is positioned to advocate on behalf of Navajo businesses and entrepreneurs and are prepared to work closely with NNC and legislative aides to support the private sector through impactful legislation.
 - b. DCC has a wide network and able to gather stories, experiences, and testimonials from Navajo-owned businesses and entrepreneurs who have suffered from the Nation's archaic practices and delayed payments.
 - c. DCC has the expertise on its board of directors to address the NNC, division directors, and other officials about the concerns, challenges, and possible solutions during NNC sessions and Committee meetings.

- 2) A more direct approach is for the Navajo Nation Office of the Controller (OOC) take on the charge and award a contractor to develop and embed prompt pay software as well as provide training to the contract officers and relevant staff within the Navajo Nation payment system.
 - a. The Bureau of Indian Affairs (BIA) has a well-developed prompt pay platform and it is recommended that OOC seek out the company(s) that developed that platform.
 - b. DCC can provide technical assistance and real-life experiences with the old and new platforms before and after its launch.
 - c. DCC has the expertise and network to help create guidelines, policies, outreach, and messaging for the new payment platform.

- 3) Awareness for Nation's lawmakers and decision makers. The reality is that most Navajo lawmakers are unfamiliar with economic development, its various aspects, its multitude of impacts, and the research, strategy, planning, and implementation needed to successfully execute and implement any development. As the Nation's top decisionmakers, it is imperative that they have the knowledge base, resources, and support to help make important economic decisions for the tribes and its people.
 - a. DCC is ready to offer education services, training, and technical assistance on economic development, credit initiatives, and ways to grow the Navajo economy for NNC delegates, legislative aides, division directors, attorneys, and other staff.
 - b. DCC can provide in-person and virtual session for delegates, chapter officials, and relevant staff.
 - c. DCC can provide technical assistance, input, and insight to delegates on Navajo businesses, laws, policies, procedures, outreach, output, communications, and data gathering.