

WHAT IS THE NATIVE 8 (a) PROGRAM?

Under a provision created by Congress in the 1980's to the Small Business Act of 1958, tribal corporations certified under Section 8(a) of the Small Business Act may contract with the federal government without a cap on the amount of a sole-source contract. Other individual small businesses certified by Section 8(a) of the Act may also be awarded a sole-source contract, but are limited by the dollar amount of the contract. Additionally, while tribal corporations can obtain 8(a) certification for affiliate enterprises, individual small businesses cannot own more than 20 percent of one additional Section 8(a)-certified affiliate in their lifetime. These provisions were created to acknowledge that Native 8(a) enterprises must provide benefits to entire communities -- hundreds or thousands of disadvantaged people -- whereas individual business owners provide benefits to one or two owners.

Sole Source Contracting

The Small Business Act allows for Sole Source contracting with the Federal Government. An 8(a) may receive sole source contracts for services, which means the contract is non-competitive, and can sole source out to a 8(a) that meets the needs of the contract. Other 8(a)s have a \$4 million limit per contract; there is no limit on a Tribally owned 8(a).

Why did Congress create the Native 8(a) Program?

In the 1980's, the Reagan Commission on Indian Reservation Economies observed that federal procurement policy actually obstructed reservation economic development. A subsequent Congressional inquiry found that very few tribal enterprises participated in the Section 8(a) program. Recognizing the positive impact that the 8(a) program could have on tribal communities living in devastating poverty with little to no economic opportunity, Congress created the exceptions in the law for enterprises owned communally by tribes, Alaska Native Corporations and later, Native Hawaiian Organizations – community based organizations required to provide social, economic and cultural benefits to their Native owners in perpetuity.

Why is the Native 8(a) Program Important?

Tribal governments, Native Hawaiian Organizations (NHO's) and Alaska Native Corporations (ANC's) use the profits gained from government contracting to provide benefits to their respective communities in a variety of ways. However, because the Federal legal structure of each community is different, the way in which the benefits are provided are different as well.

- Tribal Governments provide government services to their members.
- ANC's are restricted by law from providing benefits that disproportionately benefit one class of members over others, and so must focus on delivering benefits in form of dividends or programs designed to benefit all members equitably and proportionately.
- NHO's must focus the proceeds of their profits on providing services to Native Hawaiians.

Summary

Self-determination is the United States policy for Native people. In spite of the federal legal restrictions directing Native enterprises decisions on how to utilize profits realized from government contracting, Tribes, ANC's and NHO's consistently exercise self-determination to make the best decisions for their communities.

As President Nixon stated in 1970, "... we must make it clear that Indians can become independent of Federal control without being cut off from Federal concerns and Federal support..." Government contracting allows Native communities to do just that.

Sampling of Tribes with 8a Companies:

Chippewa Tribal Industries-Turtle Mountain Band of Chippewa

(<http://www.chippewatribal-ind.com/>)

Chitina Electric-Chitina- Alaska Native Corporation (www.chitinaelectric.com)

Arrow Indian Contractors- Salt River Pima-Maricopa Indian Community

(www.arrowindian.com)

Nomlaki Technologies-Paskenta Band of Nomlaki Indians (www.nomlakitech.com)

Four Tribes Construction - Susanville Rancheria (www.fourtribes.com)

Earth Works Technology - Red Lake Band of Chippewa (www.redlakenation.org)

Choctaw Ikhana- Mississippi Band of Choctaw Indians (www.choctawikhana.com)

Kickapoo Empire Inc.- Kickapoo Traditional Tribe of Texas (www.tribalfirm.com)

Ho-Chunk Builders Inc- Winnebago Tribe of Nebraska (www.hochunkbuilders.com)

Turtle Associates LLC - Nanticoke Leni-Lenape Tribe (www.turtleassociates.com)

Cherokee Nation Security & Defense- Cherokee Nation (www.cherokeesecurity.com)

Chickasaw Nation Industries-Chickasaw Nation (www.chickasaw.com/cas)

Comanche Nation Construction-Comanche Nation- (www.comanchenationconstruction.com)

Komada LLC- Paskenta Band of Nomlaki Indians (www.komadallc.com)

Mission Support Services-Oneida Tribe of Wisconsin (www.ms2llc.com)

S & K Aerospace Confederated - Salish & Kootenai Tribes (www.ska-llc.com)

Warm Springs Composite Products - Confederated Tribes (www.wscp.com)