



**Testimony of  
Greg DuMontier  
Native American Contractors Association**

**Full Committee Hearing  
The House Natural Resources Committee  
Congressman Nick J. Rahall, Chairman**

**Hearing on  
*"Diversifying Native Economies"***

Wednesday, September 19, 2007

Room 1324  
10:00 am  
Longworth House Office Building  
Washington, DC

Good Afternoon Chairman Rahall and Ranking Member Young. Thank you for this opportunity to testify before the House Natural Resources Committee about the growing success of the Small Business Act's 8(a) program in advancing the economic self sufficiency of Native Americans. My name is Greg DuMontier, and I am the President and Chief Executive Officer of S & K Technologies, Inc., a tribally-owned Information Technology firm. I am also a member of the Confederated Salish and Kootenai Tribes (CSKT) of the Flathead Reservation in Western Montana, and the Chairman of the Native American Contractors Association, NACA. I am here before your committee speaking on behalf of NACA.

NACA was formed in 2003 as a voice for Alaskan Native Corporations, Indian Tribes and Native Hawaiian Organizations ("Native Enterprises"). Our mission is to enhance self-determination through preservation and enhancement of government contracting participation based on the unique relationship between Native Americans and the federal government. NACA represents 19 ANC, Tribal, and NHO Enterprises.

## **Introduction**

In the 110<sup>th</sup> Congress there has been a significant focus on federal procurement reform largely in response to contracts awarded for the Iraq war, Afghanistan and Katrina resulting in intense scrutiny on investigations and oversight of government contracting practices and non-competitive awards. These reform initiatives could have a significant and disproportionate impact on Native communities. Notwithstanding the fact that we are but a sliver of federal contracting, we face several proposals to eliminate or diminish the Native 8(a) contracting preferences.

The record does not support these proposals:

- The GAO studied ANC participation in the 8(a) program and did not recommend any legislation change to the program. Rather, the GAO recommended that the SBA and procuring agencies take a number of administrative actions to improve oversight.
- The SBA has initiated a tribal consultation to address these GAO recommendations.
- The Native American Contractors Association (NACA), the National Congress of American Indians (NCAI), and the National Center for American Indian Enterprise Development (NCAIED) are working together to provide recommendations on how 8(a) regulatory compliance can be improved to increase transparency and accountability and to provide legislative recommendations to enhance the ability of all small businesses to have a larger share of contract awards.

Over the past 500 years, Native Americans have suffered from the loss of their land, economic assets and culture. These changes have resulted in the breakdown of many tribal systems, families and communities. By most social and economic indicators, Native Americans are at the lowest rung, struggling with the legacy of rural isolation and stagnant local economies. Nationwide, American Indian and Alaska Natives have suffered from decades of poverty and neglect. The 25.7% poverty rate in Indian Country exceeds that of all other race categories, and exceeded twice the national average of 12.4%, this contributes to the 40% unemployment rate and exceeded eight times the national average. Native communities experience many of the social ills associated with poverty: Inadequate health care resulting in a rate of suicide double the national average, and suffering from other disorders such as alcohol and drug abuse, diabetes, and obesity. Heart disease is the number one cause of death among American Indians with a 71% rate higher than the U.S. average. To top it off, American Indians have a life expectancy of 5 years *less* than the rest of the U.S. population. Bottom line: too many Native Americans are without the resources and tools to build their communities.

Remarkably, amid the widespread poverty and social distress found in Indian Country, there are increasingly signs of hope and examples of Tribes and Alaska Natives making strides in building strong communities and economies. For example, there are many stories of struggle, such as, the village of Chenega Bay that survived an earthquake and tsunami and rebuilt twenty years later only to be devastated by the Exxon Valdez oil spill. A village member, said that her generation “had even forgotten the word in their native language for hope.”

But there is hope now, as Chenega Corporation has a big hand in revitalizing this economically and physically distressed community. You will hear today of many examples of this success through participation in the 8(a) Business Development program.

### **Small Business Administration Programs**

Recognizing that small businesses are critical to our economy, the Small Business Administration (SBA) is charged with assisting and protecting their interests. Congress found that by providing access to the federal procurement market, the business development of small business concerns owned by those who were disadvantaged could be achieved. The SBA has created numerous government procurement programs for businesses owned by disadvantaged individuals and groups. These programs include the 8(a) Business Development program (including Community Development Corporations), the Small and Disadvantaged Business (“SDB”) program, the Historically Underutilized Business Zone (“HUBZone”) program, and the Service-Disabled Veteran-Owned (“SDVOB”) program which promote minority and disadvantaged small business owners to do business with the federal government.

To ensure that small businesses have access to the procurement market, statutory goals have been established for the federal government to contract with small businesses,

SDBs, women-owned small businesses, HUBZone businesses and SDVOBs. The federal government has a 23% mandated small business contracting goal and the SBA negotiates with procuring federal agencies to establish agency goals to ensure that the federal government meets these goals.

The statutory goals for the federal government are as follows:

- 23% of prime contracts for small businesses;
- 5% of prime and subcontracts for SDBs;
- 5% of prime and subcontracts for women-owned small businesses;
- 3% of prime contracts for HUBZone small businesses; and
- 3% of prime and subcontracts for SDVOSBs.

America has a long history of using its purchasing power as a means to further the business development and economic development of various individuals and groups who would otherwise be excluded from the huge government contracting market. This furthers social goals but more importantly it increases competition and expands and diversifies the sources of supplies and products for the government. Native Enterprises are starting to use these procurement programs just as the government intended, to use business approaches and models to further self reliance and build strong Native communities. Thereby partially fulfilling the federal government's obligations to Native Americans.

### **Native 8(a) Program**

By creating unique Native 8(a) provisions, Congress recognized the special needs and its obligations to Indian Tribes and Alaska Natives. Similar to the legitimate policy goals that support business development efforts for other 8(a) program participants (as well as other small business set-asides for woman-owned businesses and service-disabled veteran-owned businesses, and small and disadvantaged businesses), the Native 8(a) provisions also embody the unique relationship between Native Americans and the federal government.

In fact, hearings held by the Senate Indian Affairs Committee in 1987 and 1988, found a need to include Indian tribes and Alaska Native-owned firms in government contracting because President Reagan's "Commission on Indian Reservation Economies" had documented that the government's procurement policies were significant obstacles to economic development and the committee found that tribally-owned companies had a difficult time qualifying for 8(a) program certification. The Chairman of the Senate Indian Affairs Committee believed that remedial action was necessary to address the low participation of American Indian and Alaska Native-owned firms in government contracting. During the 1988 hearing, Chairman Inouye stated that "directing the purchasing power of the federal government to accomplish social goals such as assisting disadvantaged members of society is well established" and he noted that unfortunately,

“this public policy goal has not been achieved with respect to the participation of businesses owned by Native Americans.”

As this committee well knows, the federal government’s unique obligations to Native Americans are recognized in the Constitution, federal laws, and by the Supreme Court, and those obligations empower Congress to enact legislation that recognizes the status of First Americans. Indeed, in terms of economic development, this special relationship is embodied in the Indian Commerce Clause of the United States Constitution. In furtherance of this relationship, Congress enacted legislation to encourage the participation of Tribally-owned and Alaska Native corporations to participate in the 8(a) program in a manner that advances the federal government’s interest in promoting self-sufficiency and economic development in Indian Country.

The Native 8(a) program was designed to empower Native communities to provide for their people, to sustain and expand their economies, and to combat the historic economic and social ills these communities face. It is also a way for Indian Tribes and ANCs to engage outside communities, outside investors, and other expertise in economic activities that benefit Native communities. We are just now getting a foothold in the federal marketplace after being left out, locked out, and elbowed out for decades. With some modest success, we now represent a small slice of the total procurement dollars (\$1.9 billion). However small, it is beginning to have a big impact in Native communities.

The 8(a) program has fostered a culture of ownership and self-sufficiency and a path for diversifying and expanding Native economies. The benefits and services that Native communities receive result directly from the profits that Native Enterprises realize from government contracts. It is a hand up— not a hand out. Native Enterprises provide benefits in the form of dividends to shareholders, scholarships, job training opportunities, and economic stimulus to the local community. A 2005 NACA survey of its ANC members shows that ten regional and two village corporations paid \$33 million in dividends attributable to government contracting—these corporations had 86,516 shareholders among them; \$9 million was awarded in scholarships; \$12 million in other shareholder programs and over 31,000 jobs created nationwide. These figures show that Native American participation in the 8(a) program is enabling them to compete in the American marketplace and to become successful and self-reliant, and to act as engines of growth in their communities.

Like other 8(a) firms, Native Enterprises can only participate in the 8(a) program through small businesses which are subject to stringent program entry eligibility requirements. Native Enterprises have two key unique 8(a) provisions:

- 1) The competitive thresholds which limit the amount of sole-source contract awards do not apply; and
- 2) Native Enterprises can participate in the 8(a) program through more than one company.

This was the intent of Congress, and makes sense in light of the economic and social disadvantages with which Native communities must contend and the numbers of Native Americans in need. The disadvantages suffered by Native Americans encompass entire communities and villages, as opposed to individuals who are socially or economically disadvantaged. The ability to operate more than one company allows Native Enterprises to provide for hundreds or thousands of their people.

Similarly, Native Enterprises are not subject to low caps for a reason. Unlike the typical structure of a small business, with one or a few owners, Native Enterprises are responsible for combating historical disadvantage, rural isolation, and the depressed economies that have resulted from a multi-generational dearth of opportunity. The program rules were purposely drafted, and Congressionally-mandated, to reflect the social and economic obligations Native Enterprises have to their communities, the size of these communities, and the immensity of the problems we face. The Native 8(a) program is exactly what Congress intended: an economic development program to help disadvantaged Native American communities, that lifts our people with a hand up— not a hand out.

Native Enterprises provide quality services and cost-effective products to the Federal government. It is no secret that the government contracting marketplace is highly concentrated and dominated by a few very large companies. In 2005, the five largest contractors received 20% of the total contract dollars awarded. By providing additional sources of products and suppliers within the market, Native Enterprises give the government alternative procurement vehicles, provide competition to the big companies, and give the taxpayers' more value for their dollars.

For example, Integrated Concepts and Research Corporation (ICRC) (at the time, a subsidiary of Koniag Development Corporation, an Alaska Native Corporation) partnered with Qualis, a woman-owned small business, located in Alabama to bid on a NASA contract to provide aerospace materials testing. Over the life of the \$12.3 million five-year contract, the ICRC/Qualis team earned 100 percent of its performance and cost incentive fees. The ICRC/Qualis team has a reputation for consistently running 10 percent under target incentive budgets and through other initiatives has saved NASA close to \$1 million in contract costs. Simply put, with more sources of supply and services for federal agencies, competition is increased and best value is provided.

## **Issues Raised**

In recent years, there has been a tremendous amount of focus on the Native Enterprises that contract with the federal government. This increased scrutiny suggests that there is something wrong with the way Native Enterprises are doing business. I would like to address these issues one by one.

**First Issue:** The numbers—Where are contracting dollars going? Native Americans represent 4% of the American population. Our enterprises today receive less than 1% of

the federal procurement dollars (but some days it seems that we get 100% of criticism). Again, looking at the most recent data available, in 2005 the federal government spent a total of \$377.5 billion on all contracts. Native American contract awards of all types comprised only \$3.19 billion, less than one percent of (0.8%) of all federal contracting dollars. In addition, in 2005, the Federal government awarded \$11 billion in contracts to 8(a) firms. Of that amount, approximately \$1.9 billion, or 17.2%, was awarded to Native Enterprises through sole source awards. Other 8(a) firms received 82.8% of the 8(a) awards. Native Enterprises represent approximately 1% of all non-competitive awards government-wide. We get a very, very small share of all federal contracting dollars, and just a fraction of the 8(a) awards.

**Second Issue:** Native Enterprises somehow are awarded contracts and then subcontract all of the work to subcontractors in violation of the SBA's limitations on subcontracting regulations. This criticism is flat wrong for several reasons. The SBA's regulations require 50% of personnel costs to be borne by any 8(a) firm performing a service contract. This performance of work requirement must be met by all 8(a) firms, including Native Enterprises. 8(a) firms and Native Enterprises can subcontract a portion of work on federal contracts—this practice is not exclusive to Native Enterprises. In fact, most federal contractors, large and small, do just that for good reasons, most likely benefiting local businesses and workers in each one of the states represented by members of this committee.

To improve transparency and compliance with this requirement, NACA has developed a Best Practices Guide for its members, "Guide to Industry Best Practices: Ethics and Compliance Programs and Establishing Best Business Practices." The guide recommends that Native Enterprises develop a mechanism for tracking compliance with this requirement. For example, SKT has created a senior-level management office whose responsibility it is to monitor and track compliance with all the SBA 8(a) regulatory requirements including the performance of work requirement on each contract. Additionally, NACA through the SBA tribal consultation process will make recommendations on how reporting on this requirement can be improved to provide more transparency and accountability. Moreover, federal procuring agencies are responsible for overseeing compliance with this requirement. The GAO in its report noted that procuring agency officials are often not aware of this responsibility. NACA recommends that the SBA revise its partnership agreements so procuring agencies are aware that they are responsible for monitoring 8(a) compliance with this requirement.

Let me be clear: Native Enterprises do not "pass through" work to subcontractors, as a few erroneously allege. That would be self defeating because, it would not provide long-term revenue streams which Native Communities need to provide basic services. In fact, teaming arrangements enable Native Enterprises to realize profits that are then reinvested in their communities. Teaming arrangements also give Native Enterprises the added benefit of learning new core competencies and new lines of business, giving us more leverage to compete with large businesses, benefiting the taxpayer and Indian Country.



**Third Issue:** Native Enterprises can form joint ventures with large, non-Native companies, and therefore the implication is that Native Enterprises are somehow not qualified to do the work or that the large companies benefit from the 8(a) program. Again, all 8(a) firms, not just Native Enterprises, can form joint ventures with non-small business owners. All 8(a) firms can venture with large businesses if they are operating under the SBA's Mentor-Protégé program. The use of teams and joint ventures are encouraged by the federal government as a means to stimulate growth, to forge new business relationships, and to develop expertise. The SBA's Mentor-Protégé program is central to business diversification and expansion. The mentor can provide valuable technical/management assistance, financial assistance, and sub-contract opportunities which enhance the capabilities of the Protégé firm.

For example, Sealaska Environmental Services (SES) is a wholly owned 8(a) subsidiary of Sealaska that was started in 2003. In its short history, SES has partnered with Tetra Tech, a leader in the environmental services industry providing environmental remediation, and engineering services. This partnership combines Sealaska's natural resource management experience with the proven systems, controls and highly trained people of Tetra Tech. SES and Tetra Tech formed a Mentor-Protégé agreement and a joint venture and have negotiated agreements with the Navy to provide environmental remediation services at several Navy facilities on the west coast. Through its relationships with Tetra Tech, SES continues to build both its environmental remediation capacity and capability to help transition SES from a start-up 8(a) to a stand-alone company in a highly complex and competitive industry.

Partnering through teaming or joint ventures is also important once a Native 8(a) graduates out of the program and must compete with giants such as Lockheed Martin, Raytheon and Boeing. The giants of the government contracting market have had 60 plus years to create their competitive advantages which include the substantial capital needed bid on major contracts. Responding to major contract solicitations takes expertise and months of manpower costing up to 3 percent of the contract award – a \$100 million dollar contract may cost upwards of \$3 million dollars to prepare a bid.

How does a government contractor like Chugach Development Corporation (CDC), fresh out of the 8(a) program in 1998, succeed in a market dominated by powerful and capital rich companies? In CDC's case, the management team made the strategic decision to not go it alone. They networked with their competitors convincing government contracting giants that CDC could deliver quality, timely, and cost effective work in facility maintenance and logistics. Teaming with Bechtel and Lockheed Martin, CDC won their first major full and open competitive bid contract, and they have never looked back. CDC has the reputation of being "the little company that could!"

The Mentor-Protégé program also is an important way for Native 8(a)'s to work with and partner with other small businesses. SpecPro, Inc., an ANC 8(a), formed a Mentor-Protégé relationship with TerraHealth, Inc., an 8(a) veteran and minority-owned business and were awarded the Department of Defense Nunn-Perry Award for reducing costs for



DoD and for developing technical capabilities and increasing opportunities for another small business. SpecPro and TerraHealth's relationship furthers both of their growth, and continues to develop and mature as a model for new small businesses to follow.

Native Enterprises are treated no differently and operate no differently than other 8(a) firms in respect to Mentor-Protégé relationships. Through the tribal consultation process initiated by the SBA, NACA will make recommendations on how reporting requirements on Mentor-Protégé agreements and joint ventures can be made more transparent to better demonstrate compliance with the regulatory requirements and to demonstrate that mentors are indeed providing technical and/or management assistance that increases the contracting capabilities of Native 8(a)'s.

**Fourth Issue:** executive compensation. To attract the type of talent needed to successfully run a business, all businesses must pay what the market dictates for experienced executives. The salaries paid to our managers are on par with other businesses because we must recruit those who have the talent and expertise to manage and oversee companies in a complex and competitive procurement market. We are under the gun to produce quality services and provide a good return back to the taxpayer. Unlike other industries, profit margins in government contracting are small and the competition is great, it takes an experienced manager to be successful in this industry. Further, unlike family-owned or closely-held small businesses, Native Enterprises have a fiduciary duty to their communities and shareholders. Native Enterprises seek out the best talent we can get to help maximize revenues for our owners – Native Americans. These business managers oversee the day-to-day operations of the companies and they are subject to the control of their Tribal Councils or their Native board of directors and shareholders. They are held accountable for the work they do and are expected to produce and improve the bottom line.

**Fifth Issue:** small business community criticism of the recent successes of Native Enterprises. This criticism is misplaced. It distracts from the many issues all small business contractors have in common. When you get down to it, we are being criticized for finally realizing some of the benefits that Congress intended—diversifying our economies. While the federal contracting market has doubled in size since 2000, many small businesses believe they are locked out of the market. While the size of the market has grown, the federal government statutory goals which ensure small business participation have remained the same. Additionally, the overall small business share has declined due to a number of reasons, such as bundling/consolidating contracts beyond the reach of many small business capabilities and barriers to growth that make it more difficult for small businesses to compete for larger contracts. The federal procurement market is huge, there is plenty of room for Native Enterprises and other small businesses to participate. From a policy standpoint, all small businesses stand to gain by advocating with a unified voice on issues like increasing agency contracting goals and size standards for small businesses, as well as increasing the thresholds for individually owned 8(a) firms.

We are working hard to strengthen the relationships between Native Enterprises and other small business. NACA has formed strategic alliances with other small business trade associations, these alliances serve to facilitate relationships with groups that may not have worked with Native Enterprises in the past. These alliances also broaden contractor access and create productive networks among various small business contractors.

In recent years, Native Enterprises have been able to diversify and expand into new markets. Last summer, the DOD office of Small Business hosted a small business roundtable with NACA and other small business trade associations. This has resulted in several productive working relationships. For example, NACA and WIPP (Women Impacting Public Policy) held a workshop on how to form small business teams and provided opportunity for Native contractors and women-owned businesses to meet and exchange information on their capabilities. This has resulted in productive teaming arrangements among a number of the companies that participated. By teaming and partnering with Native Enterprises, other small business owners can also expand the services they offer and enter into new markets. Since some Native Enterprises have performed numerous federal contracts, they have an impressive past performance record which they can contribute to contracting teams. Native Enterprises welcome partnering with those in other small business communities who have similar goals and common interests.

The non-native communities in which Native Enterprises are working and operating also see the benefits of increased opportunities. We know there are concentrations of Native 8(a)'s working in Alaska, New Mexico, Washington, Oklahoma, Alabama, Florida, Virginia and Maryland; some of these are states with predominate Native American populations other are not. With the expansion of Native Enterprises comes increased employment in the local communities.

The small business community as a whole can benefit from focusing on the areas of government contracting that can be improved for everyone, and Native Enterprises in particular are advocating ways to ameliorate some of the adverse effects of the current procurement market. For example, speaking on behalf of its members, NACA supports initiatives that would increase awards to small businesses and decrease the amount of bundled contracts. Also, NACA supports increases in agency goals for contracting with small businesses and set-asides for small businesses. In addition, to partnering with other small businesses, NACA through an agreement with NCAIED, and through other efforts, is working to develop inter-tribal business opportunities by providing training workshops and networking opportunities among Native-owned enterprises.

## **Conclusion**

In sum, the communities which Native Enterprises serve remain some of the poorest and most under-employed groups in America. There is still tremendous work to be done in effecting positive and sustainable benefits for these communities. The less than 1% of the federal contracting that Native communities now receive is enabling Native 8(a)s to

create jobs and opportunities desperately needed by their communities. Through our self-reliance and business ingenuity, Native peoples are starting to provide for the sufficiencies of our communities thanks to the business development opportunities provided by Congress. Native participation in the 8(a) program has helped Congress further two important goals: economic self-sufficiency and self-determination. Remarkably, this is being done by providing access to the private sector market, building technical expertise through Mentor-Protégé and teaming arrangements, and providing access to a market with relatively low capital costs. The continued economic success and well being of Native communities depends on the combined and sustained efforts of Indian tribes and ANC's, the federal government, and the private sector.

### **Great Returns and Great Value with Little Federal Investment**

To build upon this progress, NACA offers the following points and recommendations:

1. The Native 8(a) program has resulted in just what Congress intended—building stronger Native communities that have been devastated by economic distress. The Native 8(a) program is a rare federal program that works by providing incentives that stimulate economic development in Native communities, diversifying Native economies, and providing revenue for scholarships, training and encourages entrepreneurship in Native communities.

**Recommendation:** The House Resource Committee, as the committee with jurisdiction over federal Indian policy issues, should play a proactive role in future Congressional processes involving the Native 8(a) program and help educate others of the importance of the Native 8(a) program and the federal government's unique relationship with Native Americans. This hearing is a great beginning.

2. While the federal contracting market has increased significantly, the small business share of that market has declined significantly due to bundling/consolidation of contracts beyond the capabilities of most small businesses and current barriers to growth that make it difficult for small contractors to compete for larger contracts.

**Recommendation:** The House Resource Committee should support and facilitate the efforts of NACA, NCAI, and NCAIED and other disadvantaged groups in taking actions to enhance contracting opportunities for all small business contractors, and our ability to work together. This could involve facilitating meetings and discussions with other committees and with the administration.

I thank the Chairman for the opportunity to speak before the Committee today, and welcome any questions your Committee may have.

**Appendix A**  
House Natural Resources Committee  
Oversight Hearing on "Diversifying Native Economies"  
September 19, 2007

**Native American Contractors Association**  
*Guide to Industry Best Practices*  
**[Introductory Excerpts]**



# NACA

Native American Contractors Association

## **GUIDE TO INDUSTRY BEST PRACTICES**

Prepared by

**Patton Boggs LLP  
and  
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**September 2007**

# **GUIDE TO INDUSTRY BEST PRACTICES**

## **Ethics and Compliance Programs and Establishing Best Business Practices**

### **ACKNOWLEDGEMENT**

Funding by a partnership between the Alaska Federation of Natives, Center of Excellence, and the Native American Contractors Association made possible the preparation of this Guide to Industry Best Practices. The Native American Contractors Association extends its appreciation for the leadership of Julie Kitka and the Alaska Federation of Natives for their support of the production of this Guide to further the Center for Excellence's goal of developing strong Native economies.



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**OSIYO COMMUNICATIONS, LLC**, [www.osiyo.biz](http://www.osiyo.biz) – with offices in Texas and Maryland -- is an award-winning American Indian women-owned management consulting company advising Native-owned businesses and organizations on strategic planning, organizational assessment, performance management, training and development, and meeting facilitation. The firm's authors for this Guide are:

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NATIVE AMERICAN CONTRACTORS ASSOCIATION

# GUIDE TO INDUSTRY BEST PRACTICES

Ethics and Compliance Programs  
And Establishing Best Business Practices

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## NATIVE AMERICAN CONTRACTORS ASSOCIATION

# GUIDE TO INDUSTRY BEST PRACTICES

### Ethics and Compliance Programs And Establishing Best Business Practices

#### I. INTRODUCTION

The Native American Contractors Association (“NACA”) authorized the development of this “Guide to Industry Best Practices” to assist its members in developing strong, effective, successful and accountable government contracting companies owned by their Indian Tribes, Alaska Native Regional and Village Corporations (“ANCs”), and Native Hawaiian Organizations (“NHO”). This Guide often refers to these types of companies as “Native community-based enterprises.” By adopting and implementing codes of ethics and conduct and best business practices, NACA members can enhance their business performance, engage in more outreach to partners throughout the United States, and bring together leadership and resources to help eliminate disparities and strengthen their respective Native communities.

Using this document as guidance, NACA encourages its members to review their business plans and current operations. With the knowledge gained from such reviews, Boards of Directors and senior management can develop more effective strategies and detailed plans to address any changes that may be necessary or desirable. Such planning facilitates more efficient, effective and successful government contracting performance in compliance with existing federal acquisition and small business rules and any changes to those rules that may be proposed or imposed by the Small Business Administration (“SBA”), Department of Defense (“DOD”), General Services Administration, Office of Federal Procurement Policy or other government agencies, or enacted by Congress.

This Guide is designed to assist NACA members in identifying model business best practices and in adopting common ethical principles and practices for themselves and other Native community-based enterprises. A proposed statement of principles, modeled on a similar set of principles, adopted for the National Defense Industrial Association, appears in Appendix A of this Guide. NACA members are encouraged to adopt or upgrade their own ethics and compliance programs, conduct periodic internal reviews, and share information on their best business practices with the NACA membership and with other Native enterprises.

## **II. ELEMENTS OF THIS GUIDE**

### **A. Membership Survey**

The preparation of this Guide has been informed by the results of a preliminary membership survey that NACA conducted in December 2006. The survey helped identify the topics and types of information about which NACA members would appreciate more guidance to help improve the conduct of businesses owned by NACA members and other Native organizations.

### **B. Overview of Ethics and Compliance Programs**

Central to this Guide is Section IV's overview of industry standards, including an outline of common ethical principles and practices for NACA members. Discussed are key elements of codes of ethics and conduct and how to fashion ethics and compliance programs to address the organizational responsibilities of a Native community-based enterprise that participates in the SBA's 8(a) Business Development Program. Such programs help small businesses and government contractors of all sizes assess their legal and business risks, attain sustained profitability and growth, and discharge their responsibilities to their owners or shareholders. This latter responsibility is fundamental to NACA members' uniqueness among federal contractors – that is, serving and giving back to Native communities the benefits and opportunities derived from their government contracting operations.

### **C. Performance-Based Management As a Best Practice**

In addition to guidance on codes of ethics and compliance programs, NACA members responding to the December 2006 membership survey indicated a strong interest in identifying and sharing business best practices, either directly associated with or adaptable to government contracting, based on practices of companies that have produced outstanding results. Survey respondents selected the following categories of business practices for attention: (1) strategic planning; (2) managing and measuring performance results; and (3) quality control assurances. Section V of this Guide recommends performance-based management and a quality assurance system, such as "ISO 9000," for consideration.

### **D. Developing Procurement Marketing Best Practices**

Section VI of this Guide provides an overview of procurement marketing, covering such topics as: the importance of linking capabilities to requirements; effective use of procurement tools, such as the SBA regulations applicable to Native community-based enterprises in the 8(a) program, joint ventures, and mentor-protégé arrangements; procedures to ensure contracting proposals' responsiveness; benefits of innovative approaches to meeting stated government needs; key legal requirements that govern procurement marketing; and some checklists to use as guidance.

## **E. Partnering Best Practices**

Section VII of this Guide discusses ways that NACA members can develop and benefit from partnering best practices on many different levels. Addressed are partnering with the government contracting community (contracting agencies, procurement-related organizations, and other contractors), and partnering with various communities that are important to NACA members (their own Native communities as well as others) for business, cultural and political reasons. This section also discusses some ways to identify local and other small business partners. The section wraps up by outlining many ways that NACA members can partner in advocacy activities, working with other organizations, getting to know key political representatives, developing good working relationships with them, and engaging in political activities in connection with federal, state and local elections.





Native American Contractors Association

WORKING TO ENHANCE THE ECONOMIC SELF-SUFFICIENCY OF AMERICA'S INDIGENOUS PEOPLES

September 2007

## Native Contracting Facts Native American Contracting In Perspective

### Native American Share of the Federal Contracting Pie:

In 2005, the Federal Government spent a total of \$377.5 billion on all contracts. All Native American (ANCs and Tribes) competitive and noncompetitive contract awards comprised less than one percent, (0.8%) of all federal contracting dollars.

Source: Eagle Eye, Inc.

Native Share of Federal Contracting Dollars



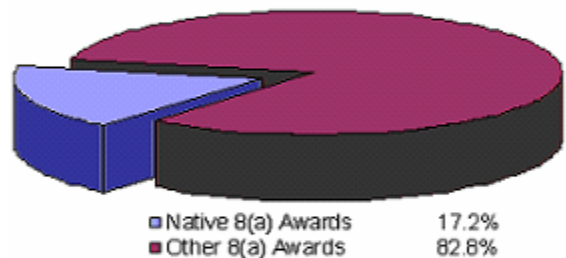
Source: Eagle Eye, Inc.

### Native American Share of 8(a) Contract Awards:

In 2005, the Federal government awarded \$11 billion in contracts to 8(a) firms. Of that, approximately \$1.9 billion, or 17.2%, was awarded to Native American enterprises. Other 8(a) firms received 82.8% of the 8(a) awards during this time period.

Source: Eagle Eye, Inc.

Native 8(a) Awards



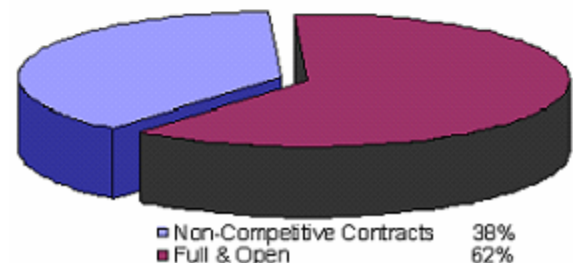
Source: Eagle Eye, Inc.

### A Small Number of Large Contractors Receive A Significant Portion of All Contract Dollars:

The top five largest contractors received more than 20% of all contract dollars in 2005. These companies were: Lockheed Martin, Boeing, Northrop Grumman, Raytheon, and General Dynamics. Native American enterprises are just now beginning to break into this highly concentrated marketplace.

Source: Waxman Report, Dollars Not Sense.

Competition in Perspective



Source: Eagle Eye, Inc.

### Competition in Perspective:

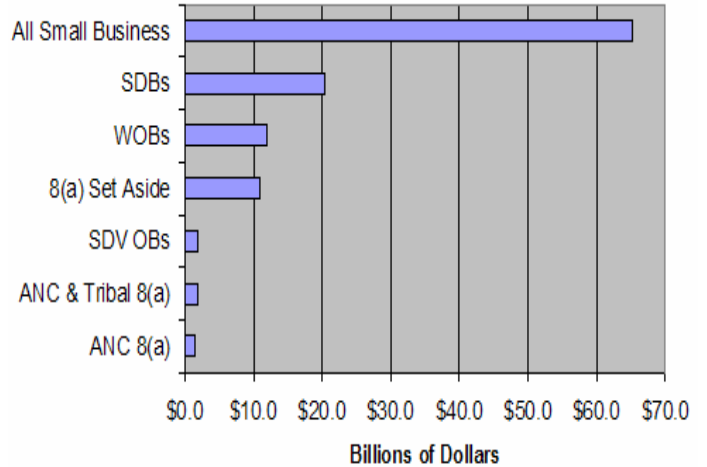
In 2005, 38% (\$145 billion) of all Federal contracts were awarded non-competitively. This represents an increase from 2000, when 33% (\$67.5 billion) of all Federal contracts were awarded without full and open competition.

Source: Waxman Report, Dollars Not Sense.

**Procurement Spending by Socioeconomic  
Procurement Spending By Socioeconomic  
Category:**

Alaska Native Corporations and Tribal enterprises accounted for only 2.9% (\$1.9 billion) of all Small Business contract awards in 2005, which totaled over \$65 billion. The Native American enterprise share was the smallest amount among all socioeconomic categories.

Source: *Eagle Eye, Inc.*



**What Is At Stake:**

There is growing concern that Native Americans' participation in the 8(a) program, and indeed the 8(a) program in general, is in jeopardy. Federal contracting, especially by the Department of Defense, is highly concentrated in a handful of large companies dominating the market. The 8(a) program has helped small companies enter the federal marketplace, grow and gradually compete with success. For many years, Native American enterprises lagged far behind others in struggling to break into this market and only recently have they become more successful participants in the 8(a) program. Still, companies owned by Alaska Native Corporations and Tribes receive less than one percent (1%) of all federal contract awards. By contrast, the five largest federal contractors received twenty percent (20%) of the total contract dollars awarded in 2005.

Source: *Eagle Eye, Inc.*

The 8(a) Program has become an important tool in building a culture of ownership and entrepreneurship in Indian country and in diversifying Native economies. While Native Americans' participation in this program is enabling them to compete in the American marketplace and to become self-sufficient, they remain one of the poorest and most under-employed groups in America. The 8(a) program is changing that and enabling Native Americans – through their hard work and business ingenuity – to improve their lives and to create jobs for all Americans. By jeopardizing Native Americans' participation in this program, we are jeopardizing this progress.

**For more information:**

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**Appendix B**  
House Natural Resources Committee  
Oversight Hearing on "Diversifying Native Economies"  
September 19, 2007

**Native American Contractors Association**  
**Native Contracting Facts**  
*Native American Contracting in Perspective*