



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians  
Resolution #MN-23-004

**TITLE: Extending the Justification and Approval Threshold For Sole-Source Contracts Across All Government Agencies**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the Small Business Administration's (SBA) Business Development 8(a) program assists eligible small disadvantaged businesses, including Tribally owned businesses and Alaska Native Corporations (ANCs), to participate in the federal contracting process; and

**WHEREAS**, Tribal Nations' and ANCs' ability to compete and receive larger sole source federal contracts creates jobs and economic opportunity in Native communities across the country, and supports the well-being of entire communities through the proceeds of the contract; and

**WHEREAS**, Public Law 111-84 National Defense Authorization Act for 2010 included a provision, Sec. 811, that required a Justification and Approval (J&A) process for sole source contracts over \$20 million (currently inflation-adjusted to \$25 million); and

**WHEREAS**, the J&A's for sole source contracts exceeding this amount required head of agency approval, and resulted in a significant reduction in the number of sole source contract awards to Native 8(a) entity-owned contractors as shown in [GAO-14-721R DOD 8\(a\) Sole-Source Contracts](#).(September, 9, 2014); and

**WHEREAS**, to address this adverse impact, Congress enacted Public Law 116-92, National Defense Authorization Act of 2020, specifically Sec. 823 , raising the threshold for a J&A to \$100 million for Department of Defense (DOD) sole-source contracts; and

**EXECUTIVE COMMITTEE**

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*Shakopee Mdewakanton Sioux Community*

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**Lance Gumbs**  
*Shinnecock Indian Nation*

**NORTHWEST**  
**Melvin Sheldon, Jr.**  
*Tulalip Tribes of Washington*

**PACIFIC**  
**Jack Potter**  
*Redding Rancheria*

**ROCKY MOUNTAIN**  
**Jennifer Finley**  
*Confederated Salish & Kootenai Tribes*

**SOUTHEAST**  
**Reggie Tupponce**  
*Upper Mattaponi Indian Tribe*

**SOUTHERN PLAINS**  
**Gonzo Flores**  
*Lipan Apache Tribe of Texas*

**WHEREAS**, the Government Accountability Office report [GAO-22-105567 DOD 8\(a\) Sole Source Contracts](#) (March 28, 2022) cited positive benefits for Native 8(a) entity-owned contractors and importantly, for DOD customers; and

**WHEREAS**, [FAR 6.303-2\(d\)](#) requires a justification and approval for an 8(a) sole source awards for Tribes and ANCs outside of the DOD that are above \$25 million; and

**WHEREAS**, raising the J&A to \$100 million across Federal agencies would give contracting officers across the government the same tools that the DOD has allowed for a uniform system with the ability to procure small to medium sized sole source contracts more efficiently for the government and taxpayers.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) supports expanding Sec. 823 of the National Defense Authorization Act of 2020 across all Federal agencies to ensure that federal contracting can continue to be an engine of economic opportunity for Native communities for years to come; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted unanimously by the Executive Committee on Friday, June 16, 2023, after a positive recommendation from the relevant Committee at the 2023 Mid Year Convention of the National Congress of American Indians, held June 5-8, 2023, in Prior Lake, MN.



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Fawn Sharp, President

**ATTEST:**



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Stephen Roe Lewis, Recording Secretary