



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #MN-23-005

TITLE: Calling Upon the Department of Defense, General Services Administration, and the National Aeronautics and Space Administration to Require Consideration of Sister Subsidiary Past Performance

EXECUTIVE COMMITTEE

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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, past performance is an important requirement to bid on government contracts, particularly with the Department of Defense's recent shift from Lowest Price Technically Acceptable (LPTA) to Best Value Trade-Off (BVTO) procurements; and

WHEREAS, current Federal Acquisition Regulation (FAR) language is open ended in its guidance of use of past performance for sister subsidiaries (predecessor companies) meaning that decisions are left in the hands of contracting officers; and

WHEREAS, evaluation of a Native American community-owned company's use of sister subsidiary experience is being increasingly restricted and without sufficient past performance, a company is not rated as highly; and

WHEREAS, Native American community-owned companies need more certainty when offering competitive proposals when leveraging the past performance of sister subsidiaries; and

WHEREAS, non-consideration of sister subsidiary experience severely restricts a Native American company's ability to equitably compete on non-price factors; and

WHEREAS, the evaluation should be required to take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the instant acquisition.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls upon the Department of Defense, General Services Administration, and the National Aeronautics and Space Administration to amend FAR 15.305(a)(2)(iii) Proposal Evaluation-Past Performance Evaluation to state “the evaluation shall or must take into account past performance information regarding predecessor companies...” to require consideration of sister subsidiary past performances; 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.



Fawn Sharp, President

ATTEST:



Stephen Roe Lewis, Recording Secretary