



NATIONAL CONGRESS OF AMERICAN INDIANS

May 26, 2016

Chairman John McCain
Senate Armed Services Committee
U.S. Senate
228 Russell Senate Office Building
Washington, DC 20510

Ranking Member Jack Reed
Senate Armed Services Committee
U.S. Senate
228 Russell Senate Office Building
Washington, DC 20510

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EXECUTIVE DIRECTOR
Jacqueline Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
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www.ncai.org

RE: NCAI OPPOSITION TO SEC. 842 OF H.R. 4909, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2017

Dear Chairman McCain and Ranking Member Reed:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative organization of American Indian and Alaska Native tribal governments, I write to express our opposition to the inclusion of Sec. 842, "Modifications to the Justification and Approval Process for Certain Sole-Source Contracts for Small Business Concerns", in H.R. 4909, the *National Defense Authorization Act for Fiscal Year 2017*.

During the House Armed Services Committee Markup of H.R. 4909 on April 27, 2016, Amendment Log 297 was accepted as part of En Block Package #2 and sought to repeal Sec. 811 of the *2010 National Defense Authorization Act (P.L. 111- 17 84; 123 Stat. 2405; 41 U.S.C. 3304 note)*. Upon adoption, Amendment Log 297 became Sec. 842 of H.R. 4909 and was passed by the House of Representatives on May 18, 2016.

While NCAI, along with our partners, has raised serious concerns over Sec. 811 of the *2010 NDAA*, we do not support Sec. 842 of H.R. 4909 because it does not equitably address Sec. 811 issues. Sec. 811 of the *2010 NDAA* has placed significant burdens on Native 8(a) contractors, which has led to reductions in contracts awarded to Native American contractors in excess of \$20 million. However, Sec. 842 of H.R. 4909 removes the five step justification and approval process established for direct awards above \$20 million to Native 8(a) businesses and instead replaces it with the twelve step justification and approval process codified under FAR 6.303-2(b) of the Competition in Contracting Act.

The Native 8(a) program was created to promote tribal self-determination and self-sufficiency through business development. However, Sec. 842 of H.R. 4909 would be detrimental to the growth of Native 8(a) businesses because it would unfairly elevate them to compete with multibillion dollar corporations. NCAI respectfully requests that Sec. 842 of H.R. 4909 not be included in the Senate version of the NDAA and in any further considerations.

Sincerely,

Jacqueline Pata
Executive Director
National Congress of American Indians



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ABQ-10-063

TITLE: In Support of Native American Full Participation in the Small Business Administration's 8(a) Business Development Program

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, 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 NCAI are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, the Federal Government has a unique legal and political relationship with Tribes, Alaska Native Corporations, and Native Hawaiian Organizations, which is recognized in the U.S. Constitution, statutes, and Supreme Court decisions; and

WHEREAS, Congress has a legitimate interest in promoting the economic and political self-sufficiency of Native Americans as a way to fulfill the government's unique obligations towards Native Americans; and

WHEREAS, providing access to federal contracting opportunities to qualified Native enterprises provides critical incentives that stimulate economic growth in Native communities, provides economic opportunities for Native American enterprises, supports social services programs, and encourages entrepreneurship; and

WHEREAS, Congress has held many hearings that seek to address and redress the overwhelming poverty and unemployment experienced by Native Americans both on and off the reservations that arises from their historical relationship with the Federal Government; and

WHEREAS, Native communities suffer from the worst poverty in this country, with unemployment levels up to 75% and, because of the lack of resources, there are few individual entrepreneurs in Native communities; and

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WHEREAS, the Federal Government buys over \$500 billion in goods and services annually, and has a statutory goal of awarding at least 23 percent (23%) of its purchases to small and disadvantaged businesses; and

WHEREAS, in hundreds of treaties with Indian tribes across the country, and through the Alaska Native Claims Settlement Act, the U.S. government committed to provide for the economic betterment of Native Americans and Alaska Natives, the majority of whom have been stripped of countless millions of acres of their Native lands; and

WHEREAS, one of the most successful federal initiatives has been to include Native Americans (Indian tribes, Alaska Native Corporations and Native Hawaiian Organizations) in the Small Business Administration (SBA) 8(a) Business Development Program; and

WHEREAS, Native American enterprises have struggled to break into the highly concentrated federal contracting marketplace, which is dominated by a handful of large companies, and only recently have some Native American enterprises become successful participants in the 8(a) program; and

WHEREAS, Native American-owned enterprises receive just over one percent (1%) of all federal contract awards compared to the five largest contractors who received twenty percent (20%) of all the contract dollars awarded in 2007; and

WHEREAS, Native American-owned enterprises provide quality performance at cost efficient rates to federal customers, while they return significant benefits back to Native American communities, rendering the Native 8(a) program a rare example of a federal economic program that works; and

WHEREAS, there have been ongoing efforts by some members of Congress to repeal or significantly modify the Native 8(a) program based on biased information, and without consideration of the Federal Government's unique obligations to Native Americans; and

WHEREAS, Native Americans have only recently become successful participants in the 8(a) program and Native communities are just beginning to experience the benefits of the program; and

WHEREAS, NCAI recognizes that the participation of Native Americans in the SBA 8(a) program has been an important tool in building a strong Native economy and continues to provide substantial benefits to tribal people and Native Hawaiians; and

WHEREAS, NCAI recognizes past contributions of Members of Congress and the Administration to work positively with Native Americans to improve the 8(a) program for all participants and protect the rights of Native Americans in the program.

NOW THEREFORE BE IT RESOLVED, that the NCAI respectfully requests the continued support of Congress to maintain Native American-owned enterprises in the 8(a) program for the benefit of all Native communities located in the United States; and

BE IT FURTHER RESOLVED, that NCAI does hereby strongly encourage the Small Business Administration to seek ways to promote and expand participation in the 8(a) program for Native American owned enterprises; and


BE IT FURTHER RESOLVED, that NCAI does hereby urge the Administration to continue to consult with Native Americans on any changes to the 8(a) program that may affect our businesses and communities pursuant to Executive Order 13175; and

BE IT FURTHER RESOLVED, that NCAI strongly opposes any Congressional amendments, regulatory changes or other means to diminish, alter, denounce, or abolish the current provisions established in the federal procurement system allowing Native Americans to create economic development for the benefit of their respective Native communities; and

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

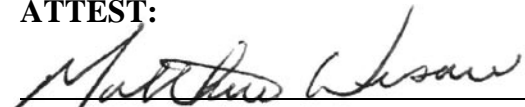
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Annual Convention of the National Congress of American Indians, held at the Albuquerque Convention Center in Albuquerque, NM on November 14-19, 2010, with a quorum present.



President

ATTEST:



Recording Secretary