



WHITE PAPER: Secure the Indian Incentive Program (IIP) 5% Rebate to 5% Price Evaluation Preference

NACA Policy: The Indian Incentive Program (IIP) was created by the Indian Financing Act of 1974 as a Native economic development initiative. It was implemented by the Department of Defense (DOD) to provide a 5% rebate to prime contractors who subcontract to Native-owned businesses. It is congressionally funded and, though well meaning, has historically struggled to attain the level of appropriation necessary to meet its original intent of incentivizing federal contracting of Native American interests.

Ask: Amend the Indian Incentive Act of 1974 to change the present 5% rebate to a 5% credit (i.e., "Price Evaluation Preference").

Abstract: The IIP offers Native-owned businesses the opportunity to develop credible contract past performance which, in turn, permits them to compete and perform on future federal contracts. The program provides a 5% rebate on contracts greater than \$500,000 to prime contractors who subcontract to Native-owned businesses. Funded through the defense appropriations bill, IIP funding has been \$15M annually which promotes \$300M in Native firm performance.

Background: The current IIP language states (PL 93-262, Title V, Sec. 504, added PL 100-442, Sec. 7, Sept. 22, 1988):

Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian owned economic enterprise as defined in this chapter.

Program funding has been a perennial challenge. Originally funded at \$40M, the annual appropriation for the IIP has decreased steadily, now at \$15M since fiscal year 2011. At the \$15M level, a 5% rebate translates to only \$300M in subcontracts to Native businesses. Once this \$15M ceiling is reached, payment on further prime contractor rebate claims are dependent on future years' funding. The current IIP program office has a two-year backlog of recipients.

Though continued funding for the IIP is supported by the National Congress of the American Indian, the Bureau of Indian Affairs, and the Native American Contractors Association, we believe replacing the 5% rebate with a 5% credit would generate greater economic benefits.

To do this, Section 504 (noted above) of the Indian Incentive Act should be amended as follows:

In any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a qualified Indian organization or Indian-owned economic enterprise

shall be deemed as being lower than the price offered by another offeror, if the price offered by the qualified Indian organization or Indian-owned economic enterprise is not more than 5 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

A prime contractor would receive a 5% credit if they submit:

- A proposal either as a native-owned prime contractor, or
- A subcontracting plan that includes native-owned business providing significant performance on the contract.

Through this change, the IIP would no longer depend on an annual congressional appropriation. It would incentivize non-Native-owned primes to subcontract to Native-owned businesses, re-energizing the IIP consistent with Congress's original intent of economic development for Native communities.

The Senate Indian Affairs Committee and the House Natural Resources Committee have jurisdiction over the IIP. The Armed Services, Small Business, and Government Affairs committees of both congressional chambers may also request input. This issue should be briefed to relevant Hill offices with the goal of hearings on the subject and/or legislative language to amend the IIP.

References

- *25 USC 1544 provides the basic provisions of the IIP. Section 1544 references the original act -- PL 93-262, Title V, Section 504; and the amendment at PL 100-442, Section 7, dated September 22, 1988.*
- *FAR 26.1 lays out the IIP in governing acquisition regulations.*
- *Federal Registry, Volume 74, No 153, dated August 11, 2009, lists the Indian Tribal Entities within the contiguous 28 states that are recognized by the BIA.*
- *The DOD Office of Small Business Programs (OSBP) has a website with pertinent IIP details at www.acq.osd.mil/osbp/sb/programs/iip/.*