



## **WHITE PAPER: Stop Bundling and Consolidation of 8(a) Contracts Section 1811, 2017 National Defense Authorization Act (NDAA)**

**NACA Policy:** NACA does not support actions to remove Small Business Administration (SBA) 8(a) set aside contracts from the 8(a) program. Once removed, these set asides are usually bundled or consolidated into larger contracts for which small businesses often lack the capacity to bid, win, or perform. When major contracts are rolled into an omnibus contract, and that contract is not afforded a review by SBA representatives, Native 8(a) contractors are at risk of losing the opportunity to bid on contracts previously designated as an 8(a) set aside.

**Ask:** Update 13 CFR 125.2 with a rule change to ensure SBA's procurement center representatives (PCRs) are provided authority to review and approve any agency request to remove and bundle 8(a) contracts. This was directed in Section 1811 of the Fiscal Year (FY) 2017 NDAA.

**Abstract:** The FY17 NDAA was enacted as Public Law 114-328. Section 1811 of the law addressed the issue of contracts being lost through bundling and consolidation, by ensuring the PCR was not restricted in their procurement reviews. This will now go to a rule change for 13 CFR 125.2 which must be monitored to ensure the intent of the law is adhered to.

**Background:** When the "Rule of Two" [FAR 19.502-2(b)] sets aside a contract for 8(a) competition, then future re-competes of the same contract ordinarily remain 8(a) unless the contracting officer determines that a set aside is not required [FAR 19.501(c)]. 13 CFR 125.2 required PCRs to review proposed acquisitions for applicability as a small business set aside. However, it was at the "SBA's discretion."

Section 1811 amended the Small Business Act stating that "The Administrator may not limit the scope of review by the procurement center representative for any solicitation of a contract or task order without regard to whether the contract or task, or part of the contract or task order is set aside for small business concerns, whether one or more contracts or task order awards are reserved for small business concerns under a multiple award contract, or whether or not the solicitation would result in a bundled or consolidated contract, or a bundled or consolidated task order."

Bundling dismantles the industrial capability small businesses have worked hard to establish, and instead consolidates these capabilities in large contracting firms. While bundling may seem to improve government efficiency, it has profound, unintended consequences for small business contractors. The unplanned loss of an 8(a) contract has direct impact on a Native community who has worked hard to establish the capacity, the relationship, and the performance to be able to re-compete for the contract award.