

## **Office of Management and Budget to Hold Tribal Consultations on 8(a) Sole Source Contracting**

The Office of Management and Budget, on behalf of the Federal Acquisition Regulatory Council (FAR Council), has announced tribal consultations on implementation of section 811 of the National Defense Authorization Act of 2010.

Section 811 of the National Defense Authorization Act establishes a new requirement for federal agencies to justify sole-source contract awards exceeding \$20 million to a business under the Small Business Administration's 8(a) business development program. The 8(a) program enables contract awards to be made to socially and economically disadvantaged small business concerns using the Small Business Administration (SBA) as the prime contractor to the requiring agency.

**Indian Country has identified two specific concerns regarding the implementation of Section 811. Congress has already justified the participation of American Indian tribes and Alaska Native Corporations (ANC's) in the Small Business 8(a) program and the use of existing incentives. There is concern that the implementation of burdensome justifications of sole-source contracts exceeding \$20 million is contrary to congressional intent and will serve as an impediment to Native development.**

There also is significant concern that the \$20 million trigger for justification will drive community-owned tribal and ANC contractors to compete with smaller, individually-owned 8(a) firms if the contract is implemented as a total contract value justification (\$5 million per year over 5 years) instead of an annual value justification of \$20 million. Both the trigger and the justification should consider the intent of the incentive and be fairly applied.

The FAR Council is responsible for overseeing the development and maintenance of section 811. **Tribal input in connection with section 811 is encouraged as the FAR Council prepares to implement the new changes to the 8(a) program which will affect contracting with Indian tribes and Alaska Native Corporations.**

The consultations will be held during the month of October. The below dates and locations have been **tentatively** scheduled.

Washington, DC  
Tuesday, October 5  
NASA Headquarters - Auditorium  
300 E Street S.W. (between 3rd and 4th Streets)  
Washington, D.C. 20546

Albuquerque, NM  
Thursday, October 7  
Indian Pueblo Cultural Center  
2401 12th St. NW Albuquerque, NM 87104

Fairbanks, AK  
Tuesday, October 19  
Alpine Lodge  
4920 Dale Rd  
Fairbanks, AK 99709

For more information and to register for any of the consultations please visit:  
<http://www.acq.osd.mil/dpap/dars/section811.html>