

U. S. Department of the Interior
Assistant Secretary—Indian Affairs
Office of Indian Energy and Economic Development
Division of Economic Development

Tribal Economic Development Principles at a Glance Series

Procurement Opportunities for Federally Recognized Tribes



This is the second in a series of economic development primers prepared by the Indian Affairs Office of Indian Energy and Economic Development (IEED), Division of Economic Development (DED), U.S. Department of Interior, to offer answers to fundamental questions about creating jobs and expanding economies in federally recognized tribal communities.

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If you would like to discuss business development and procurement strategies, please contact the Division of Economic Development at (202) 208-0740.

What is meant by “federal procurement”?

“Federal procurement” is the federal government’s purchase of goods and services.

Why should tribe- and Alaska Native-owned businesses be interested in federal procurement?

The U.S. government is the largest purchaser in the world. In 2011, it bought more than \$600 billion in products and services.¹ Because the federal government makes large purchases, procurement can be profitable for the contractors selected to meet the government’s needs. Where a tribal or Alaska Native firm is the contractor, the revenues it earns may enable it to expand operations and increase hiring in a tribal community.

Federal procurement also represents a significant untapped opportunity for tribal or Native small businesses. The Native American Contractors Association reports that in FY 2012, the federal government purchased \$32 billion worth of goods and services from U.S. Small Business Administration 8(a) (minority) businesses – only about 8 percent of total federal procurement. It also reports that in 2010 Native American-owned companies represented just 1.3 percent of all federal procurement. At the same time, the federal government’s objective is to deliver 23 percent of eligible federal contracting dollars to small businesses.²

Where can a tribe– or Native-owned business learn of federal contracting opportunities?

Contracting opportunities are advertised in Federal Business Opportunities, which can be accessed online at <http://www.fbo.gov/>. This is a single-entry, government-wide website that identifies federal procurement contract opportunities with a value of over \$25,000. The site also shows awarded contracts.

Some small businesses also subscribe to bid-matching services which provide leads on potential procurement contract opportunities that match a company’s qualifications. These subscriptions may often be obtained free through a local Procurement Technical Assistance Center (PTAC). See below for more about PTACs.

¹ U.S. Small Business Administration, “Government Contracting 101: Guidebook for Small Business,” January 2012, p. 5.

² U.S. Small Business Administration: <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/federal-government-achieves-small-business-contracting-goal-fifth-consecutive-year-record-breaking>

What is a contracting officer?

In federal procurement, the contracting officer has the authority to enter into, administer, modify, and terminate contracts. That officer may also authorize other federal employees to carry out specific, limited actions with respect to a contract.

How must a tribe– or Native-owned business prepare in order to compete for federal government procurement contracts?

To compete for federal contracts, a tribe– or Native-owned firm must obtain various kinds of certifications and identities including a DUNS number, CAGE Code, System for Award Management registration, and NAICS codes. It should also have on hand, and continually update, a capability statement.

What is a DUNS number?

DUNS stands for “data universal numbering system.” The Dun & Bradstreet firm created this nine-digit numbering system to establish a unique identity for a particular business. Once a firm obtains this number, federal procurement officers and other interested parties can locate it in a database which shows the name of the company, its address, telephone number, number of employees, and kind of business.

What is a CAGE Code?

This is a unique five-character code that is assigned to suppliers of products and services used by federal agencies which identifies a facility at a particular location. The first and last characters are numerals and the remaining characters can be numerals or any letter except for I or O.

What is the System for Award Management?

The System for Award Management (SAM) replaced the Central Contractor Registry and serves as the federal government’s database for procurement purposes. The SAM is a valuable marketing tool because it is the primary means for federal purchasers to find prospective vendors and verify their identities and qualifications. To be a seller in the federal space, a tribal or Native firm must register in the SAM (<http://www.sam.gov/>). Companies are required to update their SAM profiles every 12 months. To learn more about preparing a profile for and registering on the SAM, consult the “SAM User Guide”: https://www.sam.gov/sam/transcript/System_for_Award_Management_v2.7.pdf

What is a NAICS code?

NAICS is the acronym of the North American Industry Classification System which generates codes the federal government uses to classify businesses based on what kind of products or services they offer.

What is a capability statement?

This is a summary of a firm's technical and business expertise and skills that details its performance history and the specific projects it has undertaken, lists awards and other honors it has earned, and provides the resumes of its key management personnel. Because a capability statement is a resume for the firm, it should be regularly updated so that it can be furnished on short notice to prospective federal and private sector buyers.

Where can a tribe– or Native-owned firm get help in applying for these certifications and codes and preparing a capability statement?

You can consult a local or Native American Procurement Technical Assistance Center (PTAC). PTACs have cooperative agreements with the U.S. Department of Defense to offer free services to help potential clients who are interested in federal procurement opportunities.

How can a tribe– or Native-owned firm locate the nearest PTAC?

The following link provides addresses of all of the PTACs in the United States. Users of the website can use the map at the bottom of the site to click on the location nearest a tribal community and the site will identify the Native American PTAC serving that area. A Native firm can also consult its nearest local or state PTAC. Visit <http://www.dla.mil/SmallBusiness/Pages/ptac.aspx>.

How can a tribe– or Native-owned firm find subcontracting opportunities?

The U.S. Small Business Administration operates an online searchable database of subcontracting opportunities called SUB-NET: <http://web.sba.gov/subnet/search/index.cfm?CFID=3326268&CFTOKEN=dd547388634a6447-D5095AFE-E879-6168-A5D8DD639D02C393>

What other resources are available to help tribes with federal contracting matters?

The Native American Contractors Association (NACA) is a Washington, D.C., based trade association established in 2003 to advocate on behalf of businesses owned by tribes, Alaska Native corporations, and Native Hawaiian business entities (<https://www.nativecontractors.org/>). NACA deals with the U.S. Small Business Administration Native 8(a) Program, the Indian Incentive Program, the Buy Indian Act, and other programs.

How can IEED's Division of Economic Development help?

The IEED Division of Economic Development (DED) works with Native American PTACs to foster contracting between tribally owned businesses and government and commercial buyers. One way it does this is by hosting Regional Economic Development and Procurement Conferences, which include one-on-one “matchmaking” and business development sessions, at key Indian Country locations.

These events bring together tribal businesses with potential commercial and government buyers, building deeper personal relationships between tribally owned businesses on the one hand and federal, state, local, and private sector procurement officers on the other. Over time these contacts can lead to contracts and other procurement opportunities. In addition, DED offers technical assistance at these conferences, including marketing training for tribally owned firms to sharpen their salesmanship and presentation skills and to update their capability statements so that they respond to current market conditions.

DED also conducts Industry Days across the country throughout the year for particular industries such as aerospace, cyber-security, and Native food production. This event has been held in Texas, Nevada, Pennsylvania, Montana, Minnesota, California, Alaska, Washington, Virginia, and North Dakota. All told, 600 tribal and Native American businesses and some 100 corporate and government buyers participated in these events, which have resulted in or contributed to millions of dollars in new and expanded contracts for tribal- and Native-owned firms.

By making potential purchasers of American Indian and Alaska Native goods and services accessible to tribal- and Native-owned businesses at single regional locations, these events also save such vendors substantial time and travel costs. According to a American Express survey, the average small business spent more than \$128,000 in labor costs and other expenses in 2012 to pursue government contracts.³ And the cost of bidding on a federal contract can exceed three percent of the total amount of the contract.⁴

³ “It’s tougher to reel in this big fish,” *The Inquirer*, August 5, 2013.

⁴ “Pursuing government contracts can be costly,” *Business Newsday*, August 18, 2013.

Can all tribe- and Native-owned firms participate in these matchmaking events?

All tribe- and Native-owned firms are eligible to participate in the Regional Economic Development and Matchmaking Conferences.

However, at an Industry Days event, federal procurement officers and prime contractors are only interested in meeting with tribal– and Native-owned firms that have the expertise, capacity and background to meet their precise needs.

How can I find out about upcoming Industry Days events and whether my firm is qualified to take part?

The Native American PTACs identify tribe– and Native-owned firms qualified to take part in these events based on their capability statements. So you should contact your local Native American PTAC if your firm is interested in matchmaking opportunities.

What is the Buy Indian Act?

The Buy Indian Act (25 U.S.C. § 47) is a federal law that requires the Bureau of Indian Affairs (BIA) to purchase certain goods and services from qualified American Indian and Alaska Native vendors.

Federal preference for purchase of American Indian goods and services started with the passage of the Indian Appropriations Act of 1886, but was not incorporated into a permanent authorizing statute until 1910.

It became generally accepted during the 1980s that all BIA and Indian Health Service (IHS) procurement contracts should be awarded in accordance with the Buy Indian Act unless there is an important reason not to do so.

Currently, the Buy Indian Act is implemented by the U.S. Department of the Interior Acquisition Regulation Supplement, Title 48 of the Code of Federal Regulations, Part 1480.

Which federal agencies operate under these new Buy Indian Act regulations?

The Buy Indian Act applies only to the bureaus and offices under the direction of the Assistant Secretary-Indian Affairs in the U.S. Department of the Interior.

What constitutes an “Indian economic enterprise” under the Buy Indian Act?

An Indian economic enterprise (IEE) means any business activity owned by one or more American Indians or Indian tribes that is established for the purpose of profit, provided that: the combined Indian or tribal ownership must constitute not less than 51 percent of the enterprise; the Indians or Indian tribes must, together, receive at least a majority of the earnings from the contract; and the management and daily business operations of an enterprise must be controlled by one or more individuals who are Indians. To ensure actual control over the enterprise, the individuals must possess requisite management or technical capabilities directly related to the primary industry in which the enterprise conducts business.

How can I find out whether the Tribe I am enrolled in is federally recognized?

The BIA publishes annually in the Federal Register a notice listing all federally recognized tribes. The notice can be found at <https://www.govinfo.gov/content/pkg/FR-2018-01-30/pdf/2018-01907.pdf>.

How do I apply for the Buy Indian Act? Must I be certified?

There is no certification process under the Buy Indian Act regulations. Whenever a tribe– or Native-owned firm responds to a procurement that is set aside under the Buy Indian Act regulations, it self-certifies that it qualifies as an IEE.

What if a business responding to a Buy Indian procurement solicitation claims falsely that it is an IEE?

Challenges to an IEE’s status may be raised by the contracting officer or other interested party. The contracting office will render a decision on the challenge which may be appealed to the Interior Department’s Office of Acquisition and Property Management (PAM). Firms submitting a false certification may be suspended or debarred from participating in future procurements and may also be subject to the penalties enumerated in 31 U.S.C. 3729 to 3731 and 18 U.S.C. 287.

Bonding requirements are usually required for construction procurement contracts. These are particularly burdensome for tribally owned firms because they cannot pledge or put at risk tribal assets. Does the Buy Indian Act impose bonding requirements?

25 U.S.C. §47(a) of the Buy Indian Act offers Indian-owned firms that are awarded Buy Indian construction contracts greater flexibility with respect to bonding requirements. This section, added in 1988, provides that the Secretary of the Interior may permit an Indian firm to identify security other than bonding when it is awarded a construction project pursuant to the Buy Indian Act. This permits the Secretary to waive the bonding requirements of the Miller Act (40 U.S.C. 3131-3134), which mandate that a prime contractor provide a bond for any federal construction project. Alternatives to bonding include posting letters of credit, certificates of deposit, and guarantees from other entities that have stronger balance sheets.



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