



United South and Eastern Tribes, Inc.
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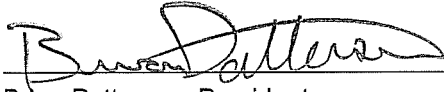
USET Resolution No. 2011:004

PROVIDING RECOMMENDATIONS FOR THE IMPLEMENTATION OF SECTION 811 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-five (25) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** the Small Business Association 8(a) program has provided important economic development opportunities for scores of Tribes across the Nation, including several USET Tribes; and
- WHEREAS,** the Federal Acquisition Regulatory Council (FAR Council) is conducting Tribal consultation regarding implementation of Section 811 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84 (Section 811), including a consultation in Washington, DC on October 5, 2010 where USET member Tribes testified in support of important clarifications; and
- WHEREAS,** Section 811 changed how Native-owned 8(a) firms could participate in the 8(a) program and, because of uncertainty over Section 811's implementation, at least one USET Tribe lost a contract worth \$30 million; and
- WHEREAS,** Section 811 raises a number of other concerns which need to be properly addressed in its implementing rule in a manner consistent with the Federal trust responsibility to Indian Tribes; and
- WHEREAS,** the Native American Contractors Association (NACA) represents and serves almost 40 Native-owned 8(a) firms and has provided recommendations to the FAR Council for the implementation of the Section 811 rule; and
- WHEREAS,** USET supports the recommendations of the NACA; therefore, be it
- RESOLVED** the USET Board of Directors urges the Federal Acquisition Regulatory Council to establish a rule that: (1) clarifies that Section 811 applies only to sole-source contracts for an amount exceeding \$20 million for the base year of the contract; (2) provides that Justification and Approval requirements for sole-source contracting under Section 811 shall not exceed the requirements of Section 811; (3) specifies that a determination over whether the use of a sole-source contract is in the "best interests" of the agency shall consider how an award to a Native-owned 8(a) will allow it to meet the agency's small business goals; (4) in considering "other matters" in making a Justification and Approval determination the Agency shall look to part 19.804 of Title 48; and (5) clarifies that Section 811 is not a cap on sole-source awards but simple a requirement for a streamlined Justification and Approval process for sole-source awards to Native-owned 8(a) firms.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present, in Verona, NY, on Thursday, October 14, 2010.



Brian Patterson, President
United South and Eastern Tribes, Inc.



Robert McGhee, Secretary
United South and Eastern Tribes, Inc.

"Because there is strength in Unity"