



Expand Buy Indian Act Authority to the U.S. Department of Agriculture

The Buy Indian Act. The Buy Indian Act (25 U.S.C. § 47) currently authorizes the U.S. Department of Interior (DOI) through the Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and the offices of the Assistant Secretary – Indian Affairs (AS-IA), and the U.S. Department of Health and Human Services (HHS) through the Indian Health Service (IHS), to purchase supplies, services, and certain construction services (e.g., to build roads, schools, hospitals) from “Indian Economic Enterprises” (IEEs). In enacting the Buy Indian Act, Congress intended to create economic development opportunities in Tribal communities. Both DOI ([87 FR 20761](#)) and IHS ([87 FR 2067](#)) updated their Buy Indian Act regulations in 2022.¹ As a result, there has been a significant increase in contracts awarded to IEEs. **Between DOI and HHS, \$2.9 billion in contracts were awarded to IEEs in FY 2023.**² **These contracts exceeded the Administration goals by more than 100% – from \$525 million to \$1.07 billion.**³

Buy Indian Act Expansion at USDA. As the U.S. Department of Agriculture (USDA) is the third largest department, behind HHS and DOI, in the amount of funds it deploys to Indian Country, **the Native American Contractors Association (NACA) and the Native Farm Bill Coalition (NFBC) are urging Congress to expand Buy Indian Act authority to USDA, by supporting Sec. 802 of S. 2354, the Improving Agriculture, Research, Cultivation, Timber and Indigenous Commodities (ARCTIC) Act.** This expansion would significantly expand the breadth of contracts IEEs can seek, generate more economic activity, and create more local employment opportunities in Tribal communities than if USDA contracted non-Indian firms to carry out this work.⁴ Buy Indian Act contract opportunities at USDA could include, but are not limited to, the procurement of food from Tribal producers, procurement of other goods (e.g., paper) and services (e.g., printing, IT systems, record keeping) from IEEs, staffing contracts for agencies struggling to fill positions, the construction of critical infrastructure (e.g., food distribution warehouses, housing for federal staff, roads), and so much more.

USDA on the Expansion of the Buy Indian Act. USDA’s own [2022 Equity Action Plan](#) calls on the agency to “review... regulations for expansion of Tribal contracting preferences such as Buy Indian Act or Tribal/Native American contracting preferences to USDA” (P. 17).

¹ Among other changes, the DOI and IHS Final Rules eliminate barriers for IEEs in certain construction contracts, expand the ability of IEEs to subcontract construction work consistent with other socio-economic set-aside programs, and give greater preference to IEEs when a deviation from the Buy Indian Act is necessary.

² White House, [FACT SHEET: President Biden Signs Historic Executive Order to Usher in the Next Era of Tribal Self-Determination](#) (Dec. 6, 2023).

³ National Center for American Indian Enterprise Development, [Interior, HHS Achieve Key Buy Indian Act Milestones](#) (Dec. 15, 2023).

⁴ 25 U.S.C. § 47(b): “Unless determined by one of the Secretaries to be impracticable and unreasonable - (A) Indian labor shall be employed; and (B) purchases of Indian industry products (including printing and facilities construction, notwithstanding any other provision of law) may be made in open market by the Secretaries.”