



2024 Midyear Convention Canyonville, Oregon

RESOLUTION #2024 – 26

“REQUESTING THAT THE OFFICE OF MANAGEMENT AND BUDGET (OMB) DIRECT THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) TO EXEMPT TRIBAL HOUSING PROGRAMS FROM SECTION 70914 OF THE BUILD AMERICA, BUY AMERICA (BABA) ACT”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, the Infrastructure Investment and Jobs Act (IIJA) enacted Build America, Buy America (BABA) and established a domestic content procurement preference for federally-funded infrastructure projects, and, as a result, federal grants provided to Tribes and tribally

designated housing entities (TDHEs) for affordable tribal housing development can only be awarded if the projects meet the law’s procurement requirements; and

WHEREAS, for the vast majority of Tribes, construction of affordable housing takes place in remote, rural areas, where costs are already high due to the limited number of contractors and suppliers, as well as the additional costs of transporting materials and workers to the worksite, and adding the BABA requirements would result in fewer available suppliers and contractors, as well as increasing costs and possible delays in project implementation, and will require Tribes and TDHEs to reach out further geographically to secure these; and

WHEREAS, in addition to increased cost barriers and administrative burden created by BABA, the purchasing requirements conflict with long-standing legislation and regulatory actions preserving and protecting Indian preference (24CFR §1000.48) and Section 101(k) of the Native American Self-Determination and Housing Assistance Act; and

WHEREAS, on October 25, 2023, the Office of Management and Budget (OMB) issued implementation guidance via memorandum M-24-02, which states that “the purchase, construction or improvement of a private home for personal use, for example, would not constitute a public infrastructure project for purposes of BABA”; and

WHEREAS, private homes purchased, constructed, or improved with Federal HUD funds by Indian tribes and TDHE’s do not serve as a public function or a place of public accommodation and thus do not fit the definition of “infrastructure” under BABA; and

WHEREAS, the BABA program would also be complicated and burdensome to administer for Tribes and TDHEs because tribes will be required to analyze the materials that contractors, the subcontractors, and the subcontractors’ suppliers use, an unprecedented level of detailed project management oversight which will result in additional administrative costs and fewer homes built; and

WHEREAS, the Northwest Indian Housing Association adopted resolution 2024-03 entitled “A Resolution Requesting that the Office of Management and Budget (OMB) direct the Department of Housing and Urban Development (HUD) to exempt Tribal Housing Programs from Section 70914 of the Build America, Buy America Act (BABA);” now

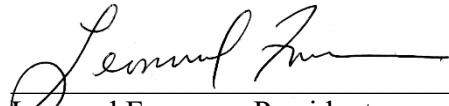
THEREFORE, BE IT RESOLVED, ATNI urges HUD and the OMB to provide a permanent blanket waiver for all HUD-funded awards for tribal housing programs that apply to BABA requirements, or at minimum, waive implementation of BABA for tribal housing programs while HUD undertakes a feasibility study to determine the full impacts of the BABA requirements on tribal communities; and

BE IT FURTHER RESOLVED, that National Congress of American Indians supports this Resolution; and

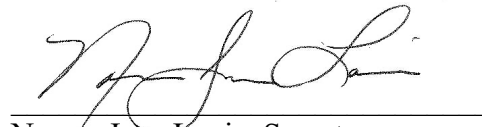
BE IT FINALLY RESOLVED, that this resolution shall be the policy of ATNI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2024 Midyear Convention of the Affiliated Tribes of Northwest Indians, held at the Seven Feathers Casino in Canyonville, OR, May 19 – May 23, with a quorum present.



Leonard Forsman, President



Norma Jean Louie, Secretary