

Why GAO Did This Study

Tribal firms—those owned by Alaska Native Corporations, Native Hawaiian Organizations, and Indian tribes—are afforded special advantages within the Small Business Administration's (SBA) 8(a) business development program. GAO was asked to (1) identify trends in government 8(a) contracting with tribal firms; (2) determine why the government awarded sole-source contracts to tribal 8(a) firms and the methods used to make price determinations; (3) assess the procuring agencies' oversight of contracts for compliance with subcontracting requirements; and (4) examine SBA's new 8(a) regulation, intended to clarify program rules, to determine how the changes could affect oversight of tribal 8(a) firms. GAO reviewed non-generalizable samples of 87 contracts (based on dollar value and location) and 62 tribal 8(a) firms' SBA files and spoke with SBA headquarters and district officials as well as officials from 9 agencies.

What GAO Recommends

GAO recommends that the Office of Federal Procurement Policy (OFPP) amend acquisition regulations and provide guidance (including data collection) on monitoring the limits on subcontracting. OFPP generally agreed with the recommendations. GAO's recommendations also include that SBA include specific capabilities in its 8(a) database to improve tribal 8(a) tracking and that it examine tribal participation to determine whether certain practices align with the 8(a) program's business development goal. SBA questioned GAO's methodology, which GAO continues to believe is appropriate, but did not address GAO's recommendations.

View [GAO-12-84](#). For more information, contact John Hutton at (202) 512-4841 or huttonj@gao.gov.

FEDERAL CONTRACTING

Monitoring and Oversight of Tribal 8(a) Firms Need Attention

What GAO Found

Federal dollars obligated to tribal 8(a) firms grew from \$2.1 billion in fiscal year 2005 to \$5.5 billion in 2010, a greater percentage increase than non-tribal 8(a) obligations (160 percent versus 45 percent). Obligations to 8(a) firms owned by Alaska Native Corporations (ANC) represented the majority of tribal obligations every year during the period, rising to \$4.7 billion in 2010. While tribal 8(a) firms comprised 6.2 percent of total 8(a) firms, their obligations accounted for almost a third of total 8(a) obligations in fiscal year 2010. Over the 6 years, the percentage of competitively awarded obligations to tribal 8(a) firms rose; however, sole-source contracts remained the primary source of growth, representing at least 75 percent of all tribal 8(a) obligations in a given year.

Consistent with GAO's 2006 review of ANC 8(a) contracting, contracting officials said that awarding contracts to tribal firms under the 8(a) program allows officials to award sole-source contracts for any value quickly, easily, and legally, and helps agencies meet their small business goals. However, the officials added that the program offices' push for awarding follow-on contracts to the same firm also plays a role. GAO's review of noncompetitive tribal 8(a) contracts shows the methods used to determine price reasonableness in a sole-source environment. In some cases, when agencies moved away from sole-source tribal 8(a) contracts toward competition, agency officials estimated savings as a result.

To ensure that 8(a) firms do not pass along the benefits of their contracts to their subcontractors, regulations limit the amount of work that can be performed by the subcontractors. Of the 87 contracts in GAO's review, 71 had subcontractors. GAO found that required monitoring of limitations on subcontracting by procuring agencies was not routinely occurring. Similar to what GAO reported in 2006, some contracting officers do not understand that ensuring compliance is their responsibility under partnership agreements with SBA, and the regulations do not make this clear. Further, agency officials did not know how to monitor subcontracting limitations, particularly for indefinite-quantity contracts, as the data are not readily available. Not monitoring the limits on subcontracting can pose a major risk that an improper amount of work is being done by large firms.

In March 2011, SBA revised 8(a) regulations to clarify program rules, correct misinterpretations, and address program issues. Although a positive step, SBA will have difficulty enforcing new regulations pertaining to tribal 8(a) follow-on contracts and joint ventures given the information currently available. SBA told GAO it is currently in the process of developing the requirements for a new 8(a) tracking database. Further, the new regulations do not address some issues GAO has previously raised, such as ANC 8(a) firms under the same parent corporation generating a majority of revenue in the same line of business. SBA regulations do not allow a tribal organization to have more than one 8(a) subsidiary perform most of its work under the same primary business line. GAO also discusses practices that highlight how some tribal 8(a) firms operate, in effect, as large businesses because of their parent corporation's backing and interconnectedness with sister subsidiaries. SBA has not reviewed these practices to determine whether they are congruent with the business development purpose of the 8(a) program.