



March 2016

ALASKA NATIVE CORPORATIONS

Oversight Weaknesses Continue to Limit SBA's Ability to Monitor Compliance with 8(a) Program Requirements

Accessible Version

GAO Highlights

Highlights of [GAO-16-113](#), a report to congressional requesters

Why GAO Did This Study

Federal obligations under SBA's 8(a) Business Development Program totaled about \$4 billion for 344 ANC-owned firms in 2014. In 2011, SBA updated program regulations to address prior oversight challenges identified by GAO. GAO was asked to follow-up on past reports and examine SBA's current oversight processes. This report discusses, among other things, SBA's ability to (1) enforce regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC; (2) limit subsidiaries of the same 8(a) ANC from operating in the same primary line of business, and (3) address challenges, if any, to SBA's oversight of 8(a) ANC-owned firms. To do this work, GAO analyzed fiscal year 2011 through 2014 data from a federal contracting database using separate nongeneralizable samples for each objective, conducted site visits, reviewed 8(a) sole-source contracts, and ANC-owned firm annual updates, and interviewed relevant SBA officials.

What GAO Recommends

GAO recommends that, among other things, SBA asks other federal agencies to specifically identify whether a contract is a follow-on in their letters to SBA; develop plans and timelines for tracking ANC-owned firms' revenues across lines of business; and enable its staff to access and share relevant revenue data. SBA agreed with two recommendations and reported actions taken to implement two others. SBA disagreed with the final two, stating they were unnecessary. Based on a review of actions taken, GAO believes all six recommendations are still warranted.

View [GAO-16-113](#). For more information, contact Seto Bagdoyan at (202) 512-6722 or bagdoyans@gao.gov.

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What GAO Found

GAO has reported in the past that the Small Business Administration's (SBA) ability to enforce regulations prohibiting the award of follow-on, sole-source contracts to 8(a) subsidiary firms of the same Alaska Native Corporation (ANC) relies on contract information from other federal agencies that is sometimes incomplete. SBA's regulations prohibit program participants from receiving an 8(a) sole-source contract that immediately follows another 8(a) contract with the same requirements performed by another participant owned by the same ANC. Other federal agencies offering 8(a) contracts must generally submit offer letters to SBA that include information about a contract's procurement history and name of any prior small business contractors. SBA relies on this information to determine whether a firm is eligible to receive a particular 8(a), follow-on, sole-source contract. However, GAO's analysis of a selection of contracts for this review found that agencies are not required to directly identify whether a sole-source contract is also a follow-on contract in these letters. One SBA office has begun taking action to address this limitation by asking agencies to specifically report whether contracts are follow-on, sole-source awards in offer letters, but the change has not been broadly adopted. SBA would be better positioned to limit the award of follow-on, sole-source contracts by ANC-owned subsidiaries if it requested that other federal agencies specifically state whether contracts are follow-ons in offer letters.

GAO found in past reports and this review and in that SBA's ability to enforce its regulation prohibiting subsidiaries owned by the same ANC from operating in the same primary line of business as reported to SBA is hindered by limited tracking and sharing of information across SBA's 68 district offices. ANC-owned firms must register a primary line of business with SBA, but are allowed to pursue multiple other lines of business. In this review, GAO found 5 of 39 ANCs owned subsidiaries that generated a greater portion of revenues in secondary lines of business than their registered primary line of business. Additionally, those secondary lines of business were the same lines of business as the primary lines for other subsidiaries owned by the same ANC. Such activity could potentially conflict with the regulation's intent. SBA proposed a rule designed to limit and track this activity, but lacks plans and timelines associated with this effort. Regarding limited information-sharing, different district offices service different firms that are subsidiaries of the same ANC. Oversight staff in these offices cannot access or share relevant data from other district offices. Without better data sharing, SBA cannot monitor whether firms owned by the same ANC and serviced by different district offices are complying with program rules.

As GAO reported in the past, SBA's staffing for its data collection and program guidance activities contributed to weak program oversight and monitoring of 8(a) ANC-owned firms. SBA took some recent actions to enhance oversight, such as conducting an accountability review in October 2014 of the Alaska District Office. SBA has established an office to improve compliance with 8(a) rules by verifying self-reported information supplied by firms. However, SBA does not have plans that detail the office's roles and responsibilities for its activities. With the oversight weaknesses GAO identified in this review, SBA has an opportunity to enhance its oversight by finalizing plans for this office.

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Abbreviations

ANC	Alaska Native Corporation
BDMIS	Business Development Management Information System
DPCE	Division of Program Certification and Eligibility
DSBS	Dynamic Small Business Search
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Database System-Next Generation
GSA	General Services Administration
OIG	Office of Inspector General
NAICS	North American Industry Classification System
SAM	System for Award Management
SAP	Simplified Acquisition Procedures
SBA	Small Business Administration
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Payments

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March 21, 2016

The Honorable Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Edward J. Markey
United States Senate

The Honorable Peter DeFazio
House of Representatives

The 8(a) Business Development Program (8[a] program), administered by the Small Business Administration (SBA), is one of the federal government's primary vehicles for developing socially and economically disadvantaged small businesses, including those firms owned by Alaska Native Corporations (ANC.)¹ One of the key benefits of the program is the ability of participants to receive federal contract awards set aside solely for 8(a) firms. Government agencies obligated about \$17 billion to just under 5,600 firms participating in SBA's 8(a) program in fiscal year 2014.² Obligations to ANC-owned firms participating in the 8(a) program represent a sizeable share of total obligations made to all firms participating in the program. For fiscal year 2014, federal obligations under the program totaled about \$4 billion for 344

¹Under SBA's regulations, ANCs are defined as any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended. 13 C.F.R. § 124.3. In this report, the term "ANC" refers to the one of these parent corporations, usually located in Alaska. The term "ANC-owned firm" denotes a business owned by an ANC. This term has the same meaning as "ANC-owned concern," which is the term used in SBA's small-business regulations. We also use the term "sister subsidiary," "ANC-owned subsidiary," and "ANC-owned firms" to refer to wholly and partially owned subsidiaries of ANCs.

²An obligation is a binding agreement that will result in financial outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally. In this report, the term "obligation" refers to the annual expenditure for particular contracts, and not the total award amount.

8(a) ANC-owned firms and represented almost a quarter of all 8(a) obligations made that year.

Congress has provided ANC-owned firms participating in the 8(a) program with distinct advantages over most other participating firms, including provisions exempting them from some of SBA's standard 8(a) program eligibility requirements and an authorization to receive sole-source 8(a) contracts for any amount.³ Generally, for a firm to participate in the 8(a) program, SBA must certify that the firm meets several criteria, including that it is a small business as defined by SBA and is unconditionally owned and controlled by one or more socially and economically disadvantaged individuals. However, program rules allow firms that are majority owned by ANC parent entities to be considered eligible for the 8(a) program as long as they can attest to being a small business individually.⁴ Further, ANC-owned firms are also allowed contract flexibilities not afforded to most other 8(a) participants. For example, under the 8(a) program, contracts generally can be awarded to participating small businesses without competition (known as sole-source contracts) when valued below \$4 million—including any options—or \$6.5 million for manufacturing contracts. There is also typically a limit on the total dollar value of sole-source contracts that 8(a) firms can receive while in the program—\$100 million or five times the size standard corresponding to the firm's primary line of business. 8(a) ANC-owned firms are exempt from these limits. Federal procuring departments and agencies are

³Although many of these advantages also apply to Indian tribes, Native Hawaiian Organizations, and Community Development Corporations, in this report we focus exclusively on the rules as applied to ANC-owned firms participating in the 8(a) program. Congress initially passed legislation in 1986 that allowed ANC owned firms to participate in SBA's 8(a) program, and subsequent laws established and clarified their advantages in the program. Unlike most other 8(a) small businesses, ANC-owned firms receive an exclusion from affiliation with their larger parent corporation and therefore can be subsidiaries in large corporations that may have worldwide operation, annually generate revenues in the hundreds of millions of dollars, and provide a range of goods and services to federal procuring agencies.

⁴Participating 8(a) firms must qualify as "small" under an industry size standard as measured by the average number of employees over the past 12 months or average revenues generated from the previous 3 years, in addition to being majority-owned by a disadvantaged individual or a qualified entity, such as an ANC. According to the Small Business Act, a business is considered small when it is independently owned and operated; is not dominant in its field of operations; and meets any definitions or standards established by the Administrator of SBA. Overall, SBA considers more than 97 percent of all businesses to be "small," and these firms represent about 30 percent of industry receipts.

allowed to make sole-source awards of any size to 8(a) ANC-owned firms and these firms may continue to receive awards once the total dollar value threshold that applies to other 8(a) firms of \$100 million has been exceeded.

In February 2011, SBA issued new and updated existing regulations that were partly designed to prohibit certain behaviors by firms participating in the 8(a) program.⁵ For example, the updated regulations preclude sister firms from receiving (and, therefore, agencies from awarding) follow-on, sole-source contracts—that is, the prohibited practice of awarding subsequent contracts with essentially the same requirements to sister subsidiary firms of the same parent ANC. The changes also included technical changes to existing rules that dictate how the agency monitors the participation of ANC-owned firms in the same lines of business, and provided clarifying language to existing rules related to compensation. In addition, SBA issued a new rule that requires ANC-owned firms to report how the benefits from 8(a) program participation are distributed to Alaska natives or their community.

However, in January 2012, we reported that, even with changes to its regulations, SBA lacked critical data it needed to implement or enforce compliance with some of the new or existing 8(a) program requirements, including prohibitions against awarding follow-on, sole-source contracts to subsidiary 8(a) firms owned by the same ANC, as well as tracking the participation of firms in the same lines of business.⁶ In that report, we stated that if SBA did not take steps to strengthen its program controls, ANC 8(a) firms and others could remain in the program in perpetuity—they could shift the management of one subsidiary to another to receive follow-on contracts or circumvent the prohibition against sister subsidiaries operating in the same primary line of business. We recommended, among other things, that SBA

1. enhance its technological capacity by providing visibility to district offices into all tribal 8(a) firms' activity by tribal entity to ensure compliance with the new prohibition on awarding follow-on, sole-source 8(a) contracts to sister subsidiaries;

⁵76 Fed. Reg. 8222 (Feb. 11, 2011).

⁶GAO, *Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention*, [GAO-12-84](#), (Washington, D.C.: Jan. 31, 2012).

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2. track revenue by ANC-owned firms' industry codes to ensure that subsidiaries participating in the program and under the same parent company are not generating the majority of their revenue from the same primary industry; and
 3. reinforce, to procuring agencies, the requirement to provide the full acquisition history of the procurement in the offer letter, when available, and direct district office business development specialists to focus on this issue when reviewing contract offers made to ANC-owned firms.⁷

You asked us to examine SBA's oversight of ANC 8(a) contracts. This report discusses the extent to which: (1) SBA enforces its regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC; (2) SBA limits subsidiaries of the same ANC from operating in the same primary line of business; (3) information is known about compensation, revenues, and benefits distribution of ANC-owned firms; and (4) SBA has addressed challenges, if any, to its oversight and monitoring of ANC-owned firms participating in the 8(a) program since 2011.⁸ This report exclusively discusses these issues in the context of ANC-owned firms participating in the 8(a) program.

For the analyses performed in all objectives, we reviewed 8(a) program information on ANC firms participating in the program from fiscal year 2011 through fiscal year 2014 to reflect the effective date of regulations included in our scope. To perform our work we used the Federal Procurement Database System–Next Generation (FPDS-NG) to select three sets of cases of ANC-owned firms that met certain criteria specific

⁷SBA did not comment on the recommendations made in that report when issued. In all, we made seven recommendations in [GAO-12-84](#), three of the seven recommendations, including the recommendation to provide a full acquisition history in offer letters and direct business opportunity specialist to focus on this issue when conducting their reviews, have been fully implemented as of October 2015. We discuss this particular recommendation in more detail in objective 1. The other four recommendations are related to issues noted with monitoring subcontractors under the program, joint venture projects, and reporting on unfair competitive advantages to Congress are outside the scope of this report.

⁸In line with federal standards on internal controls, control environment factors include the program's organizational structure and delegation of authority and responsibility, human capital policies and practices that affect the program, and management's commitment to competence as well as its philosophy and operating style, among other things.

to our objectives, which we outline in detail below.⁹ To assess the reliability of the FPDS-NG data, we interviewed officials who maintain the database, reviewed related documentation, and tested the data for missing or erroneous values. Where possible, we also tested these data against other datasets maintained by SBA and the General Services Administration (GSA).¹⁰ During the course of our review, we identified a few data limitations with FPDS-NG, such as misclassified 8(a) firms and incorrect obligations. To mitigate these limitations, we interviewed knowledgeable individuals about the contracts in question and corrected errors we identified. We found the data to be sufficiently reliable for the purpose of selecting cases for review (see appendix I for additional details on the data's reliability). As described in the following sections, we selected a subset of cases for each objective that met certain criteria for follow-up review and illustrative examples, and therefore our findings are not generalizable to the entire population of ANCs participating in the 8(a) program.

To identify the extent to which SBA enforces its regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC, we assessed the agency's policies and procedures related to these processes, and interviewed cognizant staff. We analyzed FPDS-NG to identify 8(a) sole-source contracts that were awarded during the fiscal year period 2011 through 2014. Because there is no federal database that specifically identifies follow-on, sole-source contracts, we looked for certain contract characteristics in FPDS-NG that were an indication of a potential follow-on to a sister-subsidary. We identified contracts that had the following characteristics: (1) ANC-owned firms that shared the same parent ANC, location, and work performed by firms and sister subsidiaries; and (2) contracts with sequential award dates. On the basis of this analysis, we identified 155 contracts overall—about 4 percent of all contracts awarded to ANC-owned 8(a) firms from fiscal year 2011 through 2014—that could have been potential follow-on, sole-source contracts

⁹FPDS-NG is the central repository for U.S. government procurement data. Individuals and entities awarded contracts with an estimated value of \$3,000 or more must submit detailed contract information to FPDS-NG. The database includes the product or service, agency and vendor information, contract start and expiration dates, and location of performance, among other elements. We did not generate a sample or selection for objective 4. This research objective focuses on management challenges we identified while conducting our analyses for the other three research objectives.

¹⁰See our methodological discussion of objective 2 in the Objective, Scope, and Methodology section (appendix I) of this report.

according to our FPDS-NG data. We randomly selected 53 of these contracts for further review. The 53 contracts represented two groups: 23 small-value contracts (those contracts valued at \$150,000 or less), and 30 large-value contracts (those contracts valued at more than \$150,000). Because, generally, agencies are not required to provide offer letters to SBA prior to the award of contracts that are \$150,000 or less, our analysis ultimately focused on the 30 large-value contracts.¹¹ For these 30 large-value contracts, we reviewed documents such as offer letters and the actual contracts. Our review did not identify any contracts that were also follow-on, sole-source contracts. Table 1 outlines our selection of the sole-source contracts awarded from fiscal year 2011 through 2014.

Table 1: Summary of Selected Sole-Source Contracts, 2011–2014

Contract Type	Contract Characteristics
30 large value contracts ^a	Contracts valued at more than \$150,000. Files must contain documents such as offer letters and awarded contracts.
23 small value contracts	Contracts valued at \$150,000 or less Prior notification to SBA not required. ^b

Source: GAO analysis | GAO-16-113

Note: The random selection was taken from 155 contracts initially identified as potential follow-on, sole-source contracts based on selected variables.

^aThis report's final analysis focused on these large-value contracts.

^bFor this reason, these 23 contracts were excluded from our analysis.

Because of the imprecision in using these variables to identify the population of follow-on, sole-source contracts—that is, we cannot be fully assured that we have identified all possible cases—the results of our analysis are not generalizable to the larger population of contracts we identified. Further, it was not possible to determine from FPDS-NG data alone whether the other remaining 102 contracts that we initially identified in FPDS-NG as potential follow-on, sole-source contracts were actually

¹¹Under certain circumstances, procuring departments and agencies may award an 8(a) contract at or below \$150,000 without providing previous notification to SBA. Once an award has been made, however, the department or agency is required to notify SBA of the contract. 13 C.F.R. §§ 124.501(a) and 124.503(a)(4)(ii).

follow-on, sole-source contracts. Such a determination can only be made by a detailed review of each of the cases.¹²

To evaluate the extent to which SBA limits 8(a) subsidiaries of the same ANC from operating in the same primary line of business—that is, operating businesses primarily within the same North American Industry Classification System (NAICS) code—we reviewed SBA policies, guidance, and procedures in place at the time of our audit.¹³ We also analyzed subsidiary data from three systems: FPDS-NG, the System for Award Management (SAM), and SBA’s Dynamic Small Business Search (DSBS).¹⁴ Using these systems, we selected a non-generalizable selection of 39 unique parent ANCs that each owned multiple subsidiaries that participated in the 8(a) program and generated at least \$1 in 8(a) contract obligations from fiscal year 2011 through 2014.¹⁵ We reviewed detailed information on

¹²Our analysis of the selected variables from FPDS-NG that may indicate that the contract is a sole-source follow-on to an ANC sister subsidiary yielded results for the remaining 102 contracts. However, our more detailed review revealed that our methodology did not reliably identify cases that were truly follow-on, sole-source contracts to sister subsidiaries. For this reason, and other reasons described later in the report, we did not pursue further analysis of all of the cases.

¹³The North American Industry Classification System (NAICS) is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes were developed under the auspices of the Office of Management and Budget, and adopted in 1997 to replace the Standard Industrial Classification (SIC) system. Each solicitation for a federal procurement, above the micro-purchase level, is assigned an NAICS code that best describes the goods or services being acquired and the principal purpose of the procurement. Each NAICS code has a corresponding size standard and SBA establishes small business size standards on an industry-by-industry basis. Size standards are set forth in 13 C.F.R. Part 121 and generally are expressed in dollars or average number of full-time employees. Some NAICS codes include one or more subcategories of work with different corresponding size standards. SBA’s Office of Size Standards has identified that these subcategories are different enough to warrant separate recognition and that the industries are different enough to warrant distinct size standards. As such, two ANC-owned sister subsidiaries may share the same primary high-level NAICS code as long as they do not share the same subcategory with corresponding size standard.

¹⁴SAM is the official U.S. government system that maintains records on all federal prime contractors and is overseen by GSA. We used this system to identify primary NAICS codes. SBA’s DSBS is a searchable database that includes uploaded registration data that small businesses—including those participants of the 8(a) program—initially entered into SAM. DSBS is used by contracting officials to identify potential small business contractors for upcoming contracting opportunities.

¹⁵In all, there were 53 parent ANCs with at least one subsidiary firm participating in the 8(a) program.

these 39 ANCs. To verify the accuracy of data taken from these systems, we interviewed 6 ANC parent companies about the accuracy of data elements relevant to our findings, including NAICS codes, 8(a) program entrance and exit dates, obligations and revenue amounts. Additionally, because there were a number of new initiatives that SBA introduced related to this objective, we used our past guidance to assess whether the plans that SBA had in place articulated a results orientation, used intermediate steps to indicate progress made toward achieving its goals, and addressed identified mission critical goals.¹⁶ Our findings under this objective are not generalizable to the entire population of ANC-owned firms participating in the 8(a) program.

To determine the extent to which information is known regarding compensation, revenue, and benefit distribution of 8(a) ANC-owned firms, we randomly selected 30 firms that FPDS-NG identified as ANC-owned subsidiary firms active in the 8(a) program from fiscal year 2011 through 2014.¹⁷ We excluded four firms from our analysis because our review revealed that they were other than ANC-owned firms.¹⁸ We reviewed files (including applications and annual updates) for the 26 selected ANC-owned firms. Much of the data that we reviewed for this section were self-reported by ANC subsidiaries. We interviewed district office officials to discuss preliminary results from our file review and reviewed related documentation. Additionally, we spoke with officials from three associations about their knowledge of compensation paid by ANC-owned 8(a) firms. These groups represent the interests of the chief executive officers from the 12 Native Regional Corporations; that address issues related to Native federal contracting; and another group that represents the interests of indigenous people, generally. We also present information collected on subsidiary firm ownership in appendix II. Our description of firms under this objective is not generalizable to the entire population of ANC-owned firms participating in the 8(a) program.

¹⁶GAO, *Agency Performance Plans: Examples of Practices That Can Improve Usefulness to Decision-makers*, [GAO/GGD/AIMD-99-69](#) (Washington, D.C.: Feb. 26, 1999).

¹⁷This was out of the 665 firms that participated in the 8(a) program during that period.

¹⁸While all four firms excluded from our analysis were categorized in FPDS-NG as ANC-owned firms, three of the four firms were owned by individuals who were Alaska Natives. Under the rules, these firms are not considered ANC-owned firms. However, they are considered to be firms owned by disadvantaged individuals. The fourth firm was also owned by a disadvantaged individual, but was not an Alaska Native.

To assess the extent to which SBA has addressed challenges, if any, to its oversight and monitoring of ANC-owned firms participating in the 8(a) program since 2011, we reviewed SBA's implementation of program mechanisms designed to ensure the compliance of regulations related to our scope of work. We reviewed relevant SBA controls, policies, procedures, and guidance, and assessed the extent to which these mechanisms effectively aligned with federal standards for internal controls.¹⁹ We also interviewed key SBA officials and staff located at headquarters and at 4 of the 68 SBA district offices including Anchorage, Alaska; Richmond, Virginia; Washington, D.C.; and San Francisco, California, regarding SBA's implementation of management controls relevant to the scope of our review. These offices were selected because of the role they play in the 8(a) program (such as the San Francisco office's role in certifying the initial applications for ANC-owned firms seeking to enter the program) or for the number of ANC 8(a) firms that they service. For example, we selected a district office that served a large number of ANC-owned firms (the Alaska District Office) and ones that served a smaller number of firms (e.g. Washington, D.C., and Richmond, Virginia district offices) to compare their practices. We conducted site visits to both the Anchorage, Alaska, and Washington, D.C., district offices. During these site visits, we interviewed staff and conducted file reviews of selected ANC subsidiaries serviced by those district offices. As a part of our site visit to SBA's district office in Anchorage, Alaska, we collected data related to SBA's human capital planning for that office. Our approach to this specific part of the engagement included reviewing documents and interviewing cognizant officials with expertise in workforce planning methods. During these interviews, we discussed workforce plans, historical and current staffing numbers, and related challenges. Specifically, we asked about the skills and competencies needed to achieve program results, discussed the agency's strategies to address staffing gaps, and building necessary capacity. Additionally, we reviewed our own past work on human capital issues for guidance.²⁰ To inform other aspects of this objective, we also attended an SBA tribal consultation in Anchorage, Alaska, to obtain the overall perspectives of ANCs and their subsidiary firms on the 2011 regulatory changes to the program. The

¹⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#), (Washington, D.C.: November 1999).

²⁰GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

findings from these site visits and interviews are not generalizable to the other SBA district offices. Additional details on our scope and methodology for each objective can be found in appendix I.

We conducted this performance audit from May 2014 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

8(a) Business Development Program

The 8(a) program was designed to assist small, disadvantaged businesses in competing in the American economy through business development. Over the course of the program, qualified small, disadvantaged businesses can receive business development support from SBA, such as mentoring, procurement assistance, business counseling, training, financial assistance, surety bonding, and other management and technical assistance. However, one of the key areas of support is eligibility for set-aside competitive and sole-source federal contracts for 8(a) businesses, which can be an important factor in the financial development for ANC-owned firms.²¹

Organizational Structure

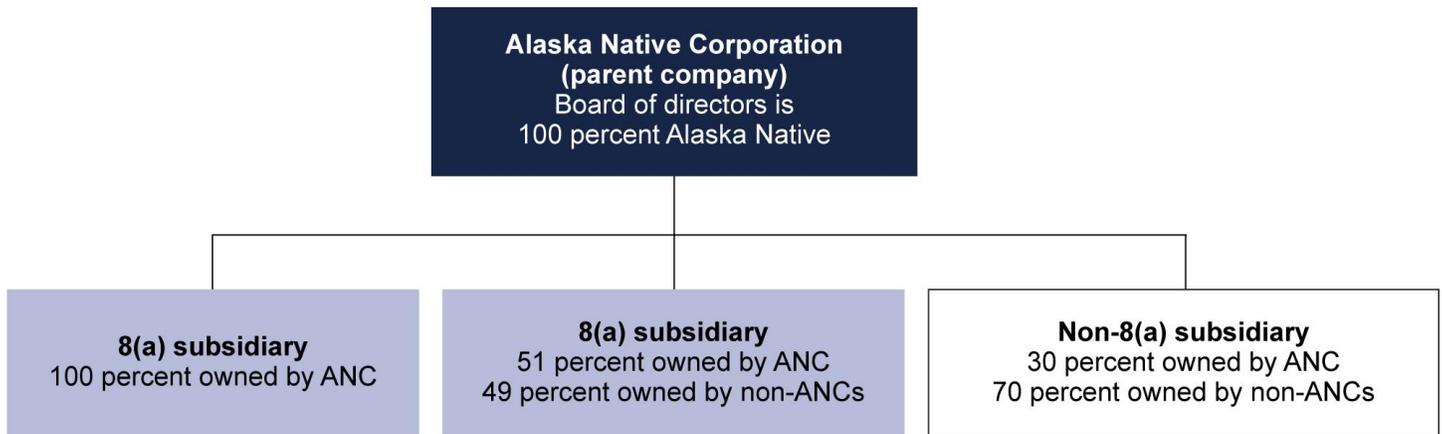
Generally, ANCs as organizations can be either for-profit or not-for-profit and can own a family of for-profit subsidiary firms, including but not limited to, wholly-owned holding companies that often provide administrative support to smaller sister subsidiaries.²² Additionally, ANCs can wholly or partially own, with at least a majority share, the subsidiary firms

²¹A set-aside is an acquisition reserved exclusively for participation by small business concerns. These may be awarded to SBA for performance by eligible 8(a) firms on either a competitive or sole-source basis. A sole-source award is a contract awarded, or proposed for award, without competition.

²²Wholly-owned ANC subsidiary firms comprised the majority (23 of 26) of firms we selected for one segment of our review. The remaining three were partnerships where an ANC owned the majority of the firm with non-ANC owners.

that participate in the 8(a) program, as illustrated in figure 1. But one condition for participation in the 8(a) program is that subsidiary firms are for-profit. Appendix II contains additional descriptive information about ownership for the firms we selected for our review.

Figure 1: Illustrative Example of a Corporate Structure of an Alaska Native Corporation’s (ANC) Family of Firms



Source: GAO. | GAO-16-113

Note: The example is an illustration and should not be viewed as generalizable to all ANC firms.

According to program rules, once a firm has been certified to participate in the 8(a) program, any changes in ownership should be reported to the local SBA district office.²³ When a change in ownership is reported, SBA’s certification and program eligibility office in San Francisco reevaluates that firm’s eligibility. SBA relies on the firm to provide updates on changes in ownership.

²³On the annual update, firms are expected to report whether there have been any changes in partnership agreements, articles of incorporation, by-laws, or stock issues since the firm received certification and that have not been previously reported to SBA.

8(a) Program Participation

Generally, firms, including ANC-owned firms, can remain in the 8(a) program for up to 9 years, provided they maintain their eligibility.²⁴ During the first 4 years, known as the developmental stage of the program, firms may be eligible for assistance including sole-source and competitive 8(a) contract support, and training in business capacity development and strategies to compete successfully for both 8(a) and non-8(a) contracts, among other things. During the last 5 years of the program, also known as a transitional period, firms are required to obtain a certain percentage of non-8(a) revenue to demonstrate their progress in developing into a viable business that is not solely reliant on the 8(a) program. SBA also provides a variety of other types of assistance to firms during the transitional phase of the program. In the later stage of the program, to remain eligible for continued sole-source contracting opportunities, participating 8(a) firms are expected to maintain a specific mix between 8(a) and non-8(a) contracts—assuming an increased number of non-8(a) contracts as they matriculate through the program beginning in the fifth year—and provide information to SBA on their achievement of developmental progress through annual reviews.²⁵ By the end of the program's term, firms are expected to attain a business mix from mostly non-8(a) federal contracts. Figure 2 below outlines the expected progression of a firm's development in the program.

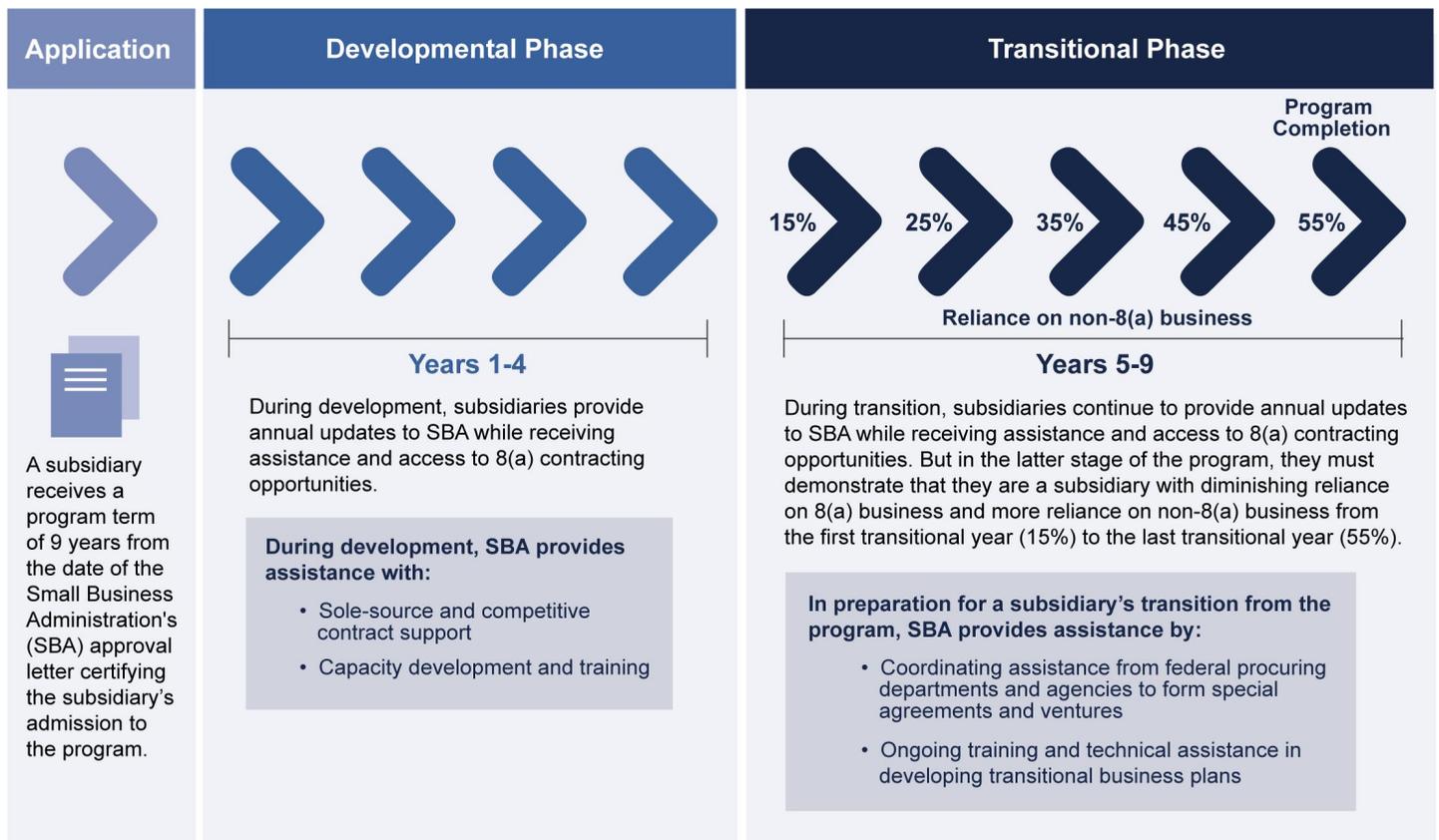
²⁴13 C.F.R. §124.2. If SBA certifies the firm, the firm remains certified for no more than 9 years from the date of SBA's approval letter. During this 9-year term, the 8(a) participant must maintain its program eligibility and must inform SBA of any changes that would adversely affect its program eligibility. A business can be approved to participate in the 8(a) program only one time.

²⁵While all 8(a) firms report annually to SBA, they are expected to time the updates of their progress on the anniversary of their entry date into the program. Throughout this report, we will present findings and data in terms of program year or fiscal year, as stated. When not explicitly stated, we are referring to a calendar year.

Figure 2: Progression through the Small Business Administration's (SBA) 8(a) Business Development Program

Applicant Alaska Native Corporation (ANC)-owned subsidiaries must prove that:

- ✓ they are majority owned by ANCs
- ✓ they qualify as a "small" business, and
- ✓ they have been in operation 2 years prior to application or can otherwise demonstrate potential for success, among other things.



Source: GAO. | GAO-16-113

Roles and Responsibilities of SBA and Procuring-agency Staff

In general, SBA's oversight and monitoring responsibilities for the 8(a) program are delegated to its 68 district offices nationwide. The first point of contact for an ANC-owned firm accepted into the program is the SBA district office and the compliance staff—referred to as business opportunity specialists—assigned to that firm. SBA's district offices are responsible for providing a combination of technical assistance/marketing and monitoring activities. With regard to its monitoring activities, SBA's business opportunity specialists:

-
- review annual updates provided by ANC firms as a key condition of continuing in the program.
 - review eligibility for contract offers,
 - assess and update business name and ownership changes,
 - assist firms in meeting their business acquisition targets; and
 - process early graduations, withdrawals, or terminations.

As part of these monitoring steps, SBA's business opportunity staff are expected to coordinate contracting activities with procurement staff at other federal departments and agencies.²⁶ Agencies must indicate their intent to award a procurement as an 8(a) contract by submitting a written offer letter to SBA, unless the contract does not exceed the Simplified Acquisition Procedures (SAP) threshold of \$150,000 and SBA has delegated its contract execution authority to the procuring agency. SBA's contracting staff are expected to review all awards over \$150,000 and may accept the award either as a competitive procurement—to be competed among all eligible 8(a) firms—or as sole-source procurement in support of a specific recipient. Internal coordinating responsibilities include ensuring compliance with certain regulations related to sole source contracts. Before SBA's contracting staff accept an offered procurement as an 8(a) sole-source contract, staff are expected to verify, among other things, the proposed firm's size status to ensure that it still qualifies as small under the identified NAICS code.

Other federal agencies that would like to use SBA's authority to offer contracts to 8(a) ANC-owned firms also have an important role in the 8(a) process. For sole-source awards, these agencies can identify ANC-owned firms to whom they want to offer contracts and submit those offers to SBA for approval. In our prior work, agencies told us that the award of these contracts to ANC-owned firms provides a streamlined contracting

²⁶Through partnership agreements between SBA and procuring agencies, SBA may delegate some responsibility for contract execution and administration to the contracting officers at the procuring agencies.

process and assists agencies in meeting their disadvantaged small business contracting goals.²⁷

2011 Revisions and Updates to SBA's 8(a) Regulations

In February 2011, SBA revised its regulations for the 8(a) Business Development program by adding language that (1) restricted the award of follow-on, sole-source 8(a) contracts to sister subsidiary firms owned by the same ANC; (2) made minor technical updates to outdated terminology regarding ANC ownership of multiple sister subsidiaries operating in the same primary line of business; and (3) revised existing rules related to ownership, compensation as a component of excessive withdrawals, and ANC-owned firm benefits reporting, among other things.²⁸

The 2011 changes to the regulations include:²⁹

- **Follow-on, Sole-Source Contracts**-Once an applicant is admitted to the 8(a) program, it may not receive an 8(a) sole-source contract that is a follow-on contract to an 8(a) contract that was performed immediately previously by another participant (or former participant) owned by the same ANC.
- **Sister Subsidiaries Sharing NAICS Codes**-Sister-subsidiaries of an ANC may not use the same NAICS codes for their primary lines of business.³⁰

²⁷Each federal department and agency is expected to set annual goals for procurement contracts awarded to small businesses, small disadvantaged businesses, women-owned small businesses, HUBZone small businesses and service-disabled veteran-owned small businesses. SBA is responsible for ensuring that the government-wide goal for participation of small business concerns is established annually at the statutory levels and the reporting agencies' achievements are relative to the goals.

²⁸76 Fed. Reg. 8222 (Feb. 11, 2011). According to SBA, the regulatory changes were the first comprehensive revision to the 8(a) program in more than 10 years. The changes ranged from technical changes to substantive clarifications of program rules that reflected the SBA's experiences in implementing the regulations.

²⁹In this report, we focus on the regulatory updates related to changes in follow-on, sole-source contracts, sharing NAICS codes and all changes related to ownership, compensation, excessive withdrawals and benefits reporting.

³⁰The change made to this particular regulation was a technical update to the language previously in effect since 1998.

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- **Other Reporting Requirements**-A number of clarifications and revisions were made to rules related to how compensation provided to firm officials impacts SBA's excessive withdrawal limits and the provision of an annual benefits report for ANC-owned firms. Specifically, SBA revised previous excessive withdrawal rules that, in SBA's opinion, unnecessarily hampered an 8(a) firm's ability to recruit and retain key employees or to pay fair wages to its officers. SBA, in its new rule, clarified that officers' salaries generally will not be included within what constitutes a withdrawal unless, when looking at the totality of the circumstances, SBA believes the compensation represents an attempt to circumvent the excessive withdrawal limit. When SBA determines withdrawals are excessive and detrimental to the achievement of a firm's business development goals, SBA may initiate termination proceedings against a firm. Importantly, the excessive withdrawal analysis does not apply to withdrawals made by ANC-owned firms for the benefit of the ANC or the native or shareholder community. SBA also updated the rules for excessive withdrawals by increasing each maximum threshold amount by \$100,000. Therefore, withdrawals are deemed excessive if in the aggregate during any fiscal year they exceed:

- (i) \$250,000 for firms with sales up to \$1,000,000;
- (ii) \$300,000 for firms with sales between \$1,000,000 and \$2,000,000; and
- (iii) \$400,000 for firms with sales exceeding \$2,000,000.

Finally, the rules also require ANC-owned firms to submit an annual report on the benefits distributed to ANC or the community.

Weaknesses in SBA Oversight Limit its Ability to Enforce Prohibitions on Follow-On, Sole-Source Contracts to ANC Sister Subsidiaries

As we have reported previously, SBA's ability to identify and enforce the regulations that prohibit the award of follow-on, sole-source contracts to subsidiaries of the same ANC is limited by a process that relies on the information provided by federal contracting departments and agencies, which we found in many cases to be incomplete.³¹ According to SBA regulations, once an applicant is admitted to the 8(a) program, it may not receive an 8(a) sole-source contract that is also a follow-on contract to an 8(a) contract that was performed "immediately previously" by another participant (or former participant) firm owned by the same ANC. To assess whether contract awards are in line with this prohibition, SBA regulations require contracting agencies to provide an offer letter with details on 17 items related to the contract, such as type of contract, acquisition history (if any), contract value, and the names of any small business contractors who have performed the requirement in the previous 24 months.³² Figure 3 below is an excerpt of the 8(a) program regulation outlining the items that must be included in an agency offer to SBA.

³¹[GAO-12-84](#).

³²An offer letter is an official notification to SBA by a procuring agency that intends to award a contract under the 8(a) Business Development program. 13 C.F.R. § 124.502(c). Regulations that outline what information must be included were in place prior to the revisions in SBA's 2011 final rule.

Figure 3: Excerpt from 13 C.F.R. § 124.502(c) on the 17 Required Items to Include in Offer Letters to SBA's 8(a) Program

Required Items to be Included in Agency Procurement Offer Letters Submitted to the Small Business Administration (SBA) 8(a) Business Development Program

13 C.F.R. §124.502(c) How does an agency offer a procurement to SBA for award through the 8(a) Business Development program?

“(c) An offer letter must contain the following information:

- (1) A description of the work to be performed;
- (2) The estimated period of performance;
- (3) The NAICS code that applies to the principal nature of the acquisition;
- (4) The anticipated dollar value of the requirement, including options, if any;
- (5) Any special restrictions or geographical limitations on the requirement;
- (6) The location of the work to be performed for construction procurements;
- (7) Any special capabilities or disciplines needed for contract performance;
- (8) The type of contract to be awarded, such as firm fixed price cost reimbursement, or time and materials;
- (9) The acquisition history, if any, of the requirement;**
- (10) The names and addresses of any small business contractors which have performed on this requirement during the previous 24 months;**
- (11) A statement that prior to the offer no solicitation for the specific acquisition has been issued as a small business set-aside, or as a small disadvantaged business set-aside if applicable, and that no other public communication (such as a notice in the Commerce Business Daily) has been made showing the procuring activity's clear intent to use any of these means of procurement;
- (12) Identification of any specific Participant that the procuring activity contracting officer nominates for award of a sole source 8(a) contract, if appropriate, including a brief justification for the nomination, such as one of the following:
 - (i) The Participant, through its own efforts, marketed the requirement and caused it to be reserved for the 8(a) Business Development program or
 - (ii) The acquisition is a follow-on or renewal contract and the nominated concern is the incumbent;
- (13) Bonding requirements, if applicable;
- (14) Identification of all Participants which have expressed an interest in being considered for the acquisition;
- (15) Identification of all SBA field offices which have requested that the requirement be awarded through the 8(a) Business Development program;
- (16) A request, if appropriate, that a requirement whose estimated contract value is under the applicable competitive threshold be awarded as an 8(a) competitive contract; and
- (17) Any other information that the procuring activity deems relevant or which SBA requests.”

Senior SBA officials in Anchorage, Alaska, who oversaw about 50 percent of the active ANC firms in the program from fiscal year 2011 through fiscal year 2014 (the period of our analysis) —informed us that they enforce the regulation prohibiting the award of follow-on, sole-source contracts to ANC sister-subidiaries exclusively by reviewing information provided in the procuring agency offer letters that agencies are required by program rules to submit.

According to SBA officials we spoke with, and as we found in our review of 30 large value sole-source contracts performed by 8(a) ANC-owned firms, an acquisition history and information on previous small business contractors was not always clearly provided by agencies in the offer letters for the contracts.³³ Two offer letters could not be located by SBA, as a result we reviewed a total of 28 offer letters. Our analysis found that 3 of 28 offer letters lacked any information about the contract’s acquisition history, and 13 did not provide information on the firms that performed the work in the previous 2 years. However, if no acquisition history exists, regulations do not require that fact to be included in the offer letter. Likewise, regulations only require information on prior small business contractors that performed the work in the previous 2 years, and other types of firms need not be included in the offer letter. Table 2 outlines the extent to which the offer letters addressed critical information necessary for monitoring for follow-on, sole-source contracts.

Table 2: Extent to Which Critical Elements Were Included in a Non-Generalizable Selection of 30 Offer Letters from SBA and Procuring Agencies, 2011-2014

Information included in offer letter?	Yes	No Response ^a	Unclear ^b	Offer Letter Not Provided
Item 9: Acquisition history	17	3	8	2
Item 10: Names of the small businesses that previously performed the work in the last 2 years?	10	13	5	2

Source: GAO analysis of SBA and agency documents. | GAO-16-113

³³As we previously mentioned in this report, our final analysis evaluated 30 large value contracts—or contracts valued over the \$150,000 SAP threshold because agencies may not enter into such contracts without first providing information to SBA. While our analysis ultimately revealed that the contract activities for these 30 cases were unrelated and thus, not follow-on, sole source contracts; we did identify challenges to SBA’s ability to identify sole source contracts and enforce its prohibition against them. See table 1 for our previous discussion of our selection methodology.

Note: For our analysis of 30 selected contracts, we were able to obtain 23 offer letters from SBA and another 5 letters from the procuring agencies. Neither SBA, nor the agency, was able to provide a letter for 2 contracts awarded through the 8(a) program, which we coded as "offer letter not provided."

^aIn some instances the agency did not provide a response to either Item 9, the acquisition history, if any, or Item 10, any small business contractors that performed the work during the previous 2 years. If no acquisition history or previous small business contractors exist, then no response is required under SBA's regulations.

^bWe found several cases where an agency indicated "N/A" in response to Item 9, acquisition history, but also listed a prior contractor in the offer letter. In one instance, an agency responded N/A to Item 9 and then did not provide any other information in its letter.

Outlining the acquisition histories and information about the small businesses that previously performed the work in the offer letters is critical to enforcing the prohibition. However, as our analysis shows, SBA did not regularly collect this information. SBA officials reported that they can send correspondence to procuring departments and agencies providing guidance on what information SBA needs to see when offer letters fall short of the requirements. In our review of SBA files for the 30 selected cases, we did not find documentation that SBA conducted any follow-up on nonresponses or instances where the responses provided were unclear in offer letters by agencies prior to our request. As highlighted in table 2, we found 8 cases in which the agency indicated the previous acquisition history was not applicable; but then in the same offer listed a prior small business contractor that performed the work in the prior 2 years. In these cases, it is unclear whether the prior contractors listed actually performed the same work. In all examples where it is unclear, SBA cannot enforce its prohibition against sister-subsidaries receiving follow-on, sole source contracts without following up with the agency to clarify its responses. When SBA does not have sufficient or accurate information in offer letters, and does not follow-up to obtain this information, the agency is not positioned to enforce its prohibition, as the agencies do not know whether or not a firm is a sister subsidiary of the prior small business contractor.

Additionally, we noted that SBA's guidance on offer letters did not ask specifically about whether the contract was a follow-on or not. Alaska District Office officials—those officials responsible for reviewing sole-source offer letters for 50 percent of the active ANC-owned firms in the program—agreed that it would be helpful if SBA required agencies to specifically list whether a contract is a follow-on, sole-source contract in their offer letter; as well as ensure that information about the incumbent firm, or the small business that previously performed the contract, that was awarded the previous contract, if there was one, is listed in their offer letter. According to these officials, they have found that the omission of this type of information in agency offer letters is sometimes due to the

inexperience of or lack of understanding of key 8(a) regulatory requirements by procuring officials at other federal agencies, regarding what they should provide to SBA, and noted that the lack of guidance and training makes it difficult to fully meet program requirements. Senior officials in SBA's Office of Business Development, which has national oversight of the 8(a) program, also agreed that obtaining additional information in the procurement offer letters would be useful.

As a result of our site visit in October 2014, a senior Alaska District Office official developed a template to send to agencies providing guidance that specifically asks the agency to list whether a contract is a follow-on, sole-source contract in their procurement offer letters. The district office in Alaska provided us with one example of an agency using their template for an offer letter, which resulted in SBA obtaining the required information on acquisition history and whether the contract was a follow on. However, this positive change has not been adopted more broadly across the agency.

We have previously reported that information about follow-on contracts is not systematically collected or tracked by SBA or any other federal database or system. We recommended in 2006 and again in January 2012 that SBA reinforce to procuring agencies the requirement to provide the full acquisition history of the procurement in the offer letter, and direct district office business opportunity specialists to focus on this issue when they review offer letters for 8(a) firms. SBA neither agreed nor disagreed with this recommendation but did state in August 2013 that additional guidance regarding offer and acceptance will be fully delineated in the revised 8(a) Business Development program Standard Operating Procedures manual. As of October 2015, the guidance for SBA staff had not been revised.³⁴ Federal standards for internal control emphasize that guidance is a necessary part of an effective internal control system and should be periodically evaluated to ensure consistency and continued applicability to existing controls, such as regulations.

³⁴GAO-12-84. Based on our discussion with officials, SBA has had difficulty in launching the systems we recommended that would enable SBA to track relationships between 8(a) contracts, and thus more readily identify potential sole-source, follow-on contracts improperly awarded to ANC sister subsidiaries. We address this issue in greater detail later in this report.

We also found that SBA did not maintain all required documentation in its files—such as offer letters, acceptance letters, and contracts—that would have allowed the agency to examine its previous records to independently determine whether contracts were follow-on, sole-source contracts.³⁵ In order to retain a delegation of SBA’s contract execution and review functions, procuring agencies must report all 8(a) contract awards, modifications, and options to SBA. According to SBA’s internal guidance, district offices must maintain files for all contracts awarded through the normal 8(a) review and approval process, to include all necessary contract documents. For contracts awarded through an SBA partnership agreement, the district office must maintain a copy of the offer document and notice of award, or first page of the contract, in the firm’s business development file. Additionally, federal internal control standards require that agencies clearly document all transactions and other significant events, and all documentation and records should be properly managed and maintained.³⁶ When SBA does not maintain such documentation or take pro-active steps to collect this information when not provided by the procuring agencies, it is impaired in its ability to adequately monitor for follow-on, sole-source contracts. Table 3 summarizes the extent to which SBA was able to produce key documents that can help monitor for follow-on, sole-source contracts for 30 selected cases that exceeded the SAP.

Table 3: SBA Contract Documents Provided for 30 Selected Cases of Potential Follow-on, Sole Source Contracts, 2011-2014

Contract document	Document provided?	
	Yes	No
Procuring agency offer letter	23	7
SBA acceptance letter	25	5
Contract	8	22

Source: GAO analysis of federal procurement documents. | GAO-16-113

³⁵As an additional step, and in order to obtain the missing documentation, we contacted some of the federal procuring departments and agencies directly related to these contracts. In the 30 cases we reviewed, we found that the contract activities were unrelated. However, SBA did not maintain sufficient documentation in order to make this same determination for some of the contracts we selected.

³⁶[GAO/AIMD-00-21.3.1](#).

As highlighted in table 3, SBA was unable to provide us with the offer letters for 7 of the 30 contracts we reviewed, or 5 of 30 acceptance letters. Additionally, SBA could not provide us with 22 of the 30 contracts. For example, we found that SBA did not have any record of an offer letter or an acceptance letter on file for one physical distribution/logistics services contract valued at \$337,000. Additionally, SBA officials reported that they were not aware of this contract until we brought it to their attention during the course of our review.³⁷ When SBA checked with the procuring agency, as a result of our inquiry, the agency supplied information about the contract in lieu of an offer letter. SBA noted that key documents were also missing for other selected contracts from this agency. SBA officials stated that this could be an indication that the agency procurement officer was not familiar with the terms of the partnership agreement and the requirements of the 8(a) award process.

SBA officials in the Alaska District Office and the Headquarters Office of Business Development stated that they face documentation challenges such as those described above in enforcing regulations prohibiting follow-on, sole-source contracts to ANC sister subsidiaries, and that more can be done by SBA to improve collecting data needed for this oversight. They also noted additional ways to improve SBA's enforcement of this regulation, such as providing additional training on this requirement to procurement agencies and additional guidance to SBA business opportunity specialists on how to respond to this missing information when determining whether to approve contracts.

While SBA offers training to agencies on how to award sole contracts through the 8(a) program, the current training does not specifically address how to monitor for the prohibited type of follow-on, sole-source contracts. In 2006, we recommended that SBA improve its oversight practices by providing more training to agencies on the 8(a) program to specifically include segments that address ANC-owned participants.³⁸ In 2012, we further recommended that SBA reinforce the requirement for procuring agencies to provide the full acquisition history of the procurement in the offer letter and to direct district office business opportunity specialists to focus on

³⁷To facilitate our review of the missing documents, we asked the procuring agency to provide us with copies of available materials from their files.

³⁸See GAO, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight*, [GAO-06-399](#) (Washington, D.C.: Apr. 27, 2006).

this issue when they review offer letters for ANC-owned 8(a) firms.³⁹ SBA has taken some steps to address these deficiencies such as offering training that addresses this requirement.

In response to our draft report, SBA stated that—based in part on our discussions with agency officials during this review—it provided training to at least 19 different federal departments and agencies with over 1,070 contracting staff in attendance between fiscal year 2014 and 2015. SBA also reported that some of these sessions were recorded so that the information would be readily accessible for refresher courses as well as new hire training. However SBA did not develop similar training efforts for its own staff.

We continue to believe that there are opportunities to be more specific about what information needs to be obtained from procuring agencies because we found that the acquisition history and information on who performed the work previously is still not always being provided or sufficient enough for SBA to identify follow-on, sole-source contracts. In order to help improve this information collection, SBA could enhance its training to procuring agencies by specifically describing what the agencies should include in their offer letters regarding sole source contracts and the difficulty of enforcing the regulations without this information. Similarly, SBA business opportunity specialists could benefit from training that specifically addresses how to enforce this regulation, including what follow-up steps need to be taken when agencies do not provide adequate information and what to maintain in the files.

As we mention later in this report, SBA has yet to address problems with the guidance in this area. The guidance that is used by business opportunity specialists to administer 8(a) contracts is outdated—having been last updated in 2008, 3 years before the change in the regulations—and also does not address how to monitor for the prohibited type of follow-on, sole-source contracts. Ideally, when SBA updates its 8(a) guidance, it will include information about how a business opportunity specialist should collect information from agencies when offer letters do not include adequate detail. Federal internal control standards suggest that appropriate, policies and procedures exist with respect to an agency's activities. Without updated guidance in the form of policies and

³⁹[GAO-12-84](#).

procedures that specifically address specific monitoring issues for the benefit of the business opportunity specialists, SBA will not be able to enforce this regulation.

We provide more detail on the implications of SBA's training efforts and its guidance for implementing the 8(a) program later in this report. Requesting that agencies specifically state whether a sole-source contract is also a follow-on in offer letters, providing additional training on this specific step to procuring agencies, as well as developing guidance to SBA officials on rules for collecting this data—would better position SBA to reduce potential violations of follow-on, sole-source contracting regulations, and to prevent the improper award of contracts.

SBA Faces Oversight Challenges in Detecting 8(a) ANC Sister Subsidiaries Operating in the Same Primary Line of Business, and Steps to Address these Challenges Are Still Being Formulated

SBA faces oversight challenges to detect ANC-owned subsidiaries owned by the same parent company from operating in the same primary line of business because of limited: (1) data collection and tracking and (2) information access and sharing across district offices, as we have previously reported. SBA has recently initiated steps to address these challenges, but these steps have not yet been completed.

Limited Data Collection and Tracking Poses Oversight Challenge for SBA, and the Agency's Steps to Address this Challenge Are Incomplete

According to SBA officials, during enrollment and annual reviews, SBA enforces its prohibition on sister 8(a) ANC-firms having the same primary NAICS code.⁴⁰ However, SBA's current systems still do not collect and track firms' underlying revenue activity as we recommended in 2006 and 2012, including revenues generated from secondary lines of business that would help SBA identify firms that are potentially circumventing the intent of its prohibition. Specifically, SBA 8(a) regulations prohibit an ANC from owning 51 percent or more of an 8(a) applicant that is the sister subsidiary of another 8(a) participant, which either at the time of application or within the previous 2 years, has been operating in the 8(a) program under the same primary NAICS code as the applicant. The prohibition's goal is to assist ANC-owned firms with diversifying their businesses in such a way that would enable them to survive in the market after they leave the 8(a) program. Program rules permit 8(a) firms to engage in secondary lines of work to promote their business growth. Thus, SBA's prohibition is intended to encourage 8(a) firms owned by the same ANC to expand their business activities by having them primarily engage in independent and viable businesses that perform separate and distinct work.

In general, SBA enforces its prohibition when ANC-owned firms initially enroll in the program and also during their annual reviews to ensure that the same primary NAICS code that a firm provides is not also being used by another sister firm owned by the same ANC.⁴¹ For example, according to SBA officials, SBA's Division of Program Certification and Eligibility (DPCE) is required to verify that the primary NAICS code that an ANC-owned firm self-reports on its 8(a) application is not the same primary code used by a sister ANC-owned firm who is also participating in the 8(a) program. This office is also tasked with verifying that the primary NAICS code reported to SBA accurately represents the firm's business activities or intended business activities (in the case of newly organized concerns). SBA

⁴⁰Some NAICS codes include one or more subcategories of work with different corresponding size standards. Two sister subsidiaries may share the same primary high-level NAICS code as long as they do not share the same subcategory with corresponding size standard. For purposes of this report, when we refer to SBA's prohibition against sister subsidiaries sharing primary NAICS codes, we mean it to include this subcategory distinction when relevant for the particular code.

⁴¹As a condition for continued participation in the program, 8(a) firms are to submit information such as total amounts of all 8(a) and non-8(a) revenues, compensation, and benefits distributed to the community in their annual reviews.

officials also told us that the San Francisco district office will also conduct this type of verification when a subsidiary submits a formal request to change its primary NAICS code. After SBA reviews an ANC-owned subsidiary's primary NAICS code during enrollment, SBA officials stated that district offices are to verify that the primary NAICS code that a subsidiary submits to SBA during its annual review is the same code that it reported during enrollment. However, beyond these checks, SBA does not currently have a regular or ongoing monitoring method or mechanisms in place for collecting and tracking firm activity, including revenues, to help ensure that 8(a) ANC subsidiaries owned by the same parent firm are not potentially circumventing the intent of SBA's prohibition as we have recommended in the past. Furthermore, under SBA's current regulations, after being certified to participate in the 8(a) program, there is no requirement that an 8(a) participant actually perform most, or any, work in the six digit NAICS code selected as its primary business classification in its application, and SBA may, but has not yet, revised its regulations to provide itself with the authority to unilaterally change a firm's primary NAICS code on its own. In fact, SBA permits 8(a) firms to engage in secondary lines of work to promote their business growth.

SBA's ability to track which NAICS codes are generating revenues for 8(a) ANC firms is limited and represents a long-standing vulnerability that we reported on before. For example, to help reduce this vulnerability, in April 2006, we recommended that the agency collect and track the revenues that subsidiaries generate under all their primary and secondary NAICS codes. However, SBA did not indicate whether or not it planned to implement this 2006 recommendation.⁴² In January 2012, we then recommended that SBA develop a system to collect and track such revenue to help ensure that sister subsidiaries under the same parent company are not generating the majority of their revenue from the same primary industry.⁴³

According to SBA officials, SBA attempted to design a database with the purpose of tracking firm activity collected by existing systems, including

⁴²[GAO-06-399](#). We later closed this recommendation as not implemented.

⁴³[GAO-12-84](#). However, as we found then and now, SBA's current systems that track 8(a) participant data do not collect or track revenue that sister subsidiaries generate under all primary and secondary NAICS codes.

primary NAICS codes and revenues across the 8(a) program beginning in December 2011. However, in March 2015, SBA officials told us that SBA has decided to terminate this initiative because the database's design was not functional or compatible with existing SBA systems.⁴⁴ SBA officials told us that they were considering how their existing systems, including the Business Development Management Information System (BDMIS), can be improved to better support the agency's oversight efforts; however, they stated that they had no immediate plans or timelines for when this new initiative would begin or be finalized. As a result, SBA's existing systems, including BDMIS, still do not currently collect or track revenue amounts from primary or secondary NAICS code sources, limiting SBA's ability to help ensure that firms are complying with both the letter and intent of its prohibition. Fully implementing our 2012 recommendation would help SBA to effectively monitor all subsidiary activity and help ensure that such activity aligns with the goals of SBA's prohibition and 8(a) program.

SBA officials said that they are aware of some instances where ANC-owned 8(a) subsidiaries have potentially circumvented the intent of the agency's prohibition by entering the program under a primary NAICS code, but perform little to no work under that code. SBA has found that that these firms instead generate a greater portion of revenues in a secondary line of work under a NAICS code that another existing sister subsidiary uses as its primary NAICS code. According to SBA officials, this activity does not violate the agency's regulation because the prohibition only applies to the sister subsidiary's primary stated NAICS code, and not to the underlying actual revenue that an ANC-owned subsidiary generates in practice under other NAICS codes.

Because SBA does not require 8(a) firms to actually perform any work under their stated primary NAICS codes, there are opportunities for ANC-owned subsidiaries to circumvent the intent of this prohibition by generating a greater portion of revenues under a secondary NAICS code that a sister subsidiary is using as its primary code. For example, out of a non-generalizable selection of 39 parent ANCs we reviewed, we did not

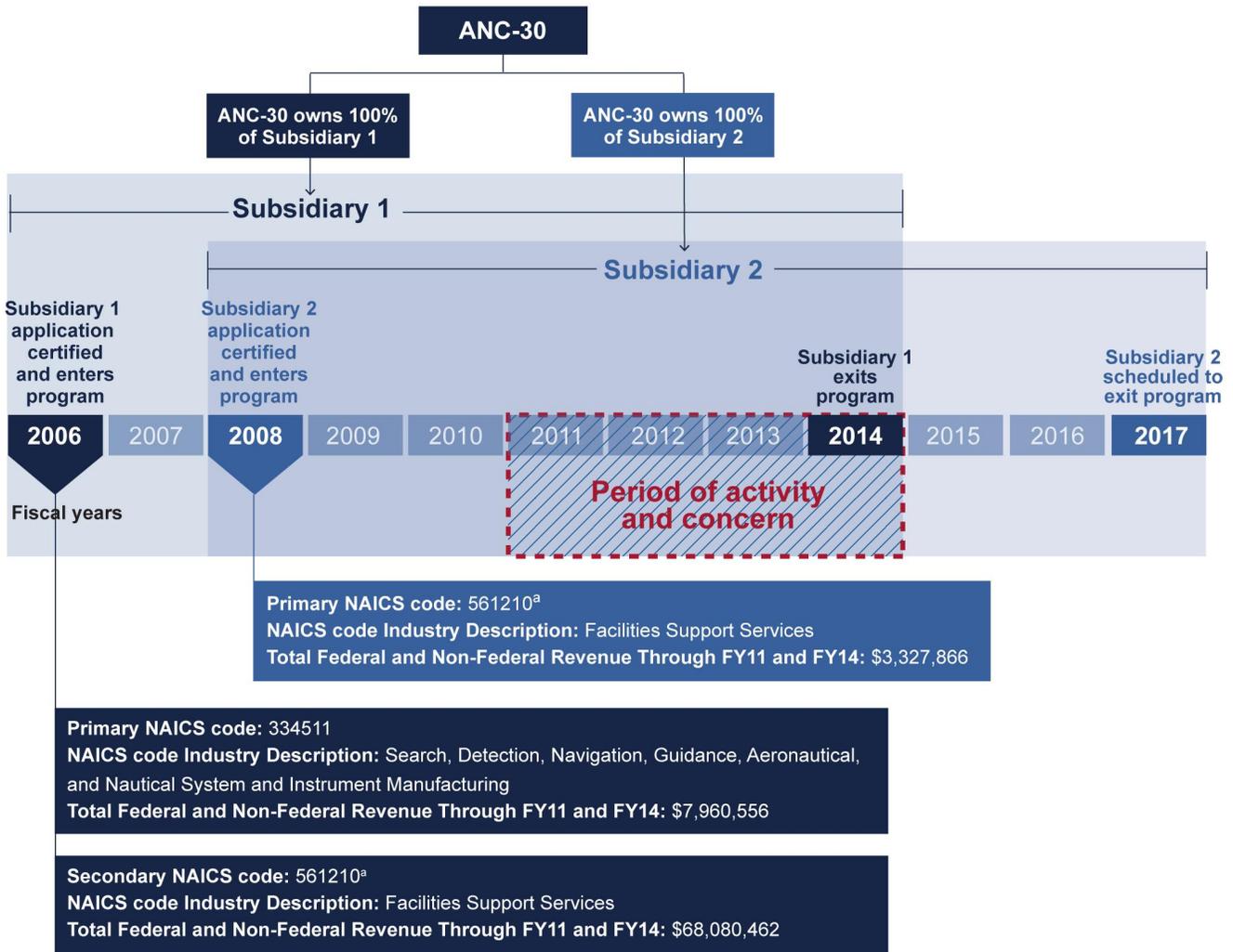
⁴⁴In February 2014, SBA's Office of Inspector General (OIG) found that SBA failed to follow federal acquisition rules and guidance during the acquisition process of this database. According to the OIG, this resulted in SBA acquiring a system that would have insufficient capabilities not aligned with what it had originally designed. SBA OIG, *The SBA Did Not Follow Federal Regulations and Guidance in the Acquisition of the One Track System*, rpt. no. 14-10 (February 2014).

detect instances where parent ANC's actually violated SBA's prohibition by owning multiple 8(a) sister subsidiaries sharing the same primary line of business (expressed as a NAICS code). However, out of that same selection, we found that from fiscal year 2011 through fiscal year 2014, at least five ANC's owned multiple subsidiaries that generated less revenue under their primary NAICS codes than what they generated under a secondary NAICS code, which a sister subsidiary used as its primary code. Further, two of these five parent ANC's owned subsidiaries that generated no revenues under their primary NAICS codes from fiscal year 2011 through fiscal year 2014. If such activity is left untracked, a firm's secondary line of business could effectively become its primary revenue source in the same line of business that its sister firm claims for its primary line of business without actually violating the regulation. As mentioned earlier, we reported on this vulnerability in 2006 and 2012. Although this type of activity is not prohibited, as SBA has noted, it potentially conflicts with the intent of SBA regulations aimed at encouraging ANC's to ensure that their sister subsidiaries diversify their lines of business and operate independently. This is to ensure that the subsidiaries will be prepared to succeed as independent businesses in the open market after they leave the 8(a) program.

In one of the five examples, a parent ANC (ANC-30) owned two sister subsidiaries that concurrently participated in the 8(a) program from fiscal year 2008 through 2013, and both generated revenue under NAICS code 561210, as shown in figure 4 below. However, Subsidiary 1 listed NAICS code 561210 as its secondary NAICS code while Subsidiary 2 listed this same NAICS code as its primary NAICS code. From fiscal year 2011 through 2014, Subsidiary 1 generated millions of dollars less in revenue under its primary NAICS code 334511 than what it generated under its secondary NAICS code 561210. (For illustrative purposes, see appendix III for five examples of ANC's that owned subsidiaries that generated millions of dollars in revenue in the same line of business as sister subsidiaries, while generating millions of dollars less or no revenue under their primary line of business. In this appendix, we do not illustrate all the ANC's that owned firms that participated in this same activity during the scope of our review.)

Figure 4: Example of Two Sister Subsidiaries Generating Millions of Dollars in Revenue in the Same Line of Business

Through fiscal year (FY) 2011 and 2014, Alaska Native Corporation-30 (ANC-30) owned Subsidiary 1 when it generated much less in revenue under its primary NAICS code 334511 while generating millions more in secondary NAICS code 561210 that was the same NAICS code that Subsidiary 2 used for its primary NAICS code. In effect, this activity could have potentially circumvented, but not necessarily violated, the SBA's prohibition on sister ANC-owned subsidiaries sharing the same primary NAICS code.^a



Period of activity and concern - Both subsidiaries concurrently received federal obligations and generated revenue in the same line of business under NAICS code 561210 while active in the 8(a) program through 2011 and 2014. However, the subsidiaries' parent ANC did not violate SBA's prohibition because the subsidiaries did not both claim to use NAICS code of 561210 as their primary NAICS code.

Source: GAO. | GAO-16-113

^aSBA prohibits ANCs from owning 51 percent or more of an 8(a) applicant that is the sister subsidiary of another 8(a) participant which, either at the time of application or within the previous 2 years, has been operating in the 8(a) program under the same primary NAICS code as the applicant.

The firm activity we identified could be attributed to market conditions or business opportunities as ANC and SBA officials have noted, but, as we have previously reported, such activity warrants monitoring. According to one ANC official at an ANC parent corporation, when a subsidiary pursues work under multiple NAICS codes, the greatest portion of its revenue may naturally fall from its primary NAICS code to a secondary NAICS code from one year to the next due to market fluctuations or other valid business reasons that are unrelated to an intention to circumvent program rules. Likewise, SBA officials also told us that such behavior could be attributed to market occurrences as ANC subsidiaries seek 8(a) opportunities in diverse industries other than the industry for their primary NAICS code. We believe that this is one possible explanation for such behavior.

In February 2015, SBA proposed a rule that would effectively give it the authority to change a subsidiary's primary NAICS code when it finds that the "greatest portion" of the subsidiary's total revenues during a 3-year period have evolved from its primary NAICS code to a secondary NAICS code. According to SBA, this proposed rule will allow SBA to initiate a change of the relevant firm's primary NAICS code. If finalized as proposed, the rule would require SBA to give an affected firm the opportunity to provide any relevant information including revenues generated in the commercial market, documentation of the pursuit of contracting opportunities under the firm's primary line of business to establish that the firm's primary NAICS code should not be changed. The proposed rule was released for public comment in February 2015 and had not been finalized as of October 2015.⁴⁵ SBA officials indicate that the proposed rule may be finalized by mid-March 2016.

During the course of this audit, in June 2015, SBA officials told us that the agency had plans to take steps to further mitigate this potential vulnerability by using a random surveillance method to track and monitor the revenue generated under a subsidiary's primary and secondary NAICS codes. SBA planned to implement a random surveillance method

⁴⁵The proposed rule would give some discretion to SBA and afford subsidiaries an opportunity to provide information explaining why such a change would be inappropriate. However, four ANCs told us that they do not support the proposed rule as written as they are concerned that it could give SBA authority to automatically change an ANC-owned subsidiary's primary NAICS code without any formal review or corrective action process.

by incorporating this method with its continuing eligibility reviews.⁴⁶ Specifically, according to officials, this method would involve using FPDS-NG data to randomly select ANC-owned subsidiaries that generate less or no revenue under their primary NAICS code while generating much more revenue in another NAICS code that a sister subsidiary is using for its primary NAICS code. This activity would have to occur over a period of 2 consecutive years. According to SBA officials, upon identifying such activity, the subsidiaries would have been notified about SBA's concern in writing during their continuing eligibility review, and asked to take precautions about engaging in this type of activity to avoid further action by the SBA.

Officials reported that they planned to start using the surveillance reviews by the end of September 2015. As of December 2015, SBA had not fully documented and implemented its random surveillance method.⁴⁷ However, in February 2016, after reviewing a draft of this report, SBA informed us that it had delayed plans for the random surveillance, and had taken steps in the interim to begin monitoring the revenue generated under a subsidiary's primary and secondary NAICS codes by tracking award obligations for all entity-owned firms in a spreadsheet.

SBA stated that this spreadsheet will be updated annually and its personnel will be provided instructions, consistent with a related proposed regulation, on how SBA associates should review the tracking mechanism. According to SBA, once the related regulations are finalized, the tracking system will be posted to SBA's intranet, making it accessible to all business opportunity specialists. However, in order to more accurately reflect firm activity in an industry, SBA would need to track revenues rather than just federal obligations, which may overstate or understate the amount of income actually generated.

Internal control standards state that agency procedures, techniques, and mechanisms to enforce management directives should be an integral part of an agency's planning and implementing efforts. As we have reported in the past, developing and using specific milestones and timelines to guide

⁴⁶According to SBA officials, these continuing eligibility reviews will involve centralized staff conducting oversight that will involve reviewing and certifying that the subsidiaries continue to be eligible to participate in the 8(a) program.

⁴⁷GAO did not review SBA's draft plan, which SBA officials indicated had not yet been finalized.

and gauge progress toward achieving an agency's desired results is a leading practice for effective strategic planning and management.⁴⁸

Documenting concrete timelines and milestones for implementing its random surveillance monitoring method, will better position SBA to effectively implement and operationalize its method for identifying firm activity that may circumvent, intentionally or not.

Limited Information Access and Sharing Across District Offices Hinders SBA Oversight

Contributing to SBA's challenges in tracking NAICS revenues are limitations placed on SBA district office staff's ability to access and share important subsidiaries' NAICS codes across district offices. For example, SBA officials told us that their business opportunity specialists are responsible for overseeing 8(a) ANC-owned firms serviced across SBA's 68 district offices. At each of SBA's 68 district offices, the business opportunity specialists use the same internal database, including the BDMIS, to access and share subsidiary data for the ANC-owned firms that they are responsible for servicing—including the primary and secondary NAICS codes approved for use by the 8(a) participant. However, officials from SBA's Headquarters and four district offices told us that the agency's system rules and strict access privileges within these systems restrict business opportunity specialists from accessing and sharing NAICS code data across district offices. This includes NAICS code data for subsidiaries that their offices do not service, but are owned by the same parent ANC that owns subsidiaries that they do service. SBA officials told us that this access limitation can also occur within a district office when different business opportunity specialists are responsible for servicing different subsidiaries that are owned by the same parent ANC. SBA officials in headquarters told us that these access limitations are used to protect the privacy—the individual confidential business and financial information—of ANC subsidiaries.

Although we recognize privacy concerns as a legitimate reason for limiting access, federal internal control standards require that program data should be recorded and shared with staff in a form that enables them to carry out program controls and determine the extent to which compliance with various laws and regulations is occurring.⁴⁹ Our review indicates that such limitations can hinder business opportunity specialists' ability

⁴⁸ [GAO/GGD/AIMD-99-69](#).

⁴⁹ [GAO/AIMD-00-21.3.1](#).

to systematically identify and examine relevant firm activity, including NAICS codes, of ANC-owned sister subsidiaries who are serviced by different district offices, and potentially circumventing the intent of SBA's prohibition.

In May 2015, SBA's Associate Administrator for the 8(a) program confirmed that limited information sharing across district offices creates vulnerabilities in program oversight. As a result, the Associate Administrator told us that the agency has plans to develop a more centralized and comprehensive oversight strategy. The new approach would give certain oversight staff the responsibility of accessing and monitoring relevant information for ANC-owned subsidiaries being serviced across different district offices, which would supplement the monitoring efforts of SBA's district offices.⁵⁰ This strategy would include monitoring for ANC compliance pertaining to all sister-subsidaries being serviced across different district offices or business opportunity specialists. However, SBA officials told us that they do not have firm dates or specific plans for fully implementing this proposed monitoring strategy. Later in this report, we discuss what factors have affected the progress of implementing this strategy.

As the Associate Administrator develops plans to create, document, and implement the program's new centralized and comprehensive oversight strategy, officials have an opportunity to design an approach that upholds the privacy of information captured in the BDMIS database, while providing for the appropriate level of sharing and access to relevant subsidiary data, including NAICS code information, for tracking and monitoring purposes. However, it may be more effective and efficient for SBA to implement this oversight strategy after it implements our 2012 recommendation that SBA collect and track the underlying revenue activity generated under all NAICS codes.

As of October 2015, SBA does not have a database that collects and tracks the underlying revenue activity that firms generate in their primary and secondary NAICS codes, as we recommended SBA develop in 2012. As stated earlier, internal control standards state that agency procedures, and mechanisms to enforce management directives should be an integral

⁵⁰This strategy includes creating a new and centralized SBA office that would be responsible for conducting deeper reviews to support the district offices' monitoring efforts.

part of an agency’s planning and implementing efforts. The appropriate level of access to and sharing of relevant NAICS code data, including revenue data, will be an important control for SBA to include in its planning and implementation of the database that we recommended it develop in 2012, and its enforcement of its prohibition. Until SBA designs and implements such a database, the comprehensiveness of its oversight strategy, once implemented, will be limited to providing access to and sharing of NAICS codes themselves. It will not address the underlying revenue activity generated under those codes, which will give SBA limited assurance that the activities of sister firms align with intent of SBA’s prohibition while the firms are serviced across different district offices.

8(a) ANC-owned Firms Report Data on Distributed Benefits, Compensation and Revenues, But Missing Compensation Data May Limit the Alaska District Office’s Oversight of the Firms It Services

8(a) ANC-owned firms self-report information on their benefits and compensation to SBA, but varying and missing information on compensation—including data used to determine whether withdrawals of funds from the company were appropriate—may limit SBA’s efforts to assess compliance with related reporting requirements.

Most 8(a) ANC-owned Firms Selected Provided Information on Benefits and Revenues Distributed to the Community

Most of the 8(a) ANC-owned firms in our non-generalizable sample of 26 firms provided information on the benefits distributed to the ANC or the Native community.⁵¹ In February 2011, SBA promulgated a rule requiring ANC-owned firms participating in the 8(a) program to annually report information on how they distributed benefits to their communities. Reports are to include information showing how 8(a) program participation has provided benefits to the native members or community, including information about funding cultural programs, employment assistance, jobs, scholarships, internships, subsistence activities, and other services.⁵²

SBA's OIG reported in July 2009 that the revenues generated from the 8(a) program by 8(a) ANC-owned firms may be shared by hundreds, and sometimes even thousands of native shareholders unlike other 8(a) businesses—whose revenues generally go to one or two disadvantaged individuals.⁵³ SBA officials told us that one intended use of the benefit reports submitted by ANC-owned firms may be to respond to audits and congressional inquiries about the benefits of the 8(a) program. According to our analysis, 22 of the 26 ANC-owned firms in our non-generalizable sample submitted some form of benefits report between calendar years 2011 and 2014. Of the remaining 4 firms, 2 did not file any reports, and 2 other firms were either new entrants or completers of the program and were not required to submit any reports between 2011 and 2014. The Alaska Deputy District Director told us that SBA has not taken action against the 2 firms that did not submit any reports because the rules related to how the reports should be structured have yet to be finalized.⁵⁴ What has been submitted to SBA varied in terms of the detail provided in the report, ranging from a very general paragraph submitted by one ANC firm about

⁵¹These 26 firms were randomly selected from all 8(a) ANC-owned firms participating in the program from calendar years 2011 through 2014.

⁵²SBA expects that all responses whether submitted by individual participating firms or a parent corporation will correlate to the financial statements submitted each year to SBA. In total there are seven categories.

⁵³SBA-OIG, rpt. No. 9-15.

⁵⁴A primary reason for the variation is that SBA does not have a standard form through which to collect this information. In 2011, SBA developed a seven page form, but SBA and the Office of Management and Budget (OMB) received comments that the form was too burdensome and it was not adopted. After consultations with OMB, ANCs, and other groups, SBA proposed a new one page form in June 2015. As this report was being issued, OMB approved the form on March 3, 2016. Officials indicated that the form is scheduled to be published in June 2016.

distributions made over a 3-year period to a longer 13-page report submitted by another firm detailing specific benefits provided to the community. Formalizing the approach for the benefits report will be a good first step in collecting and utilizing these important data. See appendix III for an abridged example of a benefit report.

SBA also collects annual updates on the revenues made by ANC-owned firms participating in the program. As part of their submission, 8(a) ANC-owned firms provide information about the revenues associated with their participation in the 8(a) program as well as the non-8(a) federal contracts awarded over the program year.⁵⁵ Two of the district offices we spoke with indicated that they use this information to monitor the achievement of business activity targets starting in the program's fifth year. For the 4 years included in our review, these firms collectively accumulated slightly over \$1.4 billion in 8(a) and non-8(a) revenues.⁵⁶ See app. IV for additional information on the revenues generated under the program.

Missing Information on Compensation May Make it Difficult for SBA to Identify Violations of Program Rules

Our review found that 8(a) ANC-owned firms serviced by the Alaska District Office—which represent 18 of the 26 8(a) ANC firms we reviewed—were allowed by the Alaska District office to provide varying levels of detail about compensation—including non-responses—in their annual updates despite the rules, which may make it difficult for this office to determine if firms have violated excessive withdrawal rules.⁵⁷ SBA regulations and the agency's 2008 program guidance call for firms to provide records of all payments, compensation, and distributions (including loans, advances, salaries and dividends) made by the firm to each of its owners, officers or directors or to any person or entity affiliated with any of those entities each year to their assigned SBA district office.⁵⁸

We reviewed the compensation-related information for a non-generalizable sample of 26 8(a) ANC-owned firms required to submit this

⁵⁵A program year marks the specific date of the firm's entry into SBA's 8(a) Business Development Program.

⁵⁶Federal procurement obligations can comprise most if not all of an ANC-owned firm's profits while participating in the 8(a) program.

⁵⁷The Alaska District Office services over half of all ANC-owned firms participating in the 8(a) program.

⁵⁸13 C.F.R. § 124.112(b)(5).

information to SBA. Of these, 10 firms consistently answered all questions in their annual updates related to compensation from calendar year 2011 through 2014.⁵⁹ By contrast, another 5 firms provided no details on compensation at the subsidiary level, but indicated in the reports submitted to SBA that the compensation was paid by the parent corporation. Another 7 firms were missing at least one year of compensation data. One firm that participated in the program between 2011 and 2013 did not provide any compensation data for those 3 years, and withdrew from the program in 2014. One firm entered the program in 2014 and a final firm exited the program in 2011. Thus, there were no reporting requirements for these two firms.

While we could not thoroughly examine whether all firms were complying with compensation-related regulations because of some limitations in the information that SBA collected, we were able to analyze a smaller number of firms that provided compensation data for all years in which they were program participants from our non-generalizable sample of 26 firms by their average annual sales between calendar years 2011 through 2014. Based on our review of the files provided, the overall compensation for firms' executives ranged from \$0 to \$820,793 annually as shown in table 4.

Table 4: Annual Range of Executive Compensation for Nongeneralizable Selection of 26 Firms Reporting By All Calendar Years (2011-2014)

	2011	2012	2013	2014
Number of firms required to report compensation ^a	18	21	23	18
Actual number that submitted compensation information ^b	15	21	20	12
Compensation range	\$18,987-\$820,793 ^c	\$0 ^d -\$365,846	\$0 ^d -\$364,736	\$0 ^d -\$267,851

Source: GAO analysis of annual updates submitted to SBA by ANC-owned firms. | GAO-16-113.

^aAs part of its annual updates provided to SBA, 8(a) firms are to include information on the compensation paid to certain employees each year. Annual compensation comprises all payments, compensation, and distributions (including loans, advances, salaries, and dividends) made by 8(a)

⁵⁹That is, the number of participant firms that provided data for all available years in which a participant firm could provide data. Five of the 26 firms did not participate in all 4 years of our analysis, either entering the program at some point after 2011 or exiting the program at some point before or during 2014.

participant to each of its owners, officers, or directors or to any person or entity affiliated with such individuals.

^bSix firms indicated that their parent subsidiaries paid executive compensation and did not provide any compensation information. It should be noted that two firms in our sample—one firm that exited the program in 2011 and another that entered in 2014—were not required to and did not report any information from 2011 through 2014.

^cThe compensation reported for this firm includes salary, bonuses, and deferred compensation.

^dWhile the salary for this executive was atypical, the firm's annual report did not provide any additional detail about the compensation agreement for this individual. It is possible that the compensation was deemed appropriate for this firm because it was in its first developmental year of the 9-year program and generated less than \$500,000 in 8(a) revenues and \$0 in non-8(a) revenues. Other key officials for this subsidiary received nominal compensation amounts ranging from \$600-\$900. We did note that this executive also worked for another subsidiary firm of the same parent ANC, where compensation may have been provided. This other subsidiary was outside the scope of our research

A key limitation of the data we reviewed was that not all firms provided compensation for all review years; in other instances we also noted that some firms did not provide any compensation to their executives, instead their parent corporation did. Our review also identified other differences that were reported about compensation to SBA from year to year for the same firms. For example, one ANC-owned firm in the construction industry provided compensation data for its president and chief executive officer for calendar years 2011 and 2013; but did not provide the same information in calendar years 2012 and 2014. Another ANC-owned subsidiary reported that its parent corporation paid the compensation for its officers for 2011 through 2013, but did not provide details on the compensation paid in those years. However, in its 2014 annual review, this same firm reported that its parent corporation compensated its general manager nearly \$240,000. Another firm sent an e-mail to SBA in 2011 indicating that its parent corporation paid an executive's salary, and reported "not applicable" for compensation paid in 2013 and 2014. In this instance, SBA did not ask for an updated attestation from the firm each year as to who paid the executive's salary, and continued this firm's eligibility based on that 2011 e-mail.

The range in compensation is reflective of the complexity and diversity of ANC-owned firms. For example, according to three ANC association experts we interviewed, the compensation provided to officials and managers of ANC-owned firms is based on what the market will bear and similar to how compensation is set for other corporate firms. Additionally, according to these officials, compensation will vary according to the structure or development phase of the company and regardless of whether a manager is a native member or not. Because the size and structure of these subsidiary firms vary, we could not conduct comparisons within the group or to other firms in the private sector.

Although SBA requires compensation data on a firm's owners, officers, and directors annually, the Alaska district office did not collect this information consistently. For example, a senior official within the Alaska District Office told us that they do not collect this information because, based on their interpretation of the law, they believe 8(a) ANC-owned firms are exempt from providing this information. However, officials at district offices in Washington, D.C. and Richmond, Virginia—offices that service relatively fewer 8(a) ANC-owned firms than the Alaska district office—told us that non-responses are unacceptable under the rules of the program because non-responses are not allowed for other types of firms participating in the program. SBA has placed a statement on the forms that collect this information that there are no exceptions when reporting compensation data. SBA can build upon this initial step by outlining these same rules in program guidance. When these offices receive non-responses, officials at district offices in Washington, D.C. and Richmond, Virginia told us that they reportedly follow-up with firms regardless of whether a firm is owned by an ANC to obtain the missing information. Further, according to one senior district official in the Richmond District Office, the office takes additional steps to suspend any firms from receiving new contract awards until the required information is provided in line with their typical 8(a) practice.

As noted above, one 8(a) ANC-owned firm did not provide any information about compensation; however, the business opportunity specialist assigned to the firm took limited steps as part of the annual review process to collect this information. For example, the business opportunity specialist assigned to this review did not follow up with the firm to get the omitted information or take any adverse actions, such as recommending the initiation of termination proceedings for failure to provide the required information. Instead, the business opportunity specialist indicated in the review that the firm's continued participation in the program was deemed beneficial to the continued development of the firm. Program rules developed by SBA's headquarters indicate that all firms are expected to provide these data annually as a condition of continued program participation.

8(a) ANC-owned firms must also ensure that their officers' compensation does not circumvent SBA's excessive withdrawal limitations. As we discussed previously in this report, excessive withdrawals are defined under the 8(a) program as any cash dividends; distributions in excess of

amounts needed to pay taxes; cash and property withdrawals; payments to immediate family members not employed by the participating firm; bonuses to officers; and investments on behalf of an owner.⁶⁰ However, the excessive withdrawal restrictions do not apply to ANC-owned firms where a withdrawal is made for the benefit of the ANC or the native or shareholder community. It does, however, apply to withdrawals from an ANC-owned firm that do not benefit the relevant entity or community, such as funds withdrawn for the benefit of a non-native manager or owner that exceed certain thresholds. Although officers' salaries are generally not considered withdrawals, SBA does count those salaries as withdrawals where it believes that a firm is attempting to circumvent the excessive withdrawal limitations through the payment of officers' salaries.⁶¹ There are strict regulations limiting how much can be withdrawn from a firm for purposes other than benefiting the ANC or native or shareholder community, as SBA believes excessive withdrawals are contrary to the development of a fledgling business.⁶² According to the guidance last issued by SBA in 2008, excessive withdrawals are to be calculated by SBA business opportunity specialists during annual reviews by reviewing 2 years of withdrawals, and the firm's sales data.

We found that district offices vary in their practices of applying the program's excessive withdrawal rules and their subsequent determination and calculation of such withdrawals. For example, according to one official at the Richmond, Virginia District Office, compliance staff cannot determine whether excessive withdrawals occurred without ANCs providing individual compensation worksheets to SBA. However, when determining whether excessive withdrawals took place, the Washington, D.C. District Office considers all information from a firm's consolidated financial statement instead. Finally, and unlike the other two district offices, as previously noted, the Alaska District Office accepts responses of "not applicable" or blanks on compensation data provided by ANC-

⁶⁰13 C.F.R. § 124.112(d)(1).

⁶¹SBA may initiate termination proceeding against 8(a) participants for excessive withdrawals that are detrimental to the achievement of the targets, objectives, and goals contained in the participating firm's business plan, including transfers of funds or other business assets from the concern for the personal benefit of any of its owners or managers, or any person or entity affiliated with the owners or managers. 13 C.F.R. § 124.303(a)(13).

⁶²13 C.F.R. § 124.112(d)(3).

owned firms making it difficult to consistently assess compliance with excessive withdrawal requirements.

According to senior officials in these offices, the variation in the practice of calculating excessive withdrawals is due to the lack of specific updated guidance on what financial information they are required to collect from ANC-owned firms since SBA's last guidance on this issue was issued in 2008 and there have been changes to the regulations since then. Without a consistent approach and updated guidance, the agency may not be aware when a firm has exceeded withdrawal limits or is using withdrawals in ways that differ from what is allowed under the regulations. SBA officials reported that they are currently developing program guidance, which is subject to agency clearance at the end of September 2015 and was scheduled to be finalized by December 31, 2015.⁶³ Thus, as this guidance was in draft at the time of our review, we were unable to assess the extent to which the updated guidance will clarify what financial information the district offices are required to collect from ANC-owned firms.

Weak Management Controls Have Hindered SBA's Program Oversight

Weaknesses in SBA's data collection, supervisory review, staffing, and program guidance has contributed to weak program oversight and monitoring of ANC 8(a) firms. During the course of our review, SBA took a temporary step to address some of the deficiencies identified in our review and stated that it was planning longer-term actions to further strengthen controls.

SBA's Documentation of its Oversight of ANCs Was Incomplete and Inconsistent

As discussed throughout this report, we found that incomplete or inconsistent documentation regarding ANC-owned firms limited SBA's oversight of the regulatory requirements we examined (i.e. the prohibitions against awarding sister subsidiaries follow-on, sole-source contracts; sharing of primary NAICS codes by sister subsidiaries; and annual reporting requirements for ANC-owned firms). The information SBA provided in response to our requests was sometimes incomplete and the level and type of required documentation obtained varied between district offices. For instance, SBA requires firms to submit

⁶³ SBA did not meet this deadline. In an update to GAO, a SBA official indicated that the guidance would be issued instead by mid-March 2016.

updated information for annual reviews of their continued eligibility for the program. From the non-generalizable sample of 26 ANC-owned firms we used to analyze compensation and revenues, our review found that five firms did not submit at least one annual review during the time they participated in the program. SBA guidance requires SBA business opportunity specialist to enter this information electronically into the system that maintains annual reviews and other documents. When these documents are missing, SBA cannot be assured that the firm is continuing to meet its program goals or remains eligible for the program. Additionally, and as we noted previously in the report, SBA was only able to provide 23 of 30 agency offer letters for 8(a) contracts that we requested for our review of contracts that may have been follow-on, sole source contracts. When SBA does not properly maintain these documents, it is limited in its ability to enforce the prohibition against follow-on, sole-source contracts.

SBA also faced significant challenges in providing us with basic information on 8(a) ANC-owned firms, such as the total number of firms serviced by the agency. For example, it took 3 months for SBA to provide a list of ANC-owned firms in the 8(a) program, and on three separate occasions SBA officials provided three separate numbers for the total number of ANC 8(a) participants—ranging from 226 to 636. GAO's guidance on data reliability suggests that data should be accurate, valid, and complete.⁶⁴ Reliable data means that program data are reasonably complete and accurate, can be used for their intended purposes, and have not been subject to inappropriate alteration.⁶⁵ Additionally, federal internal control standards require that agencies maintain adequate documentation that clearly records all transactions or significant events, that these documents are readily available for inspection and review, and that it is useful to managers in their daily operations.⁶⁶

Senior program officials we spoke with and a district office official in Alaska agreed that this was a program weakness and they need to better document 8(a) ANC-owned firm activities. Both a senior and district office officials in Alaska cited various reasons for the state of the files we

⁶⁴GAO, *Assessing the Reliability of Computer-Processed Data*, [GAO-09-680G](#) (Washington, D.C.: July 2009).

⁶⁵[GAO-09-680G](#).

⁶⁶[GAO/AIMD-00-21.3.1](#).

requested for review, including frequent staff turnover. An Alaska district official also stated that a departing staff member did not record or save key contract and financial documents for an unknown number of ANC-owned firm files. SBA's inability to account for and make available principal information on all of the ANC-owned firms participating in the program raises concerns about the integrity of the agency's internal controls and ability to provide effective and sustained oversight. Unless SBA collects documents related to follow-on, sole-source contracts, benefits distributions, compensation data, the excessive withdrawals that do not benefit the ANC or the native or shareholder community, as well as the submission of the annual reviews themselves, SBA's ability to provide effective oversight of key program areas will be limited.

In response to a draft of this report, SBA stated and provided documentation that, in 2015, SBA staff in the Alaska District Office received detailed training on what SBA officials described as 8(a) critical procedures including file management, annual review processing, and related documentation. SBA also reported that its next steps are to continue ongoing training and mentoring in 2016 with monitoring of performance metrics and regular check-ins with the Office of Field Operations team by the Alaska District Office. SBA's actions to address the oversight staff's knowledge gap and limitations we identified in our review confirm that there was a need to improve the enforcement of oversight activities. The new briefings, training, mentoring, and follow-up monitoring are an important first step toward improving internal control in the Alaska District Office. However, it will not be clear whether these initial steps have resulted in more effective oversight of key program areas, until SBA can demonstrate that the agency is appropriately documenting ANC-owned firm files by providing documentation that is complete and accurate.

Inconsistent Supervisory
Review of ANC
Transactions and Related
Documentation from
Alaska District Office
Increases SBA's
Vulnerability to Potential
Fraud

Our review of 26 ANC-owned firms' annual reviews files from the Alaska District Office showed that there was inadequate supervisory review for several of the annual reviews conducted by the business opportunity specialists overseeing these firms, and in some cases there was no appropriate segregation of duties for these reviews.⁶⁷ ANC-owned firms must submit annual reviews to their district offices documenting their progress over the program year.⁶⁸ Business opportunity specialists review the report and determine whether a firm has maintained its eligibility for the program. In our review of a non-generalizable sample of 26 sets of annual updates submitted to SBA by ANC-owned firms between 2011 and 2014, 10 annual reviews lacked appropriate supervisory review.⁶⁹

Although SBA has policies for supervisory review of its annual reviews, which involve three levels of assessment before a determination of a firm's continued eligibility is finalized, it appears that the Alaska District Office did not consistently follow these procedures.⁷⁰ In 6 cases, the business opportunity specialist who initiated the review of the annual review also reviewed their own work. In these cases they also decided whether a firm could remain in the program. Federal internal control standards state that appropriate organizational structure and supervisory responsibilities that establish a separation of duties are integral components of effective oversight. Consistent with these standards, key duties and responsibilities, such as reviewing annual reports submitted by participating ANC-owned firms, need to be divided or segregated among different people to reduce the risk of error or fraud. No one individual should control all key aspects of a transaction or event. Without adhering to the supervisory review and separation of duties outlined in SBA's internal guidance, the agency limits its oversight of ANC-owned firms, and is more vulnerable to potential noncompliance of SBA regulations by the firms or SBA staff. Unless SBA takes steps to strengthen its enforcement

⁶⁷We reviewed these files for our analysis of ownership, compensation, profits and distributed benefits data. The findings in this section are limited to the Alaska District Office.

⁶⁸One of the objectives of the review is to monitor a firm's growth and progress towards attaining the ability to compete in the open market without SBA's assistance.

⁶⁹An annual review set consists of the four annual review updates that would be provided by each participating 8(a) ANC-owned firm to SBA for the period 2011 through 2014.

⁷⁰According to program guidance and upon completion of the annual review analysis, a business opportunity specialist is to forward the document to the assistant district director and then on to the district director for final approval of a firm's continued eligibility.

of supervisory review practices at this particular district office and ensures that its duties are properly segregated and supervised, the agency will continue to be vulnerable to improperly executed annual review processes and may unknowingly allow potentially ineligible ANC-owned firms to stay in the program.

In response to a draft of report, SBA officials reported and provided documentation that SBA staff in the Alaska District office received detailed training on what SBA officials described as 8(a) critical procedures including secondary reviews and approvals, in 2015. SBA also reported that its next steps are to continue ongoing training and mentoring in 2016 with monitoring of performance metrics and regular check-ins with the Office of Field Operations team by the Alaska District Office. SBA's actions to address these limitations confirm that there was a need to improve the enforcement of this oversight activity. The new briefings, training, and mentoring are an important part of establishing the right internal control environment. However, until SBA can provide evidence over time that adequate separation of duties and supervisory review are consistently being implemented, we will not be able to determine whether these initial steps have resulted in more effective implementation of these key internal control process.

SBA's Alaska District Office Staffing Challenges Hinder Program Oversight

SBA officials reported that the frequent staff turnover has directly contributed to the limited number of staff in the Alaska District Office with ANC-owned firm expertise, limiting their ability to conduct effective oversight of the ANC program. As previously noted, the limited number of staff in the Alaska District Office has been a long-standing issue, and was also identified as a challenge during our site visit to that office in October 2014.⁷¹ According to an SBA memo, and in line with our own site visit observations, because of the current staff levels in the Alaska District Office, supervisory review of contract monitoring activities and annual reviews fell behind, resulting in a backlog of oversight duties.

⁷¹[GAO-06-399](#). In 2006, we noted that the shortages in staffing and limited contracting acumen affected SBA's ability to provide adequate oversight, and we recommended that SBA evaluate staffing levels and take steps to allocate the appropriate levels of staff to this office. While SBA addressed this recommendation, our site visit in 2014 revealed that the problem with the appropriate level of staffing at the Alaska District Office remains a concern.

From 2012 to 2014, according to officials, staff attrition in the Alaska District office reduced the number of staff from five full-time business opportunity specialists generally overseeing about 60 firms each to 1 full-time and 1 part-time staff overseeing all the ANC-owned firms.⁷² In addition to reviewing annual updates, according to Alaska district office officials, that district office can also expect to oversee hundreds of separate contract actions submitted by departments and agencies to the 8(a) and other programs in any given fiscal year, and is one of SBA's busiest offices for the program. SBA officials, external stakeholders, and both GAO and SBA's OIG have previously reported that the number of staff historically assigned to the Alaska District Office were not adequate to address the demands for services needed from this office.⁷³

According to a senior official at SBA and another in the Alaska District Office, in addition to the unusually high workloads assigned to each business opportunity specialist, the attrition in the Alaska District Office in recent years can be attributed to the agency undertaking Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive program (VSIP) efforts.⁷⁴ According to an SBA official, the agency did not fully account for the impact of the VERA/VSIP on this district office, and therefore did not take steps to retain staff in offices already struggling with limited staff—such as the Alaska District Office. As a result, several officials reported that institutional knowledge greatly diminished at all levels of the 8(a)

⁷²At the time of our initial site visit to Anchorage, Alaska in October 2014, the district office also had a part-time business opportunity specialist assigned to monitor firms. However, we were told at that time that this individual was still in training to assume these responsibilities. When we returned to Anchorage, Alaska, in April of the following year, the 8(a) program had hired two additional staff, bringing the number of business opportunity specialists to 2.5 full time equivalent employees (the number of employees on full-time schedules plus the number of employees on part-time schedules converted to a full-time basis).

⁷³SBA, OIG, *Non-Native Managers Secured Millions of Dollars from 8(a) Firms Owned by Alaska Native Corporations through Unapproved Agreements That Jeopardized the Firms' Program Eligibility*, rpt. no. 8-14 (August 2008) and [GAO-06-399](#).

⁷⁴SBA conducted a VERA/VSIP between 2012 and 2014. A VERA allows agencies that are undergoing substantial restructuring, reshaping, downsizing, transferring of function, or reorganization to temporarily lower the age and service requirements in order to increase the number of employees who are eligible for retirement. The authority encourages more voluntary separations and helps the agency complete the needed organizational change with minimal disruption to the work force. By offering these short term opportunities, an agency can make it possible for employees to receive an immediate annuity years before they would otherwise be eligible. Chief Human Capital Officers Act of 2002 (Pub. L. No. 107-296, Title XIII, § 1313, 116 Stat. 2135, 2291 (2002)).

program and especially in the Alaska District Office, which contributed to challenges in performing SBA's oversight activities. The Deputy Associate Administrator for Field Operations told us that ideally the office would employ five staff based on the current caseload of ANC-owned firms in that district office, and each of these staff would be assigned no more than 100 or more firms. As of April 2015, the agency increased its staffing by two business opportunity specialists. However, two additional staff falls short of what a senior official at headquarters and an official at the district office consider to be the optimal staffing level for the Alaska District Office.⁷⁵

Officials note that there are a few complications to hiring additional staff including the requirement for new business opportunity staff to have federal contracting skills, which is one of six areas with critical skill gaps that are in high demand government-wide; and the agency's current budget, which accommodates no more than three business opportunity specialists at this district office.⁷⁶ In its comments on our draft report, SBA stated that it has plans to hire another staff person in 2016 who will serve as an economic development specialist. However, based on our review of the supporting documentation that SBA submitted to us for this position, the economic development specialist's roles and responsibilities involve limited monitoring.

We have previously reported that to meet and address mission critical needs, agencies must not only determine the critical skills and competencies that will be needed to achieve current and future programmatic goals, which SBA officials reportedly have done; but they must also develop strategies that are tailored to address gaps in number, deployment and alignment of human capital approach for enabling and

⁷⁵According to officials, this office oversees the operations of SBA's 68 district offices nationwide including staffing and monitoring for performance. The Alaska District Office has five additional staff responsible for a variety of tasks and includes the district director and deputy, marketing and administrative staff.

⁷⁶We first placed the management of federal human capital on our High Risk List in 2001, see GAO, *High-Risk Series: An Update*, [GAO-01-263](#) (Washington, D.C.: January 2001). In 2013, we also said that the Office of Personnel Management should continue its efforts to include addressing government-wide mission critical skills gaps in occupations such as contracting and procurement. See GAO, *High-Risk Series: An Update*, [GAO-13-283](#) (Washington, D.C.: February 2013).

sustaining the contributions of all critical skills and competencies.⁷⁷ Taking these steps, especially when facing fiscal constraints, is essential to agency's ability to address its needs. SBA was unable to produce any workforce planning report, even though SBA's OIG recommended that they perform a workforce analysis in 2008.⁷⁸ Until SBA develops a comprehensive approach to staffing its Alaska District Office, as previously recommended by the OIG, to include better workforce planning, such as managing attrition and retirements—it will likely continue to struggle with meeting the demands of its monitoring responsibilities.⁷⁹

SBA Actions to Enhance Program Controls and Oversight Not Guided by Documented Plans and Milestones

During the course of our review, SBA took some steps to address some of the deficiencies identified in our review, including taking short-term actions to immediately address short-comings in the Alaska District Office's oversight processes and longer-term steps to establish a continuing eligibility review unit and develop updated 8(a) guidance—but could not provide a firm plan or dates for the latter efforts.

Short-term Actions to Address Deficiencies in the Alaska District Office

During the course of our review, SBA initiated some short-term actions that are intended to address some of the deficiencies identified in our review. For example, as a result of concerns expressed by 12 parent ANCs related to foregone contracting opportunities and delays in processing applications for entry by their subsidiaries into the program, one official told us that SBA conducted an accountability review of the Alaska District Office's oversight of ANC-owned firms in October 2014. According to this senior official, SBA found similar deficiencies to those we noted—including the lack of supervisory review, no appropriate segregation of duties, and inadequate staffing.⁸⁰ Senior officials began taking several actions to address the problems identified, including reassigning

⁷⁷Succession plans address the entity's need to replace competent personnel over the long term, whereas contingency plans address the entity's need to respond to sudden personnel changes that could compromise the internal control system. [GAO-04-39](#). Additionally, federal internal control guidance suggests that agencies develop succession and contingency plans for key roles to help the entity continue achieving its objectives despite organizational transformations. [GAO/AIMD-00-21.3.1](#).

⁷⁸SBA, OIG, rpt. no. 8-14.

⁷⁹SBA, OIG, rpt. no. 9-15.

⁸⁰We asked SBA officials for a copy of their findings and we were told that none of the findings had been formally documented.

150 8(a) files—including ANC-owned firms and others—to other district offices in SBA’s Northwest Region for at least the next year and a half, reallocating the approximately 70 remaining 8(a) firms between the two business opportunity specialists in the Alaska District Office; and taking personnel actions including reassigning, retraining, and hiring new staff.

According to a senior SBA official, the reassignment of the files is a short-term solution intended only to redistribute some of the workload for a period of time, and is not intended to last more than 18 months. Table 5 outlines the redistribution of 8(a) files to other offices. One senior official indicated that the servicing of ANC-owned firms is best handled out of Alaska where the contracts with these firms are likely to be awarded and also originate. These efforts along with SBA’s recent efforts to hire additional business opportunity specialists are a good first step towards addressing its needs and may provide short-term improvements. However, until SBA develops a longer term human capital strategy and addresses the internal control issues we identified these efforts will likely fall short of the sustained oversight that is needed.

Table 5: Distribution of Reallocated 8(a) ANC-owned Firm Files by District Office

District office	Existing ANC-owned firm files	ANC-owned 8(a) firms reassigned from Alaska	Current totals for ANC 8(a) firm files maintained by district office
Anchorage, Alaska	199	(142)	57
Seattle, Wash.	4	87	91
Boise, Idaho	4	24	28
Denver, Colo.	2	9	11
Las Vegas, Nev.	1	14	15
Portland, Ore.	0	8	8
Totals	210	142	210

Source: GAO Analysis of SBA data. | GAO-16-113.

Longer Term Actions Underway to Establish a Continuing Eligibility Review Unit

SBA has initiated some long-term actions to address its oversight challenges but lacks written plans and time frames for carrying them out. According to senior SBA officials, SBA planned to create a new continuing eligibility review unit in response to our previous recommendations to carry out duties outlined in the Business Opportunity

Development Reform Act of 1988.⁸¹ According to officials, beginning in 2014, SBA took steps to realign continued eligibility reviews as a separate and distinct function from the annual review process currently handled through the district offices. Although program officials reported taking some initial steps to establish a continuing eligibility review unit that will carry out these functions, such as conducting a number of trial run reviews in early fiscal year 2015, it lacks a final comprehensive written plan for systematically guiding the launch of this undertaking. According to the new Associate Administrator of Business Development, setting up a new continuing eligibility review unit is one of six priority areas to be addressed through recent changes in the office's leadership.⁸² This official and other senior officials from Business Development told us that the continuing eligibility review unit will be designed to ensure better compliance with 8(a) rules by taking a more detailed look at the financial documents provided by ANC-owned firms and verifying the self-reported information supplied, among other things.⁸³ Also according to the new Associate Administrator for Business Development, this office will be designed to supplement the efforts of the district offices because the high-level annual reviews generally undertaken by the district offices have not been an adequate monitoring tool. However, SBA officials lack a comprehensive plan for managing the continuing eligibility review unit. When we asked SBA officials about specific details of their plans, they were not able to provide us with any firm dates or a written business plan. These officials said they could not share any documentation related to the practices they discussed because they are still under development.

According to the senior officials, the new continuing eligibility review unit has been fully staffed. However, the office lacks formal policies and procedures, and clearly defined roles and responsibilities to guide its activities. According to the officials, part of the delay in addressing these issues is due to change in leadership for the office and the appointment of the new Associate Administrator for the program. The officials also told us

⁸¹Pub. L. No 100-656, Title II, § 201, 102 Stat. 3853, 3856 - 3858.

⁸²According to SBA, and pursuant to the authority in 15 U.S.C. § 636(j)(11)(F)(iv) and (v), the continuing eligibility review unit will have responsibility to review and evaluate financial statements and other submissions from firms participating in the 8(a) program to ascertain continued eligibility to receive subcontracts and to make a request for the initiation of termination or graduation proceedings, as appropriate.

⁸³SBA officials reported that the new unit will be called the Office of Certification and Eligibility.

that while they continue to set up this office and begin its activities, they have trained staff in some of the district offices to undertake reviews of firm eligibility. According to officials, this office has conducted a number of reviews in fiscal years 2015 and 2016. However, SBA did not share detailed findings from these reviews. Federal internal control standards state that a critical part of establishing an effective control environment is to identify and define required tasks, and that the agency has written documentation such as policy and procedure manuals that describes these tasks. While SBA has taken some initial steps to establish a continuing eligibility review unit structured to conduct more thorough review of ANC's continued eligibility in the program, until the agency completely outlines and implements a plan for the functions and tasks the continuing eligibility review unit will undertake, including clarifying the associated time frames for establishing a fully-functioning office, potentially ineligible firms may continue to be enrolled in the program.

Actions to Finalize Program Guidance

SBA has not finalized its guidance that would address the 2011 regulatory changes related to ANC-owned sister-subsidaries receiving follow-on, sole-source contracts, sister subsidiaries sharing primary NAICS codes, and excessive withdrawals. For example, SBA's existing guidance, which has been in effect since 2008, does not provide detail as to how business opportunity specialists are to specifically address whether a sole-source contract is a follow-on contract. Federal standards for internal control suggest that information should be recorded and widely communicated to management and others within agencies that need it, in a form and timeframe that enables them to carry out program controls and other responsibilities.⁸⁴ These standards also emphasize that guidance is a necessary part of an effective internal control system. Additionally, guidance is to be periodically evaluated to ensure consistency and continued applicability to existing controls, such as regulations. A senior official told us that SBA continues to develop this guidance and process the draft document through its internal clearances. However, the issuance date for the document has slipped repeatedly because of internal differences of opinion on what should be included and changes in leadership over the process, according to one senior official. Finally, in September 2015, an official reported that the document is scheduled for agency clearance at the end of September 2015 and was to be finalized by December 31, 2015. As our audit concluded, SBA did not make its scheduled target to

⁸⁴[GAO/AIMD-00-21.3.1.](#)

issue its updated guidance in December 2015. Because of this, we cannot assess and discuss the extent to which it includes changes that reflect the 2011 regulatory updates, or whether the guidance is capable of providing a consistent approach to monitoring firms.

Conclusions

Federal agency obligations to ANC-owned firms participating in the 8(a) program represent a sizeable share of total obligations made to all firms participating in the program, with SBA contracts to 8(a) ANC-owned firms totaling about \$4 billion and representing about a quarter of all 8(a) obligations made in fiscal year 2014. Given the magnitude of these obligations and because ANC-owned firms are exempt from some regulatory requirements in the 8(a) program, heightened attention is needed for firms participating in the program. Our prior reports on the program have detailed several long-standing deficiencies and many of these vulnerabilities and deficiencies still exist.

While SBA has taken some steps since 2011 to improve its oversight of ANC-owned firms in the 8(a) program, the agency's ability to enforce regulations that prohibit the award of follow-on, sole-source contracts to subsidiaries of the same ANC is limited by its reliance on incomplete information from contracting agencies. Obtaining complete data on follow-on, sole-source contracts, in addition to providing specific training and providing guidance to agencies on complying with the related policy, would improve SBA's internal controls related to this regulation and limit the potential to award these set-aside contracts to firms that are ineligible to receive them. SBA addressed some of the recommendations we previously made to strengthen their oversight. However, because limitations in SBA's processes for overseeing compliance with sole-source contract rules persist, additional actions would be beneficial.

Further, the goal of SBA's 8(a) program is to assist small businesses in developing self-sustaining operations that can graduate from the program and operate independently; therefore, SBA prohibits 8(a) ANC-owned sister subsidiaries from sharing the same primary NAICS code. However, limitations in SBA's internal controls, including the lack of consistent, ongoing reviews and tracking of NAICS codes and revenue data and limited access to relevant data for affiliated ANC subsidiaries that share the same NAICS code while being serviced across district offices, may be allowing some sister firms to primarily operate in the same line of business. The limitations could be mitigated by implementing recommendations we made in our 2012 report to effectively track NAICS revenue data, as well by taking additional steps to conduct regular

reviews of NAICS revenue data. However, SBA officials also need to provide responsible staff with an appropriate level of access to the relevant data needed to more effectively monitor ANC subsidiaries. Although SBA has taken steps in the right direction by drafting a proposed rule that would provide the agency with the ability to change NAICS codes to industries where firms are actually receiving most of their revenue, without the proper tracking and visibility that we describe above, this rule will be difficult to implement effectively.

Overall, SBA has struggled to articulate and execute its oversight strategy over 5 years after updating its regulations. For instance, we found that its lack of updated program guidance on the 2011 regulations and limitations in information systems affected the agency's ability to execute proper oversight of internal controls for implementing the 8(a) program for ANC-owned firms. Moreover, without additional actions to (1) develop an effective and comprehensive internal control framework, such as ensuring that its Alaska District Office has complete and consistent documentation on firms in the program, (2) design policies to effectively enforce the separation of duties and supervisory or administrator approval when reviewing ANC-owned firms' progress and related documentation at this office, (3) approach staffing of its Alaska District Office in a comprehensive way; and (4) launch the proposed continuing eligibility review unit with the policies and procedures that include specific tasks and milestones, there is limited assurance that SBA can achieve the objectives of the program and at the same time maintain a high level of oversight and accountability to help ensure overall program integrity.

Recommendations for Executive Action

To establish an effective compliance oversight process for ANC-owned firms in the SBA 8(a) program as part of SBA's efforts to develop a more comprehensive oversight strategy, we recommend that the Administrator of SBA direct District Office staff implementing the program to take the following three actions:

- Improve SBA's ability to prohibit follow-on, sole-source contracts from being awarded to ANC-owned sister subsidiaries participating in the program by (1) requesting that procuring agencies specifically state whether a contract is a follow-on in its offer letter, (2) providing additional training to SBA staff that specifically address how to monitor for follow-on, sole source contracts, and (3) providing additional guidance to SBA officials on the enforcement of related policies;

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- Enhance internal controls and oversight of ANC-owned firms in the 8(a) program serviced in the Alaska District Office by enforcing policies regarding the separation of duties and supervisor or Administrator approval in order to improve supervisory review of ANC-owned firm transactions and related documentation; and
 - Develop a comprehensive approach to staffing its Alaska District Office to include succession planning and managing attrition and retirements in order to improve the agency's capacity to keep pace with oversight activities.

We also recommend that the Administrator of SBA direct the Associate Administrator of Business Development to take the following three actions:

- Document its planned method for tracking revenue generated under subsidiaries' primary and secondary lines of business, with milestones and timelines for when and how the method will be implemented.
- Provide the appropriate level of access to and sharing of relevant subsidiary data across district offices, including primary and secondary NAICS codes and revenue data, once SBA develops a database with the capabilities of collecting and tracking this revenue data as we recommended in 2012.
- Enhance internal controls and oversight of ANC-owned firms in the 8(a) program by:
 - ensuring that all ANC-owned firm files contain all relevant documents in accordance with SBA program requirements to help facilitate SBA's review of compliance with applicable program regulations and guidance, including the collection of documents related to follow-on, sole-source contracts, benefits distributions reports, compensation data, information about excessive withdrawals that do not benefit the ANC or the native or shareholder community, as well as the submission of the annual reviews themselves; and
 - finalizing the agency's plans to fully launch a new continuing eligibility review unit, including identifying policies and procedures such as specific tasks, milestones, and timelines for the full launch of the office.

Agency Comments and Our Evaluation

We provided a draft of this report to SBA for review and comment. Written comments from SBA are reprinted in their entirety in appendix V. SBA concurred with two of our draft recommendations, reported that it has already taken action to implement two others, and did not concur two other recommendations. SBA also provided technical comments, which we incorporated in the report as appropriate.

In its written comments, SBA stated that its Office of Business Development has made significant strides within the last 8 months to close several of our recommendations from previous reports focused on the 8(a) Business Development program. SBA further stated that specific to this review of the 8(a) program, the agency has significant process improvements underway to address some of the recommendations in the report. SBA also reported that because of the audit's focus on data files prior to 2015 and earlier open discussions with us, many of the recommendations were anticipated and it believes are currently remediated by recent actions.

SBA reported that it believes that the agency has already effectively implemented changes to address our first recommendation that the agency improve its ability to prohibit follow-on, sole-source contracts from being awarded to ANC-owned sister subsidiaries participating in the program by (1) requesting that procuring agencies specifically state whether a contract is a follow-on in its offer letter, (2) providing additional training to SBA staff that specifically addresses how to monitor for follow-on, sole source contracts, and (3) providing additional guidance to SBA officials on the enforcement of related policies. SBA stated that it continually emphasized the requirement to provide contract acquisition history in its 8(a) Program partnership agreement training with the Federal Acquisition Community. In response to our review, SBA significantly increased training to other agencies in fiscal years 2014 and 2015 to specifically address this and other 8(a) program requirements. However, it did not develop similar training efforts for its own staff.

Although SBA reported that it has already taken steps to address our recommendation, the agency stated that it did not need to implement the first part of our recommendation to request that procuring agencies specifically state whether a contract is a follow-on in its offer letter because the FAR already requires this documentation. While both FAR § 19.804-2 and 13 C.F.R. § 124.502 suggest that procuring agencies should specifically state whether an 8(a) sole-source contract is a follow-on when the proposed contract recipient is the incumbent contractor, these provisions do not apply to a sister-subsubsidiary of the incumbent contractor. As we noted in our report, in order to monitor for violations to

the prohibition of awarding follow-on contracts to sister subsidiaries of the same ANC, SBA officials instead rely on procurement histories that are, at times, missing or incomplete. Therefore, we believe that similarly requesting that a procuring agency offer letter always explicitly identify whether an 8(a) sole-source contract is a follow-on would help to improve SBA's oversight.

In response to the second part of our first recommendation, SBA stated that it did not need to increase training to its own staff because, according to SBA, it provided training to procuring agencies, consider the risk of follow-on, sole source contracts being awarded to 8(a) sister-subsidiaries of the same ANC to be low, and have practices in place, such as their random sampling surveillance reviews of contracts awarded through the 8(a) program, to address this risk. We believe that SBA's efforts to increase training to procuring agency officials is a positive step that should help to address our finding that these agencies did not consistently provide procurement history documentation. However, SBA's own staff reported that, not only was this information missing at times, but that they sometimes had difficulty determining whether a contract was a follow-on, sole-source contract when the acquisition history was provided. Further, as we describe in our report, these staff did not consistently follow-up with agencies when they could not make an informed determination. SBA subsequently stated in its agency comments that it provided training to its staff on all of the elements addressed in this recommendation. In reviewing the training documents, we found that only 1 of one the 12 training sessions that SBA provided referenced the prohibition against awarding follow-on, sole source contracts to sister subsidiaries. This training document did not discuss how to monitor firms for the prohibition, including: what documentation should be submitted, what information in the document to review, and what follow-up steps should be taken when the relevant information is not provided. In addition, SBA's current random sampling surveillance reviews of contracts awarded through the 8(a) program occur after a contract has been awarded and a potential violation has occurred. We do not believe that this practice represents a proactive approach to monitoring for follow-on, sole source contracts under the program. Lastly, we cannot conclude, as SBA did, that the likelihood of follow-on, sole source contracts being awarded under the program is low risk. While we did not find follow-on contracts in the 30 large value contracts that we reviewed, we did identify important weaknesses in SBA's ability to monitor these contracts for sole-source follow-on violations. Moreover, our sample of 30 contracts was not generalizable and represented less than 1 percent of all contracts. Therefore, we continue to recommend that SBA provide additional

training to its own staff that specifically addresses how to monitor for follow-on, sole source contracts.

In response to the third part of our first recommendation, suggesting that SBA provide additional guidance to its staff, the agency reported that it provided additional training to its field staff officials on enforcing its related policies and is now holding back-to-back quarterly Field business opportunity specialist training sessions relating to all of our recommendation's elements. As we previously discussed, in our review of the training sessions, we found that it did not identify specific guidance on how to monitor for sole-source contracts. Moreover, as we note throughout our report, updating the outdated 2008 SBA standard operating procedure for the 8(a) program to provide official program guidance on this 2011 rule is necessary to fully address our recommendation on providing guidance.

In response to our recommendation that SBA enhance its internal controls and oversight of ANC-owned firms in the 8(a) program serviced in the Alaska District Office by enforcing policies regarding the separation of duties and supervisory review of ANC-owned firm transactions and related documentation, SBA stated that it did not concur because, according to the agency, effective measures are in place. Specifically, SBA stated that it arranged legal briefings, training, and mentoring for the staff in that office through 2016, that included secondary reviews/approvals, files management, and annual review processing. SBA's accountability review of that district office in 2014, which followed our site visit to that same office, resulted in similar findings. Specifically, the Alaska District Office did not always follow supervisory review procedures, the office lacked segregation of duties, and the files were not always properly maintained. SBA reported that its next steps are to continue ongoing training and mentoring in 2016 with monitoring of performance metrics and regular check-ins with the Office of Field Operations team by the Alaska District Office. SBA's actions to address the staff's oversight and implementation of internal controls are a positive step. However until these actions can demonstrate the elimination of the control weaknesses we identified, the recommendation remains valid.

SBA did not concur with our recommendation to develop a comprehensive approach to staffing its Alaska District Office, to include such actions as succession planning and attrition and retirement management in order to improve the agency's capacity to keep pace with its oversight activities. SBA stated that the agency already addressed and mitigated the potential for reoccurrence of staffing issues through recent new hires and training. The agency acknowledged previous customer

service challenges and inadequate staffing due to attrition in the Alaska District Office in recent years. The agency noted, however, that it recently hired two business opportunity specialists in 2015, with another business opportunity specialist and economic development specialist hire pending by February 2016. Along with the increased staffing, to address the knowledge gap regarding ANC 8(a) programs and procedures for all Alaska District Office staff, the agency reported that it provided 10 legal and ANC 8(a) training sessions to Alaska District Office staff. SBA also referenced its response to GAO-15-347 as support for its succession planning efforts. In that recent report we recommended that SBA improve the agency's human capital management by completing a workforce plan that includes key principles such as a competency and skill gap assessment and long-term strategies to address its skill imbalances. SBA agreed with that recommendation and responded by stating that a workforce plan was under development. However, SBA officials were not able to provide this workforce plan to us for this review or demonstrate how it related to the succession planning needs we identified in the Alaska District Office. Given that we have reported on inadequate staffing for overseeing ANCs in the 8(a) program in this particular district office since 2006, we believe that our recommendation to develop a comprehensive approach to staffing its Alaska District Office, to include such actions as succession planning and attrition and retirement management is still needed.

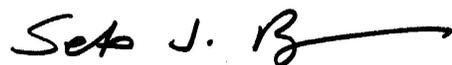
In response to our two recommendations that (1) SBA document its plans for tracking revenues generated under subsidiaries' primary and secondary lines of business and (2) provide the appropriate level of access to and sharing of subsidiary data across district offices, SBA concurred with these recommendations and indicated it had recently established a new tracking system that analyzed the obligations reflected in FPDS-NG for all entity-owned firms. According to SBA, as an interim step to developing a random surveillance method, it has begun monitoring the revenue generated under a subsidiary's primary and secondary NAICS codes by tracking award obligations for all entity-owned firms in a spreadsheet. SBA stated that this spreadsheet will be updated annually and its personnel will be provided instructions, consistent with a related proposed regulation, on how SBA associates should review the tracking mechanism. Once the related regulations are finalized, SBA plans to make it accessible to all business opportunity specialists via the agency's intranet. SBA's effort to track the obligations generated by firms in their primary and secondary NAICS codes is a good first step. However, in order to more accurately reflect a firm's activity in an industry, SBA should track revenues, as we recommended, rather than just federal obligations, since federal obligations may overstate or

understate the amount of income actually generated. Additionally, SBA stated that it believes it has addressed our recommendations in terms of milestones and timelines, given that the new spreadsheet will be updated annually. However, given the level of effort involved in getting data from all of these firms, any method used to report these data requires planning and coordination that would be best achieved by developing written plans, with timelines and milestones. SBA's plans to share the spreadsheet used to track firm's obligations among all business opportunity specialists will address our fifth recommendation, once this information includes data about the firm's primary and secondary revenue streams.

Finally, we recommended that SBA enhance its internal controls and oversight of ANC-owned firms in the 8(a) program by ensuring that all ANC-owned firm files contain all relevant documents in accordance with SBA program requirements and finalizing the agency's plans to launch its new certification and ongoing eligibility office, including identifying policies and procedures such as specific tasks, milestones, and timelines for the full launch of the office. SBA reported that it has recently addressed this recommendation through the briefing, training, mentoring, and follow-up performance reviews that were previously mentioned and by setting up the Office of Certification and Eligibility. While these efforts are positive initial steps toward implementing our recommendation, it remains to be seen whether SBA's recent efforts will eliminate the control weaknesses we identified. With regard to the management of its files, SBA needs to ensure that its approach to briefings, training, and mentoring are sustained beyond this initial roll out and it needs to demonstrate that the procedures the mentoring team identified are implemented effectively. SBA also indicated that the Office of Certification and Eligibility is fully staffed and has conducted a number of eligibility reviews. However, SBA was unable to provide documentation of this office's policies, procedures, and milestones for conducting such reviews, which are necessary to provide a consistent and sustained approach to the reviews moving forward. Therefore, until SBA has fully developed and documented these internal controls, we continue to believe that our recommendation is needed.

We are sending copies of this report to the appropriate congressional committees, the Administrator of Small Business Administration and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you have any questions concerning this report, please contact me at (202) 512-6722 or bagdoyans@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix V.

A handwritten signature in black ink that reads "Seto J. Bagdoyan". The signature is stylized, with a long horizontal stroke extending to the right from the end of the name.

Seto J. Bagdoyan
Director, Forensic Audits and Investigative Service

Appendix I: Objectives, Scope and Methodology

The objectives of this review were to examine the extent to which: (1) SBA enforces its regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC; (2) SBA limits subsidiaries of the same ANC from operating in the same primary line of business; (3) information is known about compensation, revenues, and benefits distribution of ANC-owned firms; and (4) SBA has addressed challenges, if any, to its oversight and monitoring of ANC-owned firm participating in the 8(a) program since 2011.¹ This report exclusively discusses these issues in the context of ANC-owned firms participating in the 8(a) program.

For the data analyses completed for all four objectives, we reviewed 8(a) program data on ANC-owned firms participating in the program from fiscal year 2011 through fiscal year 2014 to reflect the effective date of regulations included in our scope and to use the most recent data available. To perform our work, we used the Federal Procurement Database System–Next Generation (FPDS-NG) to select three sets of non-generalizable case selections or samples with 8(a) ANC-owned firms that met specific criteria for three of our four objectives.² Table 6 summarizes characteristics for each of our case selections. For each of these three objectives, we selected a subset of cases for follow-up review and illustrative examples, and therefore our findings are not generalizable to the entire population of ANC-owned firms participating in the 8(a) program. These selections are described in more detail below.

¹In line with federal standards on internal controls, the control environment factors include the program’s organizational structure and delegation of authority and responsibility, human capital policies and practices that affect the program, management’s commitment to competence as well as its philosophy and operating style, among other things. Information management controls determines through assessments and monitoring that relevant, reliable, and timely information is available for management decision making and external reporting purposes.

²FPDS-NG is the central repository for U.S. government procurement data. Individuals and entities awarded contracts with an estimated value of \$3,000 or more must submit detailed contract information to FPDS-NG. The database includes the product or service, agency and vendor information, contract start and expiration dates, and location of performance, among other elements. We did not generate a sample or selection for Objective 4. This research objective focuses on management challenges we identified while conducting our analyses for the other three research objectives.

Table 6: Characteristics of Case File Selections for Certain ANC-owned firms participating in the 8(a) program, 2011-2014

Research Objective	Purpose of Review	Number selected for review	How selected
Objective 1: To determine the extent to which SBA enforces its regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC	Possible sole-source, follow on contracts	30	Randomly selected from 155 contracts awarded to ANC-owned firms from 2011 through 2014 that met criteria for possible follow-on characteristics and were not small-value contracts.
Objective 2: To determine the extent to which SBA limits subsidiaries of the same ANC from operating in the same primary line of business	Monitoring NAICS codes	39	All ANCs where a unique parent ANC owned subsidiaries that earned at least \$1 in 8(a) contracts from 2011 through 2014.
Objective 3: To determine the extent to which information is known about compensation, revenues, and benefits distribution of ANC-owned firms	Compensation and Revenue	26	Randomly selected 30 firms from all firms participating in the program from 2011 through 2014 that appeared to be ANC-owned, according to FPDS-NG. Four of these firms were found to be out of scope upon review, because they were not actually ANC-owned.

Source: GAO analysis. Note: We did not select any cases for review for our 4th research objective.

Data Reliability

During the course of our review, we identified data limitations with our primary data source—FPDS-NG, such as: miscoded 8(a) firms and incorrect obligations. To mitigate these limitations, we interviewed knowledgeable individuals about the data and corrected errors we identified. To ensure that we only completed reviews for 8(a) firms within the scope of our analysis, we interviewed agency officials who could provide more detail about the firms we selected. For objective 2, specifically, we held several interviews with ANC parent corporations and some 8(a) ANC-owned firms to corroborate revenue data for fiscal years 2011 through 2014. With executives and staff from the ANC parent corporations, we discussed data quality controls, validation techniques, metrics reporting, and oversight. We also assessed the reliability of our data by reviewing agency policies and internal controls, Office of Inspector General reports, and related documentation. Additionally, we took steps to verify the accuracy of the data, including performing electronic testing to identify missing data, outliers, and errors. Additionally, we traced randomized sample lists to the source data to ensure the validity of internally created files. We tested the reliability of the data we obtained from the other systems used to support this objective—Dynamic Small Business Search (DSBS) system and System for Award Management (SAM) by interviewing cognizant officials at SBA

and corroborating data with ANC-owned firms.³ We determined that the data from all systems were sufficiently reliable for the purpose of identifying contracts with characteristics that we wished to review for our research objectives.

Follow-on, Sole-source Contracts

To identify the extent to which SBA enforces its regulations prohibiting the award of follow-on, sole-source 8(a) contracts to subsidiaries of the same ANC, we assessed the agency's policies and procedures related to this control, conducted analysis of offering letters, contracts and other materials, reviewed a non-generalizable selection of contracts that met certain criteria (described below), and interviewed cognizant staff. Because there is no federal database that identifies follow-on, sole-source contracts, we used several variables contained within FPDS-NG as proxies for identifying potential instances of 8(a) follow-on, sole-source awards to ANC subsidiaries, such as company name, location, product or service, and contract award dates to firms and sister subsidiaries. Using these proxies as our criteria, we identified as many as 155 contract actions that had the potential to be follow-on, sole-source contracts. We randomly selected 53 contract files by identifying contract actions between 2011 and 2014 that had the potential to be follow-on, sole-source contracts. Of these 53 contracts:

- 23 had values of \$150,000 or less. We removed these 23 contracts from any additional review because these agencies with small value contracts were not required to provide SBA with offer letters. Because SBA previously delegated contract execution authority to the procuring agency, procuring agencies could award these contracts without having to notify SBA first. Because no notification was needed in these instances, SBA would not have been able to determine whether offers were follow-on, sole source contracts until after the

³As we noted elsewhere in this report, SBA's DSBS is a searchable database that includes uploaded registration data that small businesses initially enter into SAM, including NAICS code information and entrance and exit dates for the 8(a) program. DSBS data are used by federal contracting officials to identify potential small business contractors for upcoming contracting opportunities. GSA's SAM is the official federal system that ANC subsidiaries are generally required to register before they conduct 8(a) business with federal agencies or departments. ANC subsidiaries are also required to use SAM to self-report and attest to certain information, including the primary and secondary NAICS codes used. SAM assists ANC subsidiaries with obtaining 8(a) contract opportunities because federal procuring agencies and departments use SAM data when awarding contracts or for past performance reporting and suspension and debarment information.

award had been made. Further, SBA officials reported to us that such contracts are less likely to be follow-ons because of their limited scope and duration.

- To review the remaining 30 large value contract actions, we asked SBA to supply relevant documentation about all contract actions.⁴ We took additional steps to corroborate what we learned from SBA or to provide additional detail where needed. Specifically, we met with 10 federal departments and agencies that awarded these contracts between 2011 and 2014. We interviewed procuring agency staff using semi-structured interviews and asked staff at these agencies to provide additional information (i.e. contract documentation including missing agency offer letters, SBA acceptance letters, contracts, and modifications for each possible incumbent and follow-on contract pair) we were unable to obtain from SBA. The results of our analysis are not generalizable to the entire population of ANCs participating in the 8(a) program, and we are unable to determine whether there could be other follow-on, sole-source contracts that our methods did not identify.

Monitoring NAICS Codes

To evaluate the extent to which SBA limits subsidiaries of the same ANC from operating in the same primary line of business, we reviewed SBA policies, guidance, and procedures in place at the time of our audit. We also analyzed ANC subsidiary data from three publically-available data systems: FPDS-NG, SAM, and DSBS system.⁵ We selected from FPDS-NG, all contracts where there was a unique parent ANC with each owning multiple subsidiaries active in the 8(a) program from fiscal year 2011 through 2014, and where each subsidiary of that parent generated at least \$1 in 8(a) contract obligations over this time period. There were a total of 39 ANCs that met these criteria.⁶ We selected this timeframe because

⁴We reviewed these 30 contract files to corroborate the indication from FPDS-NG that these contracts had the potential to be follow-on, sole-source contracts. Our results indicate that the variables we selected from FPDS-NG were not adequate indicators, and we found that such determinations can only be made by detailed review of each case file.

⁵GSA's FPDS-NG is a federal automated system used to collect and report on federal procurement spending; it is the single authoritative repository for federal procurement award data. FPDS-NG data is submitted via a contract writing system or directly into FPDS-NG using direct web input; reports can be run by individuals.

⁶In all there were a total 53 ANCs owning at least one firm that participated in the program from fiscal year 2011 through 2014.

in February 2011 SBA made technical updates to regulatory language in SBA's regulation prohibiting ANC subsidiaries sharing the same primary North American Industry Classification System (NAICS) code.⁷ This timeframe was also consistent with the timeframe used in other sections of this report. Our findings under this objective are not generalizable to the entire population of ANCs participating in the 8(a) program, although they do represent all contracts where these criteria were met by analyzing the FPDS-NG data.

We used SAM and DSBS to identify and analyze the dates that our select ANC subsidiaries entered and exited the 8(a) program. We also used SAM and DSBS to identify and analyze the subsidiaries primary and secondary NAICS codes used during the 8(a) program.

To corroborate the summary data we obtained from FPDS-NG, SAM, and DSBS, we requested certain documentary evidence from SBA, including subsidiaries' 8(a) applications and annual reviews. The summary data included subsidiaries' federal obligation amounts, primary and secondary NAICS codes used, and the 8(a) program entrance and exit dates. However, SBA was unable to provide all the documents requested within our audit timeframes. As a result, we contacted our selected ANCs to verify the subsidiary data we obtained from these three data systems. We used semi-structured questions to interview personnel from the ANCs and subsidiaries. During these interviews, we asked specific questions about the ANC subsidiaries' experiences participating in the 8(a) program. Additionally, we also requested the ANCs to verify summary data we collected from SAM, DSBS, and FPDS-NG. We also requested that the ANCs provide the total revenue amounts that the select ANC subsidiaries earned from fiscal year 2011 through fiscal year 2014. One ANC chose not to provide this revenue data.

Some of the summary data we collected from FPDS-NG, DSBS, and SAM were not always consistent with data provided by SBA or the ANCs, and we note these inconsistencies in our report. Nonetheless, we determined that the summary data obtained from the three data systems

⁷SBA's regulation limits ANCs from owning multiple subsidiaries operating under the same primary line of business (i.e. under the same primary NAICS code) at the time of application into the 8(a) program or within the previous two years. SBA updated its regulations effective March 2011 by, among other things, replacing the word "SIC" with "NAICS" to reflect the industry's transition from using SIC codes to NAICS codes.

were sufficiently reliable for our purposes, except where noted in our report.

Compensation, Revenues and Benefits Distribution

To determine what information is reported to SBA regarding the compensation, revenues, and benefits distribution of ANC-owned firms, we reviewed ANC-owned firm 8(a) applications and annual updates. We also reviewed data on ANC subsidiaries active from fiscal year 2011 through fiscal year 2014 based on a non-generalizeable sample of 30 randomly selected ANC subsidiaries from FPDS-NG. Much of the data that we reviewed was self-reported by ANC-owned subsidiaries and could not be corroborated with other sources. To provide context the data we analyzed, in addition to speaking with officials from SBA, we also conducted interviews with officials from three associations that represent the interests of the chief executive officers of the 12 Native Regional Corporations, issues related to Native federal contracting, and indigenous people generally about their knowledge of compensation paid by ANC-owned firms. From FPDS-NG, we selected a non-generalizable sample of 30 unique ANC-owned firms active in the program between 2011 and 2014. We removed 4 of these firms because we ultimately found that they were not ANC-owned firms, and thus we reviewed data from 26 subsidiaries. Descriptive characteristics, including information about ANC ownership of the 26 ANC-owned firms in our non-generalizable sample is outlined in app. II and IV. Our findings under this objective are not generalizable to the entire population of ANC-owned firms participating in the 8(a) program.

Assessing Management Controls

To assess the extent to which SBA has addressed challenges, if any, to its oversight and monitoring of ANC-owned firm participating in the 8(a) program since 2011, we reviewed SBA's implementation of program mechanisms used to ensure the compliance of regulations related to our scope of work. We reviewed relevant SBA controls, policies, procedures, and guidance, and assessed the extent to which these mechanisms effectively aligned with federal standards for internal controls.⁸ Additionally, we selected four offices to interview officials about their practices. Two of the three offices we visited in person. All four offices were selected because of the role they play in the 8(a) program—such as certifying initial applications for the program, which is the responsibility of the San Francisco office; or, for the number of ANC 8(a) firms they

⁸[GAO/AIMD-00-21.3.1](#).

service. For example, we selected a District office that served a large number of ANC firms (e.g. the Alaska District Office) and ones that served a smaller number of firms (e.g. Washington, D.C., and Richmond, Virginia district offices) to compare their practices. We conducted site visits to both the Anchorage, Alaska, and Washington, D.C. district offices. During these site visits, we interviewed staff and made attempts to conduct file reviews of selected ANC subsidiaries serviced by those district offices. We held a few semi-structured interviews designed to document SBA's practices and policies with regard to monitoring for follow-on, sole-source contracts, and sharing of NAICS codes. We also discussed with officials procedures for reviewing program application and annual reviews submitted by ANC-owned firms. Specifically with regard to the annual reviews, we discussed with officials what information is collected for ownership, compensation, excessive withdrawals, benefits reporting and revenues. As a part of our site visit to SBA's district office in Anchorage, Alaska, we collected data related to SBA's human capital planning for that office. Our methods for this specific part of the engagement included reviewing documentary evidence and interviewing cognizant officials with expertise in workforce planning methods. During these interviews, we discussed workforce plans, historical and current staffing numbers, and challenges. We asked about the skills and competencies needed to achieve program results, discussed the agency's strategies to address staffing gaps, and building necessary capacity. Additionally, we reviewed our own past work on human capital issues for guidance.⁹ To inform other aspects of this objective, and to learn about proposed changes to SBA's existing regulations, especially those affecting the use of NAICS codes, we attended an SBA tribal consultation in Anchorage, Alaska. While we were in Anchorage, Alaska, we also met and attempted to meet with officials from a number of ANC-owned firms and one ANC advocacy group to obtain the overall perspectives of ANCs and their subsidiary firms on the 2011 regulatory changes to the program.

We conducted this performance audit from May 2014 to January 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

⁹[GAO-04-39](#).

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Ownership Characteristics of 26 8(a) Alaska Native Corporation (ANC)-owned Firms

The 8(a) ANC-owned firms that we selected for review were primarily wholly owned subsidiaries that reported few changes in ownership or management control over our period of study, as illustrated in Table 6 below. Most subsidiaries were previous or current participants in the 8(a) program. Of the 26 8(a) ANC-owned firms selected for our file review, 21 were wholly owned by an ANC parent corporation. Five firms were partially owned by an ANC that held the majority of ownership in the subsidiary and a few firms were partnerships with non-disadvantaged individuals who controlled a minority interest in the firm.

The 26 ANC-owned firms we reviewed were almost always part of a larger family of firms. In all, there were 243 subsidiary firms affiliated with the 26 8(a) ANC-owned firms selected as part of our review. Of these 243 subsidiary firms, 149 of them participated at some point in the 8(a) program. Table 7 provides additional detail about the ownership of ANC subsidiary firms in our sample. These characteristics are not generalizable to all ANC-owned firms.

Table 7: Ownership Details for 26 Selected Alaska Native Corporation-owned Firms, 2011-2014

Firms	Percent of Firm Owned by ANC	Number of Sister Subsidiaries in Family of Firms	Number of Sister Subsidiaries that were Former/Current Participants in 8(a)	Change in Ownership	
Corporations and Limited Liability Corporations (n-21)	Firm 1	100	13	9	No
	Firm 2	100	— ^a	— ^a	No
	Firm 3	100	6	2	No
	Firm 4	100	6	6	No
	Firm 5	100	7	7	No
	Firm 6	100	15	11	No
	Firm 7	100	40	19	No
	Firm 8	100	5	4	No
	Firm 9	100	18	18	No
	Firm 10	100	— ^a	— ^a	No
	Firm 11	100	2	2	No
	Firm 12	100	— ^a	— ^a	No
	Firm 13	100	4	3	No
	Firm 14	100	— ^a	— ^a	No
	Firm 15	100	7	6	No
	Firm 16	100	24	5	No

**Appendix II: Ownership Characteristics of 26
8(a) Alaska Native Corporation (ANC)-owned
Firms**

Firms	Percent of Firm Owned by ANC	Number of Sister Subsidiaries in Family of Firms	Number of Sister Subsidiaries that were Former/Current Participants in 8(a)	Change in Ownership	
Firm 17	100	— ^a	— ^a	No	
Firm 18	100	11	10	No	
Firm 19	100	13	11	Yes	
Firm 20	100	12	6	No	
Firm 21	100	— ^a	— ^a	No	
Partnerships (n=5)					
Firm 22	96	40	14	Yes	
Firm 23	51	9	6	No	
Firm 24	51	— ^a	— ^a	No	
Firm 25	88	2	2	Yes	
Firm 26	51	9	8	No	
Totals	not applicable	not applicable	243	149	not applicable

Source: GAO analysis of ANC-owned firm annual reviews and application materials.

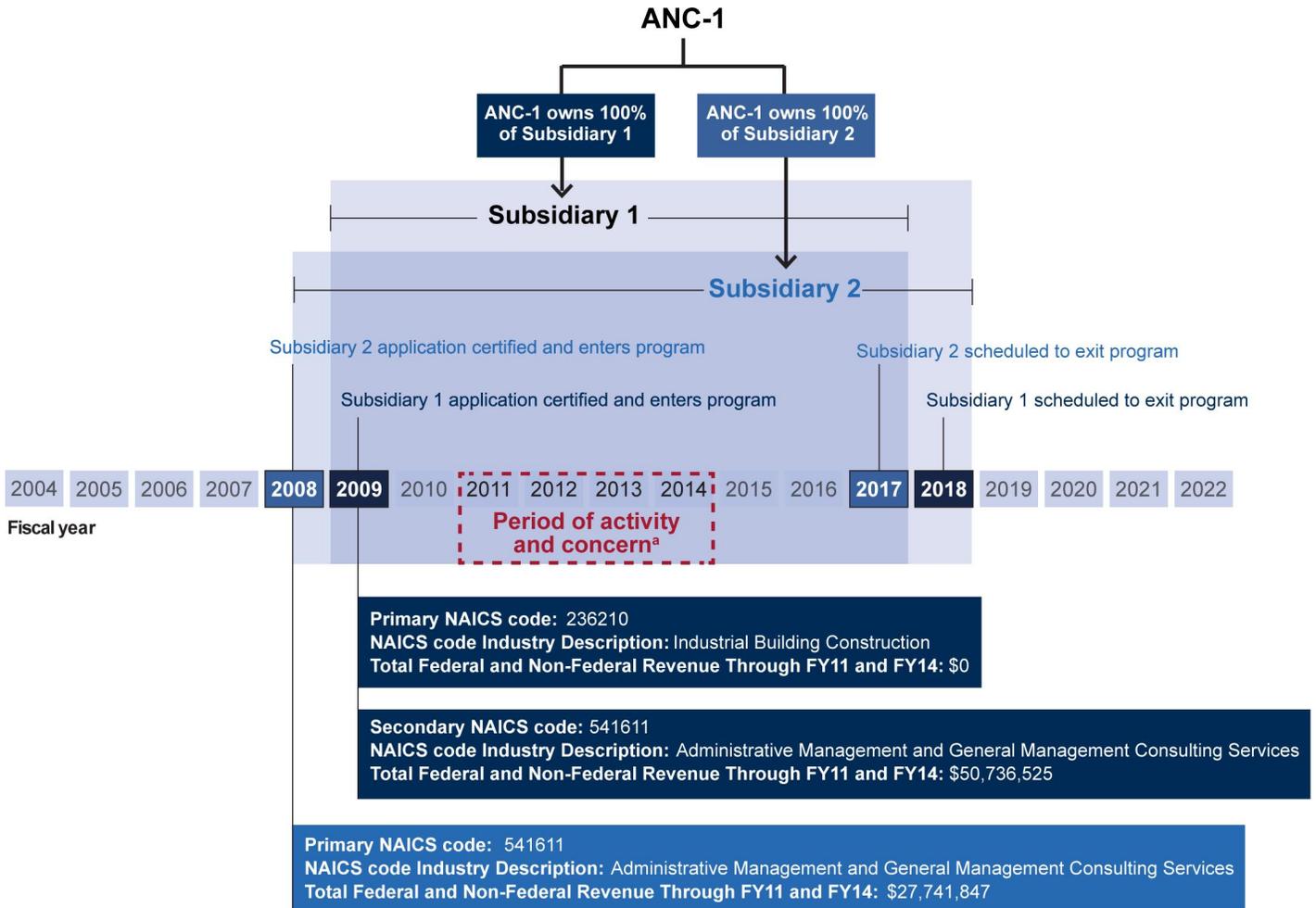
^aThese firms share a common parent ANC. We have removed the corresponding data to avoid over counting.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

In our review of 39 ANCs, we found 5 ANCs, from fiscal year 2011 through 2014, that fully owned 8(a) subsidiaries that concurrently generated millions in a common NAICS code used by a sister subsidiary as a primary NAICS code, while generating less or no revenue under their own primary NAICS code. If such activity is left untracked, one firm's secondary line of business could effectively become its primary revenue source in the same line of business that a sister firm claims for its primary line of business without actually violating SBA's prohibition. Such activity could, intentionally or not, potentially circumvent the intent of SBA's prohibition on sister subsidiaries sharing the same primary NAICS code. This is a long-standing risk that we reported on in 2006 and 2012.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

Figure 5: Illustrative Example of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

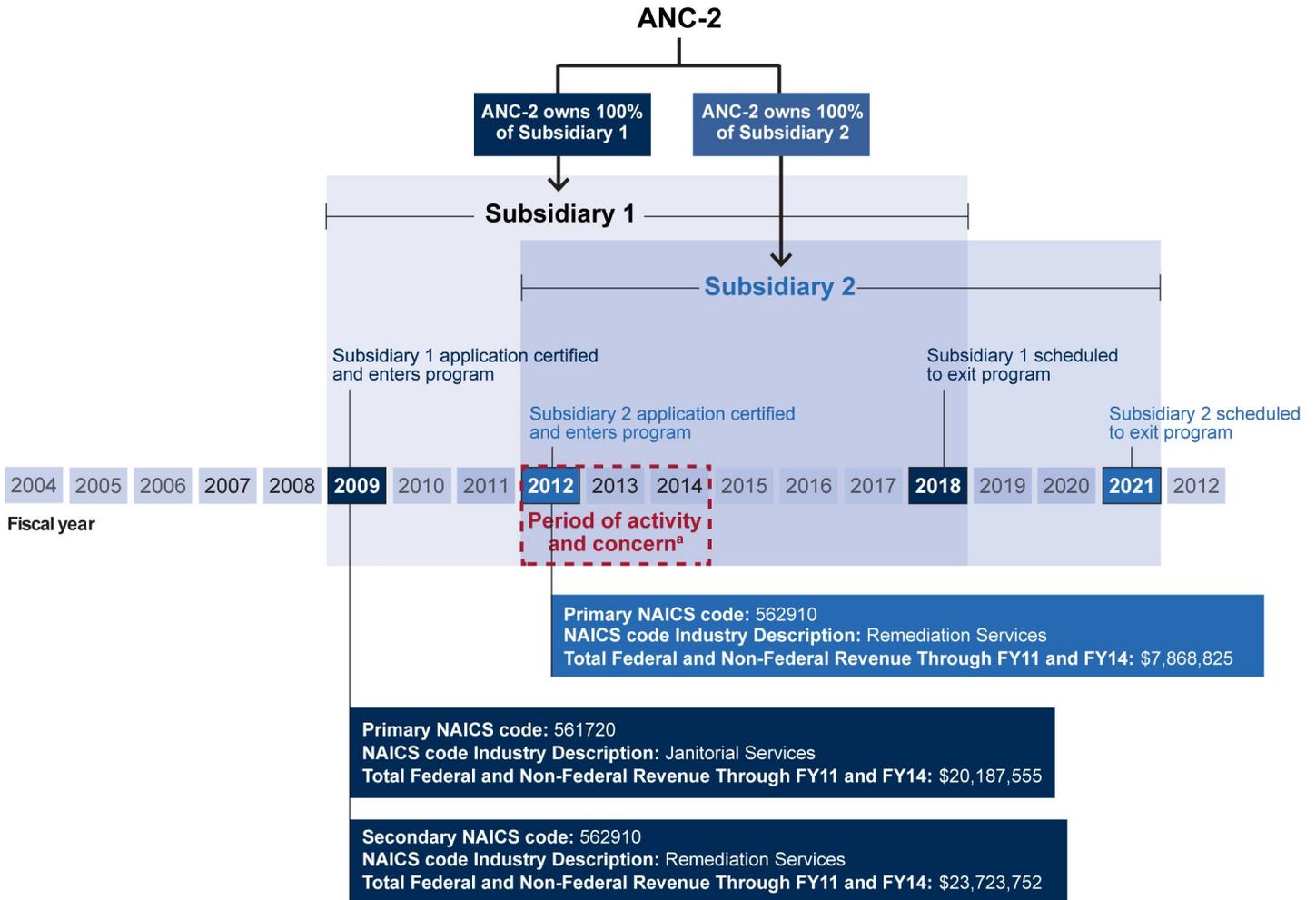


Source: GAO. | GAO-16-113

^aPeriod of activity and concern: Through FY 2011 and FY 2014, ANC-1 fully owned Subsidiary-1 and Subsidiary 2. During this timeframe, Subsidiary-1 generated no revenue under its primary NAICS code 236210; however, it generated millions under secondary NAICS code 541611, which was the same code used for Subsidiary-2's primary NAICS code.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

Figure 6: Illustrative Example of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

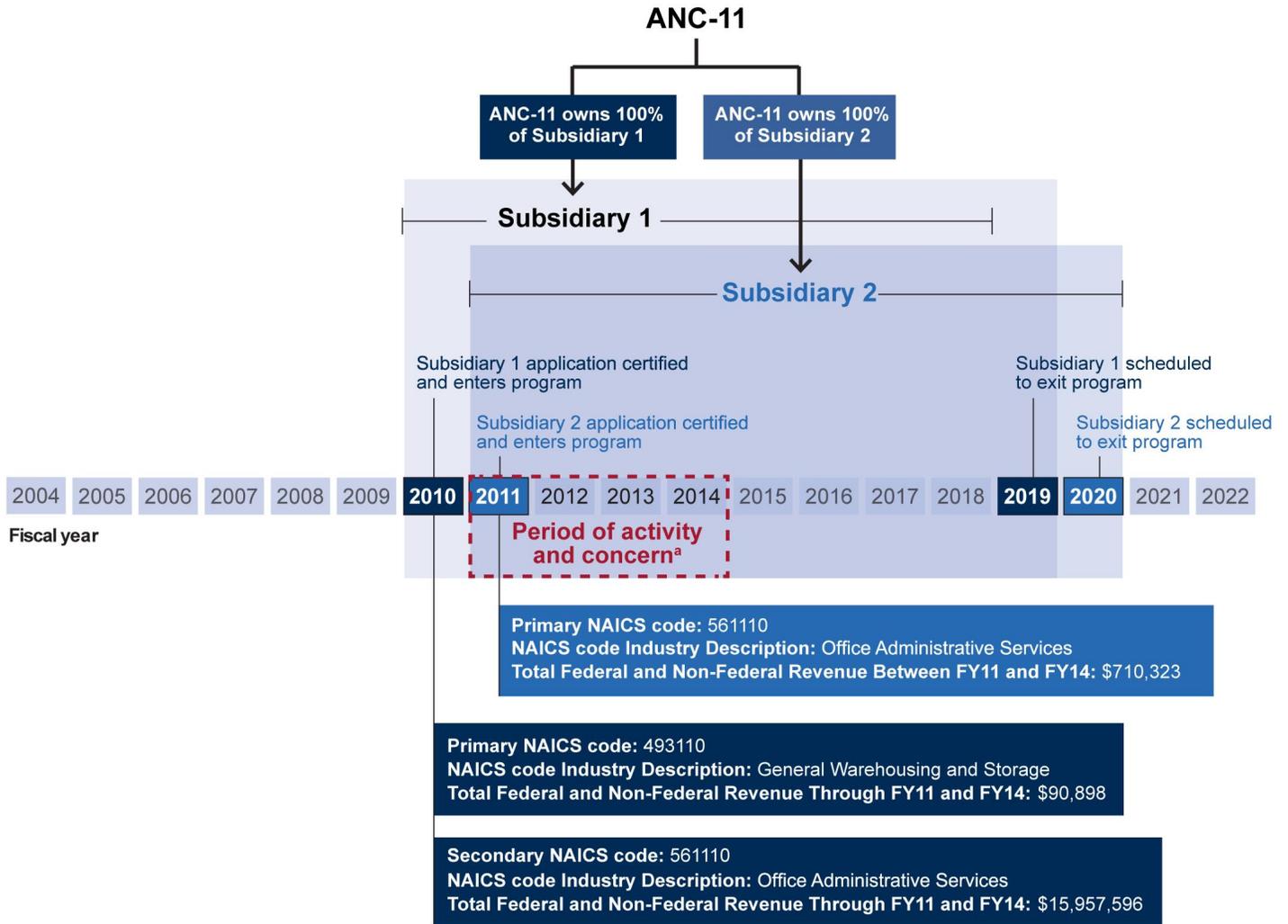


Source: GAO. | GAO-16-113

^aPeriod of activity and concern: Through FY 2011 and FY 2014, ANC-2 fully owned Subsidiary-1 and Subsidiary 2. During this timeframe, Subsidiary-1 generated millions of dollars less in total revenue under its primary NAICS code 561720 than it generated under secondary NAICS code 562910, which was the same code used for Subsidiary-2's primary NAICS code.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

Figure 7: Illustrative Example of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

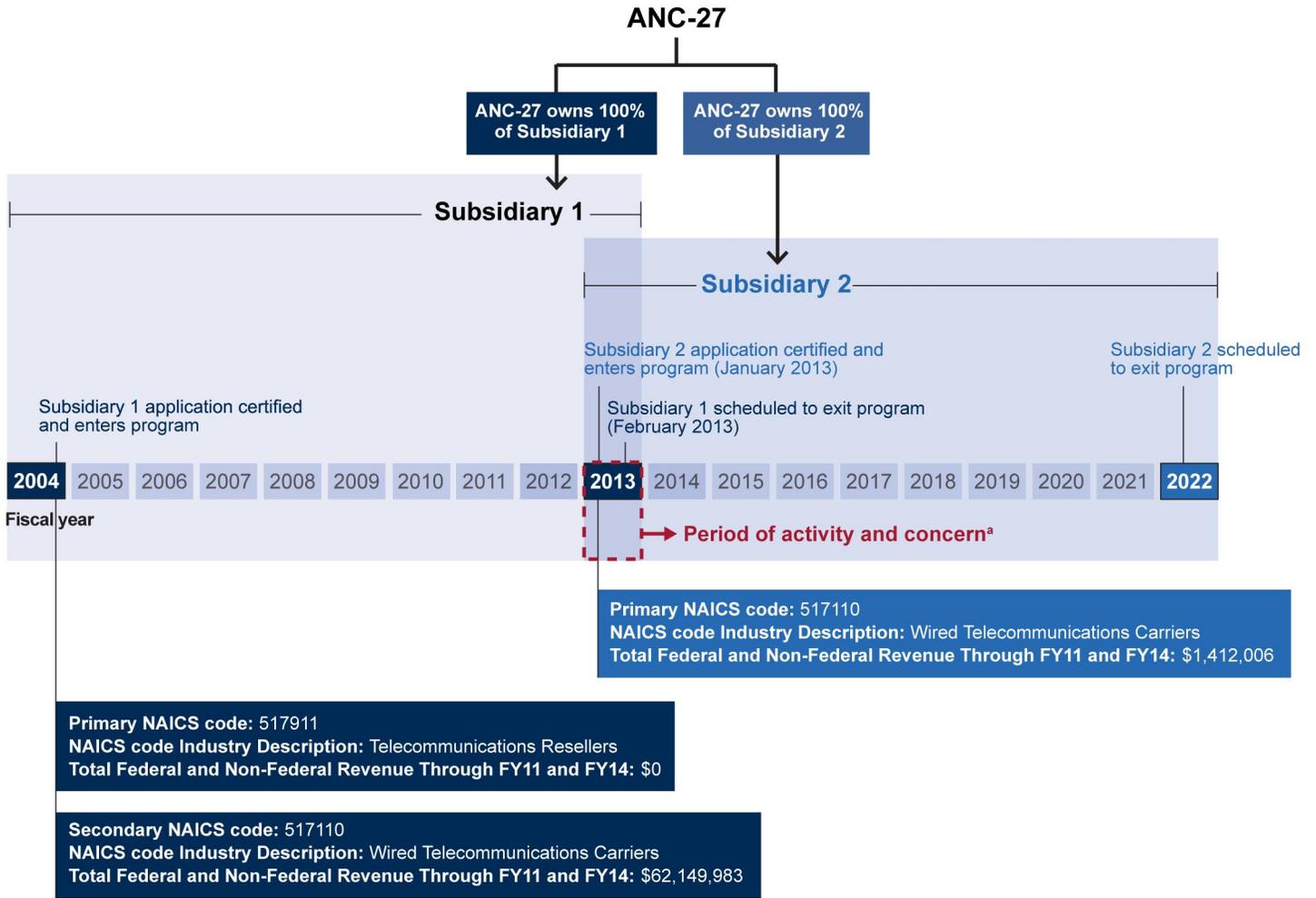


Source: GAO. | GAO-16-113

^aPeriod of activity and concern: Through FY 2011 and FY 2014, ANC-11 fully owned Subsidiary-1 and Subsidiary 2. During this timeframe, Subsidiary-1 generated millions of dollars less in total revenue under its primary NAICS code 493110 than it generated under secondary NAICS code 561110, which was the same code used for Subsidiary-2's primary NAICS code.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

Figure 8: Illustrative Example of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

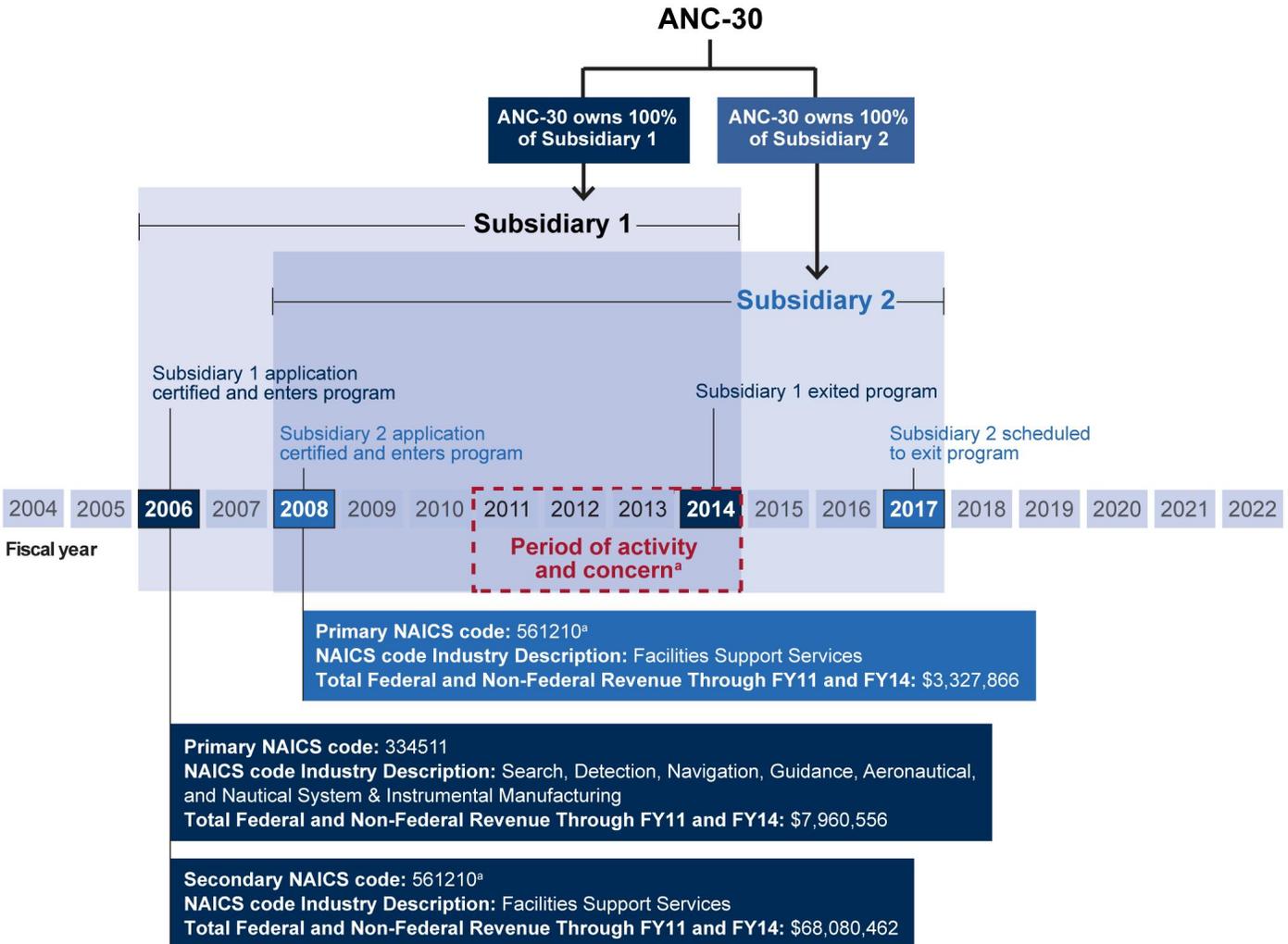


Source: GAO. | GAO-16-113

^aPeriod of activity and concern: Through FY 2011 and FY 2013, ANC-27 fully owned Subsidiary-1 and Subsidiary 2. During this timeframe, Subsidiary-1 generated no revenue under its primary NAICS code 517911; however, it generated millions under secondary NAICS code 517110, which was the same code used for Subsidiary-2's primary NAICS code.

Appendix III: 5 Illustrative Examples of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014

Figure 9: Illustrative Example of Alaska Native Corporations (ANC)-owned Firms and their Use of NAICS Code in the 8(a) Program, Fiscal Years 2011-2014



Source: GAO. | GAO-16-113

^aPeriod of activity and concern: Through FY 2011 and FY 2013, ANC-30 fully owned Subsidiary-1 and Subsidiary 2. During this timeframe, Subsidiary-1 generated millions less in total revenue under its primary NAICS code 334511 than it generated under secondary NAICS code 561210, which was the same code used for Subsidiary-2's primary NAICS code.

Appendix IV: Example of an ANC-owned 8(a) Firm Benefits Reports Submission and 8(a) Revenues and Non-program Revenues Generated between 2011 and 2014

In order to remain eligible for the 8(a) program, participating ANC-owned subsidiaries must submit information about their progress under the program, including benefits distributed to the native members or native community resulting from program participation as well as program and non-program revenues. Table 7 illustrates an example of an ANC-owned firm's annual submission of benefits, derived in part as a result of the firm's participation in the 8(a) program. Figure 6 describes the reported 8(a) revenues and non-8(a) revenues earned by the 26 8(a) participating ANC-owned firms between 2011 and 2014.

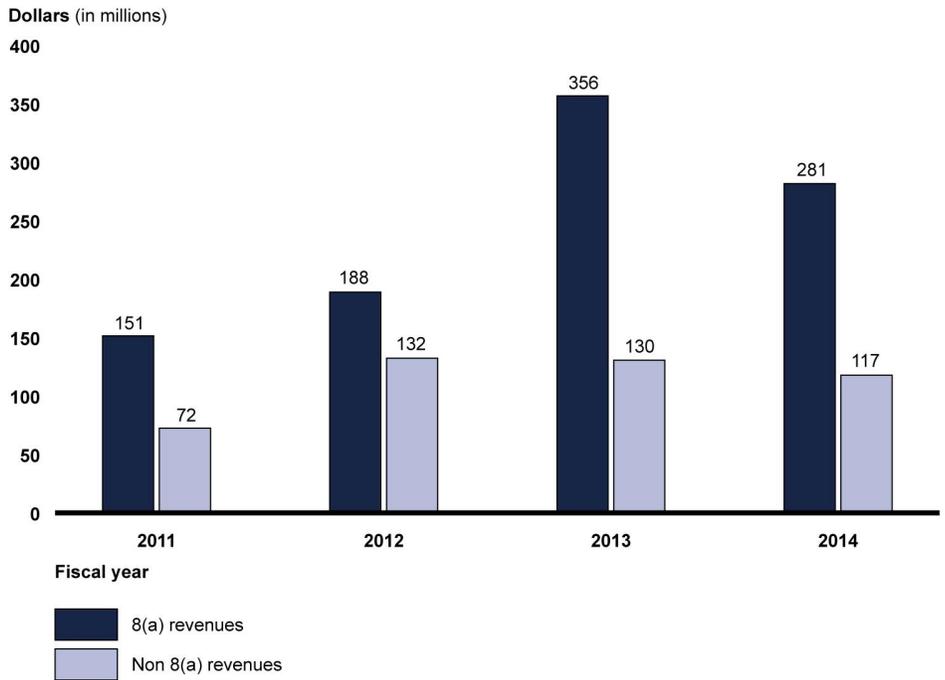
Table 8: Example of an 8(a) Program Related Distributions and Benefits Reported By One ANC-owned Firm in Fiscal Year 2012

Benefit data collection areas	Amount distributed (fiscal years 2010-2012)	Activities pursued
Employment	\$3,000,000	The ANC continued efforts to provide support for a job and internship bank that benefits community members. The distribution of funds also contributed to compensation, fringe benefits, and taxes for employees.
Economic benefits	\$1,100,000	The ANC distributed funds in the form of shareholder dividends, a settlement trust, and compensation for the Board of Directors.
Economic and community development	\$455,000	Investments made to private and public infrastructure projects, housing, and construction jobs.
Health, social, and cultural support	\$435,000	Distributions to this fund supported a range of programs including Youth Olympics, cultural camps, community garden, bereavement program, holiday dinners, and assuming the costs for life insurance premiums.
Lands	\$255,000	The ANC holds over 200,000 acres with an additional 70,000 acres to be conveyed. Distributions were made for the purposes of maintaining improved properties, security, and wildlife conservation.
Education and development	\$105,000	Distributions made to provide for scholarships, grants, and elementary school trips.

Source: GAO analysis of ANC data. | GAO-16-113

**Appendix IV: Example of an ANC-owned 8(a)
Firm Benefits Reports Submission and 8(a)
Revenues and Non-program Revenues
Generated between 2011 and 2014**

Figure 10: Self-Reported 8(a) and Non-8(a) Revenues for the Reviewed 26 8(a) ANC-owned firms, 2011-2014^a



Source: GAO. | GAO-16-113

Source: GAO analysis of ANC Annual Updates. | GAO-16-113

Note-Totals are based on self-reported data submitted to SBA by the ANCs.

^aNot all 26 8(a) ANC-owned firms provided annual reviews during 2011-2014.

Appendix V: Comments from the Small Business Administration



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

January 26, 2016

Mr. Seto J. Bagdoyan
Director
Forensic Audits and Investigative Service
General Accountability Office
441 G Street, NW
Washington, DC 20548

Subject: GAO-16-113, Alaska Native Corporations: Oversight Weaknesses Continue to Limit SBA's Ability to Monitor Compliance with 8(a) Program Requirements

Dear Mr. Bagdoyan:

We appreciate the opportunity to respond to the Government Accountability Office's (GAO) draft report GAO-16-113, entitled Alaska Native Corporations: Oversight Weaknesses Continue to Limit SBA's Ability to Monitor Compliance with 8(a) Program Requirements. We take each recommendation seriously, and understand the importance of the work you do to support effective operations of government offices. As a result, SBA's Office of Business Development has made significant strides within the last 8 months to close several GAO recommendations focused on the 8(a) Business Development (BD) program. These efforts resulted in the closing of 8 of the 17 recommendations outstanding in 2015.

The draft report offers 6 recommendations on which we will provide comments. Our comments include responses to the GAO's recommendations and clarification for certain technical discrepancies that should be corrected in the report before it is finalized.

The GAO examined SBA's ability to (1) enforce regulations prohibiting the award of 8(a) sole source follow-on contracts to ANC sister subsidiaries, (2) limit Alaska Native Corporation (ANC) 8(a) subsidiaries from operating in the same primary line of business, and (3) address challenges, if any, to SBA's oversight and monitoring of 8(a) ANC-owned firms.

The GAO recommends, among other things, that SBA require agencies to specifically identify whether a contract is a follow-on in their 8(a) offer letters to SBA; develop documentation, plans and timelines for tracking ANC-owned firms' revenues across various lines of business; and enable its staff to access and share subsidiary data across district offices (DOs).

Mr. Seto J. Bagdoyan
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Significant process improvements are already well underway to address some of the recommendations in the Report. For example, in August 2015, the Alaska DO was assigned a senior mentoring and training team by Office of Field Operations (OFO) Headquarters (HQ) to review and address findings from an internal Field Activity Review from July 2015. As part of addressing the findings of the Field Activity Review, the senior mentoring and training team began to work with the Alaska DO on issues ranging from staffing, office operations, and 8(a) BD program performance.

To address staffing gaps, the Alaska DO officials hired two Business Opportunities Specialists (BOSs) in 2015, with another BOS and Economic Development Specialist (EDS) hire pending by February 2016. To address the knowledge gap regarding ANCs and the 8(a) BD program and procedures for all Alaska DO staff, senior District Officials and the OFO mentoring and training team arranged and provided 10 legal and ANC/8(a) training sessions to Alaska DO staff. The training was provided by subject matter experts from the Office of General Counsel, Office of Business Development – Division of Program Eligibility and Certification, and OFO HQ. Further, the mentoring and training team worked closely with Alaska DO officials to identify 8(a) procedures that must be followed, to include secondary reviews/approvals, files management, and annual review processing requirements. The team believes that the training and mentoring will result in a fully functional office that can support the Agency’s mission and requirements.

The next steps are that ongoing training and mentoring will continue in 2016 with monitoring of performance metrics and regular check-ins with the OFO team by the Alaska DO.

SBA wants to emphasize that because of the audit’s focus on data files prior to 2015 and earlier open discussions with the GAO team, many of the recommendations were anticipated and already remediated. SBA also believes some of the GAO Report’s technical content is incorrect and respectfully asks the GAO to modify the Report’s verbiage accordingly.

Responses to GAO’s Recommendations

GAO’S Recommendations for Executive Action for Office of Field Operations

To establish an effective compliance oversight process for ANC-owned firms in the SBA 8(a) program as part of SBA’s efforts to develop a more comprehensive oversight strategy, the GAO recommends that the Administrator of SBA direct District Office Staff implementing the program to take the following three actions:

Recommendation 1:

Improve SBA’s ability to prohibit follow-on sole-source contracts from being awarded to ANC-owned sister subsidiaries participating in the program by (1) requesting that procuring agencies specifically state whether a contract is a follow-on in its offer letter, (2) providing additional training to SBA staff that specifically addresses how to monitor for follow-on sole source

Mr. Seto J. Bagdoyan
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contracts, and (3) providing additional guidance to SBA officials on the enforcement of related policies.

SBA's Response to Recommendation 1:

SBA believes it has already effectively implemented changes to address this recommendation.

In response to GAO's recommendation: (1) requesting that procuring agencies specifically state whether a contract is a follow-on in its offer letter. This is currently required in the FAR 19.804.2 and 13 C.F.R. § 124.502. The SBA continually emphasized these requirements in our 8(a) Program partnership agreement training with the Federal Acquisition Community. To this point, the SBA significantly increased training to specifically address this and other 8(a) program requirements. Through the 8(a) BD Office, the SBA trained 5 different federal agencies in FY14 with a total of 210 contracting professional in attendance; and trained 19 different federal agencies in FY15 with over 860 contracting professionals in attendance. The list of federal agencies and the corresponding number and contracting professionals for each session will be forwarded for your consideration. Some of the federal agencies recorded the presentation to have it readily accessible for refresher and new hire training sessions.

In response to GAO's recommendation: (2) providing additional training to SBA staff that specifically addresses how to monitor for follow-on sole source contracts. The SBA believes the current risk mitigation measures are adequate for addressing this low risk issue. To this point, the draft report acknowledges at footnote 33 on page 19 that of the 30 cases that the GAO reviewed there were no follow-on sole source contract occurrences. To monitor and mitigate risks of awarding 8(a) sole-source follow-on contracts to sister subsidiaries, the SBA significantly increased training to federal agencies reinforcing the requirement to provide the full acquisition history in the offer letter, and increased training/engagement for field business opportunity specialists reminding them to focus on this issue when reviewing offer letters for entity owned 8(a) firms. Further, the SBA continually conducts random sampling surveillance through Field Activity Reviews at various district offices throughout the year. We believe these risk mitigation efforts resulted in GAO finding no follow-on sole source contract occurrences during the review.

In response to GAO's recommendation: (3) providing additional guidance to SBA officials on the enforcement of related policies. During 2015, SBA responded by providing training to field staff officials on related policies. In addition, SBA is now holding back-to-back quarterly Field BOS training sessions relating to all of the recommendation's elements.

Also, in June 2015 the GAO closed an earlier recommendation related to this issue from Report GAO-12-84:

Recommendation #4: "To improve oversight of tribal firms' participation in the 8(a) program, the Administrator of SBA should, in light of the new prohibition on awarding 8(a) sole-source follow-on contracts to sister subsidiaries, reinforce to procuring agencies the requirement to provide the full acquisition history of the procurement in the offer

Mr. Seto J. Bagdoyan
Page 4

letter, when available, and direct district office business development specialists to focus on this issue when they review offer letters for tribal 8(a) firms.”

The GAO’s recent closure of the recommendation was based on SBA’s submission of an updated partnership agreement template that addresses 8(a) sole-source follow-contracts, a listing of SBA-hosted training sessions that covered this issue, including ANC-specific training held in Arizona in 2012, and a copy of a PowerPoint used in training sessions regarding the new partnership agreement. SBA believes that the documentation submitted in response to GAO Report GAO-12-84 also addresses the elements of the recommendation in the 2016 draft report.

Recommendation 2:

Enhance internal controls and oversight of ANC-owned firms in the 8(a) program serviced in the Alaska District Office by enforcing policies regarding the separation of duties and supervisor or Administrator approval in order to improve supervisory review of ANC-owned firm transactions and related documentation.

SBA’s Response to Recommendation 2:

SBA disagrees with this recommendation to increase internal controls and oversight, because effective measures are already in place.

To address the knowledge gap regarding ANC/8(a) programs and procedures for all Alaska DO staff, senior District Officials and the OFO mentoring team arranged and provided 10 legal and ANC/8(a) training sessions to Alaska DO staff. Training was provided by subject matter experts from the Office of General Counsel, 8(a)/ANC (Office of Business Development – Division of Program Certification), and OFO HQ. Further, the mentoring and training team has worked closely with Alaska DO officials to identify 8(a) procedures that must be followed, to include secondary reviews/approvals, files management, and annual review processing requirements.

The ongoing training and mentoring will continue in 2016 with monitoring of performance metrics and regular check-ins with the OFO team by the Alaska DO.

Note: Please see our technical comment relating to annual review approval separation of duties.

Recommendation 3:

Develop a comprehensive approach to staffing its Alaska District Office to include succession planning, managing attrition and retirements in order to improve the agency’s capacity to keep pace with oversight activities.

Mr. Seto J. Bagdoyan
Page 5

SBA's Response to Recommendation 3:

SBA disagrees with this recommendation to develop a new comprehensive approach to staffing, because the SBA already addressed and mitigated the potential for reoccurrence of this issue through new hires and training.

SBA acknowledges previous customer service challenges and inadequate staffing due to attrition in the Alaska (AK) DO in recent years due to Voluntary Early Retirement Authority and Voluntary Separation Incentive Program efforts.

However, the Alaska District Office officials hired two Business Opportunities Specialist (BOS) in 2015, with another BOS and Economic Development Specialist (EDS) hire pending by February 2016. Along with the increased staffing, to address the knowledge gap regarding ANC/8(a) programs and procedures for all Alaska District Office staff, senior District Officials and the OFO mentoring team arranged and provided 10 legal and ANC/8(a) training sessions to Alaska District Office staff. Training was provided by subject matter experts from the Office of General Counsel, 8(a)/ANC (Office of Business Development – Division of Program Certification), and OFO HQ. The team believes that the new hires, training, and mentoring will result in a fully functional office that can support the Agency's mission and requirements.

Regarding succession planning, please see SBA's responses to report GAO-15-347, recommendations 3-5 at pages 123-124.

GAO Recommendations for Executive Action for Office of Business Development

The GAO also recommends that the Administrator of SBA direct the Associate Administrator of Business Development to take the following three actions:

Recommendation 4:

Document its planned random surveillance method for tracking revenue generated under subsidiaries' primary and secondary lines of business, with milestones and timelines for when and how the method will be implemented.

SBA's Response to Recommendation 4:

SBA agrees with the recommendation, and has already started process improvements.

SBA has proposed changes to its existing regulations which would enable SBA to change an 8(a) firm's primary NAICS code. In October 2015, SBA established a new tracking mechanism using Federal Procurement Data System (FPDS-NG) data regarding award obligations to entity-owned firms. In tracking the revenue generated under a subsidiary's primary and secondary

Mr. Seto J. Bagdoyan
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NAICS codes, SBA is not using a random surveillance method, but instead tracking award obligations for all entity-owned firms.

The tracking mechanism will be updated annually. SBA personnel will be provided instructions, consistent with the proposed regulation, on how SBA associates should review the tracking mechanism. Once the new regulations are finalized, SBA will post the tracking system to SBA's SharePoint, making it accessible to all BOSs. A sample document using the tracking mechanism has been submitted to the GAO for review. SBA, in posting the tracking system to SharePoint in February 2016 and updating it annually is meeting its implementation milestones and timelines.

Recommendation 5:

Provide the appropriate level of access to and sharing of relevant subsidiary data across district offices, including primary and secondary NAICS codes and revenue data, once SBA develops a database with the capabilities of collecting and tracking this revenue data as we recommended in 2012.

SBA's Response to Recommendation 5:

SBA agrees with the recommendation, and has already started process improvements.

As noted above, once the new regulations are finalized, SBA will post the tracking mechanism to SBA's SharePoint site. This will provide the appropriate level of access to and sharing of relevant subsidiary data across DOs.

Recommendation 6:

Enhance internal controls and oversight of ANC-owned firms in the 8(a) program by:

- a) Ensuring that all ANC-owned firm files contain all relevant documents in accordance with SBA program requirements to help facilitate SBA's review of compliance with applicable program regulations and guidance, including the collection of documents related to follow-on sole-source contracts, benefits distributions reports, compensation data, information about excessive withdrawals that do not benefit the ANC or the native or shareholder community, as well as the submission of the annual reviews themselves.
- b) Finalizing the agency's plans to launch a new compliance office, including identifying policies and procedures such as specific tasks, milestones, and timelines for the full launch of the office.

Mr. Seto J. Bagdoyan
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SBA's Response to Recommendation 6:

- a) SBA believes it has recently addressed this recommendation.

As detailed above, Alaska DO staff has received detailed training on the 8(a) procedures that must be followed, to include secondary reviews/approvals, file management, and annual review processing requirements.

- b) SBA believes it has recently addressed this recommendation, with the full launch and implementation of this office.

In 2015, SBA stood up a continuing eligibility review unit within its Office of Certification and Eligibility and performed the required continuing eligibility reviews for ANC-owned firms. The office completed 100% of the assigned reviews for fiscal year 2015. The team is adequately staffed, and will continue to fulfill this function. We believe that this more in depth review enhances internal controls and oversight of ANC-owned firms in the 8(a) BD program.

Note: Please also see our technical comment concerning the GAO's use of the term "compliance office."

If you have additional questions or comments, please Shawn McKeehan, SBA GAO Liaison, at (202) 205-7729.

Sincerely,



Ali J. Shoraka
Associate Administrator
Office of Government Contracting and Business Development

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Seto J. Bagdoyan, (202) 512-4749 or bagdoyans@gao.gov

Staff Acknowledgments

In addition to the contact named above, Latesha Love (Assistant Director), Carla Craddock, April Van Cleef, Flavio Martinez, Gavin Ugale, Holly Halifax, Barbara Lewis, Tatiana Winger, Jeffery Malcolm, Paul Kinney, James Murphy, Colin Fallon, Linda Miller, Marcus Corbin, Maria McMullen, Rayna Elias, Shelly Rao, Shana Wallace, and Julia Kennon made key contributions to this report.

Appendix V: Accessible Data

Agency Comment Letter

Text of Appendix V: Comments from the Small Business Administration

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U.S. SMALL BUSINESS ADMINISTRATION

WASHINGTON, D.C. 20416

January 26, 2016

Mr. Seto J. Bagdoyan

Director

Forensic Audits and Investigative Service

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441 G Street, NW

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If you have additional questions or comments, please Shawn McKeehan, SBA GAO Liaison, at (202) 205-7729.

Sincerely,

Ali J. Shoraka

Associate Administrator

Office of Government Contracting and Business Development

Data Tables

Accessible Text for Figure 1: Illustrative Example of a Corporate Structure of an Alaska Native Corporation's (ANC) Family of Firms

Alaska Native Corporation (parent company) Board of directors is 100 percent Alaska Native

1. 8(a) subsidiary 100 percent owned by ANC
2. 8(a) subsidiary 51 percent owned by ANC 49 percent owned by non-ANCs
3. Non-8(a) subsidiary 30 percent owned by ANC 70 percent owned by non-ANCs

Accessible Text for Figure 2: Progression through the Small Business Administration's (SBA) 8(a) Business Development Program

Applicant Alaska Native Corporation (ANC)-owned subsidiaries must prove that:

- they are majority owned by ANCs
- they qualify as a "small" business, and

- they have been in operation 2 years prior to application or can otherwise demonstrate potential for success, among other things.

Application: A subsidiary receives a program term of 9 years from the date of the Small Business Administration's (SBA) approval letter certifying the subsidiary's admission to the program.

Developmental Phase (Years 1-4): During development, subsidiaries provide annual updates to SBA while receiving assistance and access to 8(a) contracting opportunities.

During development, SBA provides assistance with:

- Sole-source and competitive contract support
- Capacity development and training

Transitional Phase(Years 5-9): During transition, subsidiaries continue to provide annual updates to SBA while receiving assistance and access to 8(a) contracting opportunities. But in the latter stage of the program, they must demonstrate that they are a subsidiary with diminishing reliance on 8(a) business and more reliance on non-8(a) business from the first transitional year (15%) to the last transitional year (55%).

In preparation for a subsidiary's transition from the program, SBA provides assistance by:

- Coordinating assistance from federal procuring departments and agencies to form special agreements and ventures
- Ongoing training and technical assistance in developing transitional business plans

Data Table for Figure 10: Self-Reported 8(a) and Non-8(a) Revenues for the Reviewed 26 8(a) ANC-owned firms, 2011-2014^a

Fiscal Year	8(a) Revenues	Non 8(a) Revenues
2011	\$ 151,407,482.00	\$ 72,513,766.00
2012	\$ 188,819,414.00	\$ 132,311,689.00
2013	\$ 356,693,811.00	\$ 130,589,844.00
2014	\$ 281,671,033.00	\$ 117,767,247.00

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