NORTHERN LIGHTS AND PROCUREMENT PLIGHTS: THE EFFECT OF THE ANC PROGRAM ON FEDERAL PROCUREMENT AND ALASKA NATIVE CORPORATION

JOINT HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

AND THE

COMMITTEE ON SMALL BUSINESS

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JUNE 21, 2006

Serial No. 109–185

Committee on Government Reform

Serial No. 109–56

Committee on Small Business

Printed for the use of the Committees on Government Reform and Small Business

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.house.gov/reform

NORTHERN LIGHTS AND PROCUREMENT PLIGHTS: THE EFFECT OF THE ANC PROGRAM ON FEDERAL PROCUREMENT AND ALASKA NATIVE CORPORATION

NORTHERN LIGHTS AND PROCUREMENT PLIGHTS: THE EFFECT OF THE ANC PROGRAM ON FEDERAL PROCUREMENT AND ALASKA NATIVE CORPORATION

JOINT HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

AND THE

COMMITTEE ON SMALL BUSINESS

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JUNE 21, 2006

Serial No. 109–185

Committee on Government Reform

Serial No. 109–56

Committee on Small Business

Printed for the use of the Committees on Government Reform and Small Business

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

30–341 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON GOVERNMENT REFORM

TOM DAVIS, Virginia, *Chairman*

CHRISTOPHER SHAYS, Connecticut
DAN BURTON, Indiana
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
JOHN L. MICA, Florida
GIL GUTKNECHT, Minnesota
MARK E. SOUDER, Indiana
STEVEN C. LATOURETTE, Ohio
TODD RUSSELL PLATTS, Pennsylvania
CHRIS CANNON, Utah
JOHN J. DUNCAN, JR., Tennessee
CANDICE S. MILLER, Michigan
MICHAEL R. TURNER, Ohio
DARRELL E. ISSA, California
JON C. PORTER, Nevada
KENNY MARCHANT, Texas
LYNN A. WESTMORELAND, Georgia
PATRICK T. MCHENRY, North Carolina
CHARLES W. DENT, Pennsylvania
VIRGINIA FOXX, North Carolina
JEAN SCHMIDT, Ohio

HENRY A. WAXMAN, California
TOM LANTOS, California
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
DANNY K. DAVIS, Illinois
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
CHRIS VAN HOLLEN, Maryland
LINDA T. SANCHEZ, California
C.A. DUTCH RUPPERSBERGER, Maryland
BRIAN HIGGINS, New York
ELEANOR HOLMES NORTON, District of Columbia

BERNARD SANDERS, Vermont (Independent)

DAVID MARIN, *Staff Director*
LAWRENCE HALLORAN, *Deputy Staff Director*
TERESA AUSTIN, *Chief Clerk*
PHIL BARNETT, *Minority Chief of Staff/Chief Counsel*

COMMITTEE ON SMALL BUSINESS

DONALD A. MANZULLO, Illinois, *Chairman*

ROSCOE BARTLETT, Maryland, *Vice Chairman*
SUE KELLY, New York
STEVE CHABOT, Ohio
SAM GRAVES, Missouri
TODD AKIN, Missouri
BILL SHUSTER, Pennsylvania
MARILYN MUSGRAVE, Colorado
JEB BRADLEY, New Hampshire
STEVE KING, Iowa
THADDEUS McCOTTER, Michigan
RIC KELLER, Florida
TED POE, Texas
MICHAEL SODREL, Indiana
JEFF FORTENBERRY, Nebraska
MICHAEL FITZPATRICK, Pennsylvania
LYNN WESTMORELAND, Georgia
LOUIE GOHMERT, Texas

NYDIA VELÁZQUEZ, New York
JUANITA MILLENDER-McDONALD, California
TOM UDALL, New Mexico
DANIEL LIPINSKI, Illinois
ENI FALEOMAVAEGA, American Samoa
DONNA CHRISTENSEN, Virgin Islands
DANNY DAVIS, Illinois
ED CASE, Hawaii
MADELEINE BORDALLO, Guam
RAÚL GRIJALVA, Arizona
MICHAEL MICHAUD, Maine
LINDA SÁNCHEZ, California
JOHN BARROW, Georgia
MELISSA BEAN, Illinois
GWEN MOORE, Wisconsin

J. MATTHEW SZYMANSKI, *Chief of Staff*
PHIL ESKELAND, *Deputy Chief of Staff/Policy Director*
MICHAEL DAY, *Minority Staff Director*

CONTENTS

Page

Hearing held on June 21, 2006 1

Statement of:

Alford, Harry, president and CEO, National Black Chamber of Commerce; Ann Sullivan, president, Madison Services Group, Inc. on behalf of Women Impacting Public Policy; Chris E. McNeil, Jr., chairman, Native American Contractors Association and president and CEO, Sealaska Corp.; Helvi Sandvik, president, Nana Development Corp.; Bart Garber, Tyonek Native Corp.; Julie Kitka, president, Alaska Federation of Natives; and Charles Totemoff, president and CEO, Chenega Corp. 172

Alford, Harry 172

Garber, Bart 237

Kitka, Julie 257

McNeil, Chris E., Jr., ... 185

Sandvik, Helvi 221

Sullivan, Ann 178

Totemoff, Charles 255

Jenkins, Calvin, Deputy Associate Deputy Administrator, Office of Government Contracting and Business Development, Small Business Administration; David Cooper, Director, Acquisition and Management, Government Accountability Office; Frank Ramos, Director, Small Business Programs, Office of the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense; and Melodee Stith, Associate Director, Acquisition and Financial Assistance, Office of Acquisition and Property Management, Department of Interior 126

Cooper, David 134

Jenkins, Calvin 126

Ramos, Frank 146

Stith, Melodee 153

Young, Hon. Don, a Representative in Congress from the State of Alaska, chairman, Committee on Transportation and Infrastructure 121

Letters, statements, etc., submitted for the record by:

Alford, Harry, president and CEO, National Black Chamber of Commerce, prepared statement of 175

Cooper, David, Director, Acquisition and Management, Government Accountability Office, prepared statement of 136

Cummings, Hon. Elijah E., a Representative in Congress from the State of Maryland, prepared statement of 288

Davis, Chairman Tom, a Representative in Congress from the State of Virginia, prepared statement of 4

Garber, Bart, Tyonek Native Corp., prepared statement of 239

Jenkins, Calvin, Deputy Associate Deputy Administrator, Office of Government Contracting and Business Development, Small Business Administration, prepared statement of 129

Kitka, Julie, president, Alaska Federation of Natives, prepared statement of 259

McNeil, Chris E., Jr., chairman, Native American Contractors Association and president and CEO, Sealaska Corp., prepared statement of 187

Ramos, Frank, Director, Small Business Programs, Office of the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, prepared statement of 148

Sandvik, Helvi, president, Nana Development Corp., prepared statement of 224

Page

Letters, statements, etc., submitted for the record by—Continued
Stith, Melodee, Associate Director, Acquisition and Financial Assistance, Office of Acquisition and Property Management, Department of Interior, prepared statement of 155
Sullivan, Ann, president, Madison Services Group, Inc. on behalf of Women Impacting Public Policy, prepared statement of 180
Waxman, Hon. Henry A., a Representative in Congress from the State of California, prepared statement of 10

NORTHERN LIGHTS AND PROCUREMENT PLIGHTS: THE EFFECT OF THE ANC PROGRAM ON FEDERAL PROCUREMENT AND ALASKA NATIVE CORPORATION

WEDNESDAY, JUNE 21, 2006

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM, JOINT WITH THE COMMITTEE ON SMALL BUSINESS,

Washington, DC.

The committees met, pursuant to notice, at 1 p.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis of Virginia (chairman of the Committee on Government Reform) presiding.

Present from the Committee on Government Reform: Representatives Tom Davis, Platts, Schmidt, Waxman, Cummings, Watson, Van Hollen, Ruppersberger, and Norton.

Present from the Committee on Small Business: Representatives Manzullo, Bartlett, Velazquez, Lipinski, Bordallo, Barrow, and Moore.

Staff present from the Committee on Government Reform: David Marin, staff director; Keith Ausbrook, chief counsel; Patrick Lyden, parliamentarian; Rob White, communications director; Andrea LeBlanc, deputy director of communications; Edward Kidd, professional staff member; John Brosnan, procurement counsel; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; and Leneal Scott, computer systems manager.

Chairman TOM DAVIS. The meeting will come to order. I want to welcome everybody to today's joint hearing with the Small Business Committee on the awarding of contracts by Federal agencies to Alaska Native Corporations [ANCs], participating in the Small Business Administration's 8(a) program.

I want to extend a special welcome to Chairman Manzullo and Ranking Member Velazquez and all members of the Small Business Committee participating in the hearing today. Further, we are honored by the participation of our distinguished member from Alaska and chairman of the Committee on Transportation and Infrastructure, the Honorable Don Young, who will be our lead-off witness.

Over the last few years, the increased participation of ANCs in the Government market through the use of non-competitive contracts has spawned various newspaper articles and concerns that the Government's competitive acquisition system is being circumvented. Therefore, our committee and the Small Business Committee tasked the Government Accountability Office to review the

role of ANCs in our competitive acquisition system and within the SBA's 8(a) program. The GAO report issued this April showed that sole-source awards to ANCs have been on the rise in recent years and that SBA has not tailored its policies and practices to account for ANC's unique status and growth in the 8(a) program.

Through this hearing today, I want to explore the impact of the special exemption to the standard of full and open competition granted ANCs. I also expect to hear about SBA's management of the program and whether the Alaska Native people are receiving the appropriate benefits from the acquisition advantages they have been given. I recognize that the ANC program has a complex background and that the ANCs were created in a context independent of any participation in the acquisition system.

The Alaska Native Claims Settlement Act was enacted in 1971 to resolve land claims and to foster economic development for the Alaska Native people. ANCs were established under the act to become the vehicle for distributing land and monetary benefits in lieu of a reservation system. ANCs are to be used for the benefit of Alaska Native peoples. Alaska Natives are eligible for membership in the ANC for their village and locality and, as shareholders, are entitled to a voice in management and a share in the assets and income. A part of this income in many but not all of the ANCs comes from Government contract revenues.

ANCs have been permitted since 1986 to participate in the SBA 8(a) program. The 8(a) program was established to help socially and economically disadvantaged groups start small businesses and develop them, at least in part by contracting with the Federal Government. Under the program, Federal agencies are allowed to award contracts without competition to small businesses that are certified by the SBA as 8(a) firms.

For most firms, these sole-source awards are limited to $5 million for manufacturing and $3 million for other goods and services. Acquisitions above these thresholds must be competed among eligible 8(a) certified small businesses, but these limitations don't apply to ANC firms participating in the 8(a) program.

ANCs are subject to different requirements than other 8(a) firms in a number of respects. For example, ANCs are not subject to the affiliation rule which requires other 8(a) small business to count affiliates or subsidiaries of the business to determine whether the business concern is small.

The GAO review of the ANC program found that expenditures obligated to ANC firms through the 8(a) program have grown from $265 million in 2000 to $1.1 billion in 2004. My concern is centered on GAO's finding that the spending of six Federal agencies—DOD, Energy, Homeland Security, Interior, State, Transportation, and NASA—through sole-source contracts to ANC firms rose from about $180 million in 2000 to $876 million in 2004.

These sole-source contracts represented a broad range of services such as contracts for construction in Brazil, training of security guards in Iraq, and information technology services in Washington, DC.

According to the GAO report, agency officials said they had used ANC firms as a quick, easy, and legal method of awarding contracts of any value. At the same time, the officials noted these con-

tracts helped them meet small business goals. It is notable, I think, that nowhere in the GAO report is there a statement that the contracts were awarded to ANCs because of the quality or value of performance offered. Further, according to GAO, SBA has not tailored its policies and practices to account for ANCs' unique status in the 8(a) program or their growth in Federal contracting.

I have concerns about the impact of this program on our already overburdened competitive acquisition system. Ideally, the system is designed to permit all segments of the global competitive market to contend to provide our Government with the best value goods and services available, but we have increasingly burdened our system with restrictions on competition. We prohibit acquisitions from overseas suppliers, and we limit competition to a bewildering array of special types of businesses. While these various restrictions often have laudable social goals, they all come at a price. Whenever competition is limited for reasons that are not tied to the needs of the Government, taxpayers pay the price in quality and cost.

I hope this hearing today will clarify the impact of the ANC program on our competitive acquisition process and the value of the ANC program to the Alaska Native people. I look forward to the witnesses' views on ways to improve the management, oversight, and structure of the ANC program, so that appropriate benefits go to the Alaska Native people and taxpayers get the benefit of the best value goods and services available from the marketplace.

I will now recognize Mr. Manzullo, the chairman of the Small Business Committee, and then I will go to Mr. Waxman and Ms. Velazquez.

[The prepared statement of Chairman Tom Davis follows:]

Opening Statement of Chairman Tom Davis

"Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement and Alaska Native Corporations"
June 21, 2006
1:00 p.m.
Room 2154, Rayburn House Office Building

Good afternoon, I would like to welcome everyone to today's joint oversight hearing with the Small Business Committee on the awarding of contracts by Federal agencies to Alaska Native Corporations (ANCs) participating in the Small Business Administration's 8(a) program. I would like to extend a special welcome to Chairman Manzullo and Ranking Member Velazquez and all of the Members of the Small Business Committee participating in our hearing today. Further, we are honored by the participation of the distinguished Member from Alaska, and Chairman of the Committee on Transportation and Infrastructure, the Honorable Don Young who will be our lead off witness.

Over the last few years, the increased participation of ANCs in the government market through the use of non-competitive contracts has spawned various newspaper articles and concerns that the Federal government's competitive acquisition system was being circumvented. Therefore, our Committee and the Small Business Committee tasked the Government Accountability Office (GAO) to review the role of ANCs in our competitive acquisition system and within the SBA's 8(a) program. The GAO report, issued this April, showed that sole-source awards to ANCs have been on the rise in recent years and that SBA has not tailored its policies and practices to account for ANCs' unique status and growth in the 8(a) program.

Through this hearing, I hope to explore the impact of the special exemption to the standard of full and open competition granted ANCs. I also expect to hear about SBA's management of the program and whether the Alaska Native people are receiving the appropriate benefits from the acquisition advantages they have been given. I recognize that the ANC program has a complex background and that the ANCs were created in a context independent of any participation in the acquisition system.

The Alaska Native Claims Settlement Act was enacted in 1971 to resolve land claims and to foster economic development for the Alaska Native people. ANCs were established under the act to become the vehicle for distributing land and monetary benefits in lieu of a reservation system. ANCs are to be used for the benefit of Alaska Native people. Alaska Natives are eligible for membership in the ANC for their village or locality and, as shareholders, are entitled a voice in management and a share in the assets and income. A part of this income in many, but not all, of the ANCs comes from government contract revenues.

ANCs have been permitted since 1986 to participate in the SBA 8(a) program. The 8(a) program was established to help socially and economically disadvantaged groups start small businesses and develop them, at least in part, by contracting with the Federal government. Under the program, federal agencies are allowed to award contracts without competition to small businesses that are certified by the SBA as 8(a) firms. For most firms, these sole-source awards are limited to $5 million for manufacturing and $3 million for other goods and services. Acquisitions above these thresholds must be competed among eligible 8(a) certified small businesses. These limitations do not apply to ANC firms participating in the 8(a) program. ANCs are subject to different requirements than other 8(a) firms in a number of respects. For example, ANCs are not subject to the "affiliation rule" which requires other 8(a) small businesses to count affiliates or subsidiaries of the business to determine whether the business concern is "small."

The GAO review of the ANC program found that expenditures obligated to ANC firms through the 8(a) program have grown significantly, from $265 million in 2000 to $1.1 billion in 2004. My concern is centered on GAO's finding that the spending of six federal agencies, the Departments of Defense, Energy, Homeland Security, Interior, State, Transportation and NASA, through sole-source contracts to ANC firms rose from about $180 million in 2000 to $876 million 2004. These sole-source contracts represented a broad range of services, such as contracts for construction in Brazil, training of security guards in Iraq, and information technology services in Washington, D.C.

According to the GAO report, agency officials said that they use ANC firms as a quick, easy, and legal method of awarding contracts of any value. At the same time, the officials noted that these contracts help them meet small business goals. It is notable, I think, that nowhere in the GAO report is there a statement that the contracts were awarded to ANCs because of the quality or value of the performance offered. Further, according to GAO, SBA has not tailored its policies and practices to account for ANCs' unique status in the 8(a) program and their growth in federal contracting.

I worry about the impact of this program on our already overburdened competitive acquisition system. Ideally, the system is designed to permit all segments of the global competitive market to contend to provide our government with the best value good and services available. Yet we have increasingly burdened our system with restrictions on competition. We prohibit acquisitions from some overseas suppliers and we limit competition to a bewildering array of special types of businesses. While these various restrictions often have laudable social goals, they all come at a price. Whenever competition is limited for reasons that are not tied to the needs of the government, taxpayers pay the price in quality and cost.

I hope this hearing will help clarify the impact of the ANC program on our competitive acquisition process and the value of the ANC program to the Alaska Native people. I look forward to the witnesses' views on ways to improve the management, oversight, and structure of the ANC program so that appropriate benefits go to the Alaska Native people, and taxpayers get the benefit of the best value goods and services available from the marketplace.

Chairman MANZULLO. Thank you. Good morning and welcome to this joint hearing by the Committee on Government Reform and the Committee on Small Business. Special thanks to those witnesses who have come a great distance to participate and attend this hearing.

I welcome this hearing since there have been various newspaper articles concerning the increased use of Alaska Native Corporations. This increased use is the subject of a U.S. Government Accountability Office study released in April of this year. GAO found that the amount of 8(a) contracts going to ANCs increased from $265 million in fiscal year 2001 to $1.1 billion in 2004, which represents 13 percent of all the 8(a) contract dollars in that year.

Federal agencies have awarded large sole-source contracts to Alaska Native Corporations since they enjoyed statutory advantages not enjoyed by other 8(a) contractors. Federal agencies may award contracts on a sole-source basis to Alaska Native Corporations without reference to the dollar value of the contract. Other 8(a) contractors must compete among themselves if the procurement is in excess of $5 million for manufacturing or $3 million for services and goods.

In addition, Alaska Native Corporations are not subject to the affiliation rule which requires for other certified 8(a) small businesses that affiliates or subsidiaries of the small business be counted in determining the size of a business concern. The result is that the Alaska Native Corporations, including their subsidiaries, can grow to large businesses in comparison with other 8(a) small businesses that are constrained by size standards. In fact, the GAO report states that for fiscal year 1988 to 2005, Alaska Native Corporations 8(a) subsidiaries increased from one subsidiary owned by one ANC to 154 subsidiaries owned by 49 ANCs.

Alaska Native Corporations have used their procurement advantages to help stockholders of the corporations in Alaska with various benefits being enjoyed by Alaska Natives including dividends, jobs, education, scholarships, etc.

Again, I welcome this hearing as another means of getting the facts concerning Alaska Native Corporations enrolled in the 8(a) contracting program. I want to thank my good friend and colleague, Chairman Davis for joining with the Committee on Small Business and holding this hearing.

Chairman TOM DAVIS. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman, for holding this hearing on Federal contracts with Alaska Native Corporations.

On Monday, I released a major report entitled "Dollars, Not Sense: Government contracting under the Bush Administration." This report, which is based on a review of over 500 Government audits, is the first comprehensive assessment of Federal contracting under the Bush Administration. I would like to ask that this report be made part of today's hearing record.

Chairman TOM DAVIS. Without objection.

Mr. WAXMAN. As the report documents, procurement spending has grown rapidly over the last 5 years, nearly twice as fast as the rest of the Federal budget, and the result is that 40 cents of every discretionary Federal dollar now goes to private contractors, which

is a record level. Unfortunately, while contract spending has soared, oversight has been discouraged and accountability undermined. The result is that mistakes have been made in virtually every step of the contracting process, from pre-contract planning through contract award and oversight to recovery of contract overcharges. Contractors get rich, and taxpayers get gouged.

The report identifies 118 contracts worth $745 billion that have experienced significant overcharges, wasteful spending or mismanagement over the last 5 years. Well, that is the big picture.

True, we are going to focus today on one small but important part of the problem, and I think it is an important one as we put it in the context of this bigger picture. Today, we are going to look at Federal contracts with Alaska Native Corporations.

This is our first hearing on these contracts, but Chairman Davis and I began our oversight of this issue over a year ago. To lay a foundation of this hearing, we jointly asked the Government Accountability Office to investigate, and we requested contract documents from the Departments of the Defense, Homeland Security, and State.

Our investigation is focused on the special contracting privileges that Alaska Native Corporations [ANCs], have under Federal law. Federal contracting law provides a valuable but limited privilege for small minority and economically disadvantaged businesses. Under Section 8(a) of the Small Business Act, these companies can be awarded contracts worth up to $5 million without competition, but a 1986 law eliminated the $5 million ceiling for all Alaska Native Corporations. The result is that Alaska Native Corporations can be awarded Federal contracts of any size without competition.

What both the GAO investigation and the contracting report I released found is that this contracting "flexibility" has been grossly abused by the Bush administration. In 2000, the last year of the Clinton administration, Alaska Native Corporations received only $265 million in Federal contracts. Four years later, spending on these contracts has ballooned to over $1 billion per year.

The original purpose of the special ANC contracting privileges was to encourage economic opportunities for Alaskan natives living in Alaska, but the administration has used ANC contracts to manage commercial property in Virginia, renovate buildings in Brazil, and train security guards in Iraq, and much of the work has been done by non-Native companies working as subcontractors. In effect, the contracts become a convenient vehicle for circumventing open competition requirements at a great expense to the taxpayers.

Today, I am releasing an analysis of some of the documents that the committee has received. The documents show how congressional pressure has been placed on agency officials to provide special treatment to Alaska Native Corporations in contracting actions. They also show that the Alaska Native Corporation received large fee awards, despite repeatedly receiving poor security performance evaluations. I would like to ask that this analysis and the documents it cites be made part of the hearing record.

Chairman TOM DAVIS. Without objection.

Mr. WAXMAN. When GAO examined how Federal agencies are using the ANC contracting provisions, it found the administration officials view the provisions as "an open checkbook." GAO also

found almost no evidence that contracting officials are effectively enforcing the legal requirements that at least 50 percent of the work under these contracts be performed by Alaska Native Corporations rather than large non-Native subcontractors.

In one case identified by GAO, an agency wanted to contract with a particular company but could not award a no-bid contract directly to that company. The agency solved the problem. They awarded a passthrough contract to an ANC and required it to subcontract with the favored company.

The abuse of the ANC provision has been costly to the taxpayers, in one case described by GAO, the State Department awarded a no-bid contract to an ANC even though its initial proposed price was double the Government's cost estimate. In another case, rather than buying water and fuel tanks directly from a manufacturer, the Army awarded a no-bid contract to an ANC which had the effect of adding an unnecessary layer of fees to the contract. When an ANC was used to provide emergency classrooms after Hurricane Katrina, prices again doubled.

The special contracting privileges for Alaska Native Corporations were established with the best of intentions, but along the way and especially over the last 5 years, these good intentions have been replaced by avarice and indifference to the interests of the U.S. taxpayer. Fundamental changes in the law are needed, and I hope this hearing will be the first step on the road to reform.

Thank you.

[NOTE.—The April 2006 GAO report entitled, "Contract Management, Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight, GAO–06–399" may be found in committee files.]

[The prepared statement of Hon. Henry A. Waxman follows:]

Opening Statement of
Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Joint Hearing with
Committee on Small Business on
"Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement and ANCs"

June 21, 2006

Thank you, Mr. Chairman, for holding this hearing on federal contracts with Alaska Native Corporations.

On Monday, I released a major report entitled: *Dollars, Not Sense: Government Contracting under the Bush Administration.* This report, which is based on a review of over 500 government audits, is the first comprehensive assessment of federal contracting under the Bush Administration. I ask that this report be made part of today's hearing record.

As the report documents, procurement spending has grown rapidly over the last five years, nearly twice as fast as the rest of the federal budget. The result is that 40 cents of every discretionary federal dollar now goes to private contractors, a record level.

Unfortunately, while contract spending has soared, oversight has been discouraged and accountability undermined. The result is that mistakes have been made in virtually every step of the contracting process: from pre-contract planning through contract award and oversight to recovery of contract overcharges.

Contractors get rich, but taxpayers get gouged. The report identifies 118 contracts worth $745 billion that have experienced significant overcharges, wasteful spending, or mismanagement over the last five years.

That's the big picture. Today, we are going to focus on one small but important part of the problem: federal contracts with Alaska Native Corporations.

This is our first hearing on these contracts, but Chairman Davis and I began our oversight of this issue over a year ago. To lay a foundation for this hearing, we jointly asked the Government Accountability Office to investigate and we requested contract documents from the Departments of Defense, Homeland Security, and State.

Our investigation has focused on the special contracting privileges that Alaska Native Corporations, or ANCs, have under federal law. Federal contracting law provides a valuable but limited privilege for small minority and economically disadvantaged businesses: under section 8(a) of the Small Business Act, these companies can be awarded contracts worth up to $5 million without competition. But a 1986 law eliminated the $5 million ceiling for all Alaska Native Corporations.. The result is that Alaska Native Corporations can be awarded federal contracts of any size without any competition.

What both the GAO investigation and the contracting report I released found is that this contracting "flexibility" has been grossly abused by the Bush Administration. In 2000, the last year of the Clinton Administration, Alaska Native Corporations received only $265 million in federal contracts. But four years later, spending on these contracts had ballooned to over $1 billion per year.

The original purpose of the special ANC contracting privileges was to encourage economic opportunities for Alaska Natives living in Alaska. But the Administration has used ANC contracts to manage commercial property in Virginia, renovate buildings in Brazil, and train security guards in Iraq. And much of

the work has been done by non-Native companies working as subcontractors. In effect, the contracts become a convenient vehicle for circumventing open competition requirements at great expense to the taxpayer.

Today, I am releasing an analysis of some of the documents that the Committee has received. The documents show how members of Congress from Alaska have pressured agency officials to provide special treatment to Alaska Native Corporations in contracting actions. They also show that an Alaska Native Corporation received large fee awards despite repeatedly receiving poor security performance evaluations. I ask that this analysis and the documents it cites also be made part of today's hearing record.

When GAO examined how federal agencies are using the ANC contracting provisions, it found that Administration officials view the provisions as – and I quote – an "open checkbook." GAO also found "almost no evidence" that contracting officials are effectively enforcing the legal requirement that at least 50% of the work under these contracts be performed by the Alaska Native Corporation rather than large, non-Native subcontractors. In one case identified by GAO, an agency wanted to contract with a particular company but could not award a no-bid contract directly

to that company. The agency solved this problem by awarding a "pass-through" contract to an ANC and requiring it to subcontract with the favored company.

The abuse of the ANC provision has been costly to the taxpayer. In one case described by GAO, the State Department awarded a no-bid contract to an ANC even though its initial proposed price was double the government's cost estimate. In another case, rather than buying water and fuel tanks directly from a manufacturer, the Army awarded a no-bid contract to an ANC, which had the effect of adding an unnecessary layer of fees to the contract. When an ANC was used to provide emergency classrooms after Hurricane Katrina, prices again doubled.

The special contracting privileges for Alaska Native Corporations were established with the best of intentions. But along the way – and especially over the last five years – these good intentions have been replaced by avarice and indifference to the interests of the taxpayer.

Fundamental changes in the law are needed, and I hope this hearing will be the first step on the road to reform.

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF
SPECIAL INVESTIGATIONS DIVISION
JUNE 2006

DOLLARS, NOT SENSE:
GOVERNMENT CONTRACTING UNDER THE BUSH ADMINISTRATION

PREPARED FOR
REP. HENRY A. WAXMAN

TABLE OF CONTENTS

EXECUTIVE SUMMARY I

INTRODUCTION 1

I. THE GROWTH IN FEDERAL CONTRACTING 3
- A. Overall Spending 3
- B. Spending by Department 5
- C. Spending by Company 6

II. CONTRACT MISMANAGEMENT 7
- A. Award of Noncompetitive Contracts 7
- B. Reliance on Abuse-Prone Contract Types 10
  - 1. Cost-Plus Contracts 10
  - 2. Monopoly Contracts 12
  - 3. Middlemen Contracts 14
- C. Abuse of Contract Flexibilities 16
  - 1. "Commercial Item" Authority 17
  - 2. "Other Transaction" Authority 18
  - 3. Interagency Contracts 20
  - 4. Purchase and Travel Cards 22
  - 5. Alaska Native Preferences 25
- D. Poor Contract Planning 27
- E. Inadequate Contract Oversight 29
  - 1. Insufficient Contract Personnel 30
  - 2. Lack of Training 32
  - 3. Contracting for Oversight 34
  - 4. Overruling Career Contracting Officials 35
- F. Unjustified Award Fees 37
- G. Corruption 39
  - 1. Indictments and Convictions 39
  - 2. Ongoing Investigations 41

III. COSTS TO THE TAXPAYER 43
- A. Wasteful Homeland Security Contracts 44
  - 1. The Contract to Hire Airport Screeners 44
  - 2. The Contract to Screen Airport Luggage 45

3. The Contract to Upgrade Airport Computer Networks.....47
4. The Contract for Radiation Detectors.....47
5. The Contract for Border Surveillance.....48
6. The Contract for US-VISIT.....50
7. The Contract for the Transportation Security Operations Center..51
B. Wasteful Iraq Contracts.....52
1. The LOGCAP Contract.....53
2. The Original RIO Contract.....54
3. The RIO 2 Contract.....55
4. The Hospital and Health Clinic Contract.....56
5. The Custer Battles Contracts.....57
C. Wasteful Katrina Contracts.....58
1. The Contracts for Debris Removal.....58
2. The "Blue Roof" Contracts.....60
3. The Contracts for Manufactured Homes and Trailers.....61
4. The Contract with Carnival Cruise Lines.....62
5. The Contract for Base Camps.....62
6. The Contract for Portable Classrooms.....63
D. Other Wasteful Contracts.....63

CONCLUSION.....65

APPENDIX A:.....66

EXECUTIVE SUMMARY

Under the Bush Administration, the "shadow government" of private companies working under federal contract has exploded in size. Between 2000 and 2005, procurement spending increased by over $175 billion dollars, making federal contracts the fastest growing component of federal discretionary spending.

This growth in federal procurement has enriched private contractors. But it has also come at a steep cost for federal taxpayers. Overcharging has been frequent, and billions of dollars of taxpayer money have been squandered.

There is no single reason for the rising waste, fraud, and abuse in federal contracting. Multiple causes — including poor planning, noncompetitive awards, abuse of contract flexibilities, inadequate oversight, and corruption — have all played a part. The problems are widespread, undermining such major initiatives as domestic spending on homeland security, the rebuilding of Iraq, and the recovery from Hurricane Katrina.

At the request of Rep. Henry A. Waxman, this report is the first comprehensive assessment of federal contracting under the Bush Administration. It is based on a review of over 500 reports, audits, and investigations by government and independent bodies, such as the Government Accountability Office, the Defense Contract Audit Agency, and agency inspectors general. It also draws on interviews with experts, the Special Investigation Division's own extensive investigations, data from the Federal Procurement Data System, and investigative reporting.

The report reaches three primary conclusions:

- **Procurement Spending Is Accelerating Rapidly.** Between 2000 and 2005, procurement spending rose by 86% to $377.5 billion annually. Spending on federal contracts grew over twice as fast as other discretionary federal spending. Under President Bush, the federal government is now spending nearly 40 cents of every discretionary dollar on contracts with private companies, a record level.

- **Contract Mismanagement Is Widespread.** The growth in federal contracts has been accompanied by pervasive mismanagement. Mistakes have been made in virtually every step of the contracting process: from pre-contract planning through contract award and oversight to recovery of contract overcharges.

- **The Costs to the Taxpayer Are Enormous.** The report identifies 118 federal contracts worth $745.5 billion that have been found by government officials to include significant waste, fraud, abuse, or mismanagement. Each of the Bush Administration's three signature initiatives — homeland security, the war and reconstruction in Iraq, and Hurricane Katrina recovery — has been characterized by wasteful contract spending.

Growth in Contracting

President Bush came into office promising to reduce the size of the federal government, but he has presided over a large expansion of the federal role. Under his Administration, the fastest-growing component of government is the "shadow government" represented by private companies doing public work under federal contract. In 2000, the federal government spent $203.1 billion on contracts with private companies. By 2005, this spending had soared to $377.5 billion. During this period, spending on federal contracts grew

at nearly double the rate of other discretionary federal spending. Almost half of the growth in discretionary spending between 2000 and 2005 can be attributed to increased expenditures on private contractors.

This procurement spending is concentrated on the largest private contractors. The top five recipients of federal contracts — Lockheed Martin, Boeing, Northrop Grumman, Raytheon, and General Dynamics — received $80 billion in 2005, more than 21% of the total federal contract dollars. Just twenty corporations received 36% of the total dollars awarded in 2005. Lockheed Martin, the largest federal contractor, received $25 billion in 2005, more than the budgets of the Department of Commerce, the Department of Interior, the Small Business Administration, and Congress combined.

The single fastest-growing federal contractor between 2000 and 2005 was Halliburton. In 2000, Halliburton was the 20th largest federal contractor, receiving $763 million in federal contracts. By 2005, Halliburton had grown to become the 6th largest federal contractor, receiving nearly $6 billion in federal contracts.

Contract Mismanagement

The increase in spending on federal contracts under the Bush Administration has been accompanied by growing contract mismanagement. Recurring problems afflict nearly every aspect of contract planning, award, and oversight:

- **Award of Noncompetitive Contracts Is Increasing.** Under the Bush Administration, the award of no-bid and other noncompetitive contracts has ballooned. The dollar value of these contracts rose from $67.5 billion in 2000 to $145 billion in 2005, an increase of 115%. Without competitive bidding under full and open competition, federal taxpayers are left vulnerable to overpriced contracts.

- **Reliance on Abuse-Prone Contract Types Is Increasing.** Cost-based contracts expose taxpayers to increased risk because the government pays for all contract expenditures. Yet their use has increased by over 75% under the Bush Administration. Another type of abuse-prone contract — the monopoly contract — was widely used in Iraq, contributing to extensive waste and abuse.

- **Abuse of Contract Flexibilities Is Common.** Contract flexibilities — in particular, "commercial item" authority, "other transaction" authority, interagency contracts, purchase and travel cards, and Alaska Native preferences — have been repeatedly misused by officials during the Bush Administration. The result has been reduced competition and contract oversight affecting billions of dollars in federal contracts.

- **Poor Contract Planning Is a Recurring Problem.** Federal officials have frequently failed to determine government needs and program requirements before executing contracts. The repeated failure to engage in responsible contract planning led to wasteful federal spending on homeland security, the war and reconstruction in Iraq, and the response to Hurricane Katrina.

- **Contract Oversight Is Inadequate.** The acquisition workforce has not kept pace with the growth in federal contracting. The value of the contracts overseen by the average procurement official rose by 83% between 2000 and 2005. In key agencies such as the Department of Homeland Security, individual contract officials have been responsible for

overseeing more than $100 million in federal contracts. At the same time, many contracting officials are under-qualified and poorly trained. In Iraq, these problems were compounded when key oversight responsibilities were assigned to private contractors with conflicts of interest.

- **Auditor Findings Are Disregarded and Contractor Performance Ignored in Fee Awards.** Contractor payments, including the award of bonuses, are often made without review of contractor performance. Even when government auditors identify extensive overcharging, these findings are ignored by procurement officials.

- **Corruption Appears to Be Growing.** The integrity of the procurement process is increasingly being called into question. Over 70 corruption investigations are currently underway in Iraq. At least 785 investigations of criminal activity, including procurement fraud and abuse, are being pursued in connection with the response to Hurricane Katrina. In 2004, a senior procurement official at the Air Force pled guilty to conspiracy. In September 2005, the top procurement official at the White House was indicted for lying to investigators and obstructing justice. Just two months later, in November 2005, a U.S congressman pled guilty to accepting bribes to influence the award of federal contracts.

Cost to the Taxpayer

This report identifies 118 contracts collectively worth $745.5 billion that have experienced significant overcharges, wasteful spending, or mismanagement over the last five years. In the case of each of these 118 contracts, reports from GAO, DCAA, agency inspectors general, or other government investigators have linked the contracts to major problems in administration or performance.

Since 2000, the Bush Administration has launched three major contract spending "binges." The first occurred after the attacks of September 11, 2001, which led to over $19 billion in spending on massive but often ill-conceived homeland security contracts. The second occurred as part of the war in Iraq, where the Administration has spent over $30 billion on Iraq reconstruction. And the third occurred after Hurricane Katrina, where $10 billion has been spent so far on the restoration of the Gulf Coast. Each initiative has been characterized by extensive waste, fraud, abuse, and mismanagement in contract spending. This report describes over 20 problem contracts worth nearly $38 billion involving these three Administration priorities.

Federal contracts involving homeland security, Iraq, and Hurricane Katrina are by no means the only procurement programs afflicted by problems over the last five years. Weapons acquisition programs at the Department of Defense have cost the taxpayer billions of dollars through flawed contract management. Other agencies have experienced similar problems.

INTRODUCTION

President Bush came into office in 2001 as the nation's first "MBA" President. In 2001, the President's Management Agenda envisioned a government that would be: "Citizen-centered, not bureaucracy-centered; Results-oriented; Market-based, actively promoting rather than stifling innovation through competition."[1]

From the start, one key element of the President's agenda was the privatization of government by using contractors to deliver government services. The President's "Management Agenda," which was first presented to Congress in 2002, promoted a "competitive sourcing" initiative designed to turn over nearly half of all federal jobs to the private sector.[2] As Mitch Daniels, the President's first head of the Office of Management and Budget, stated in 2001, "the general idea that the business of government is not to provide services, but see to it that [services] are provided, seems self-evident to me."[3]

"The general idea that the business of government is not to provide services, but see to it that [services] are provided, seems self-evident to me." -Mitch Daniels, OMB

Consistent with this privatization policy, the Bush Administration has repeatedly turned to contractors to fulfill government responsibilities. In 2002, as the wave of homeland security spending was starting, Secretary of Homeland Security Tom Ridge invited contractors to submit bids for billions in new spending, telling contractors: "The entrepreneurial spirit is a potent weapon against terrorism. We look to your enlightened self-interest."[4]

In Iraq, the Bush Administration called on contractors to undertake the work of rebuilding and reconstruction. In July 2003, Lt. Gen. Jay Garner, the first American official to oversee the reconstruction effort, acknowledged that the Administration's strategy was to "rebuild the country through contracts."[5]

The same approach is now being proposed to solve the problem of illegal immigration. In May 2006, Homeland Security Deputy Secretary Michael Jackson told potential contractors for the Secure Border Initiative, a federal contract to design, build, test, and operate a massive new border security system: "We're asking you to come back and tell us how to do our business."[6]

---

[1] Office of the President of the United States, *The President's Management Agenda Fiscal Year 2002* (online at www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf) (accessed June 5, 2006).

[2] *Id.*

[3] *The Best Deal in Town?*, Government Executive (Aug. 1, 2001).

[4] *Businesses See Bonanza in Homeland Security*, USA Today (July 11, 2002).

[5] PBS Frontline, *Truth, War, and Consequences: Interview with Gen. Jay Garner* (July 17, 2003) (online at www.pbs.org/wgbh/pages/frontline/shows/truth/interviews/garner.html).

[6] *Bush Turns to Big Military Contractors for Border Control*, New York Times (May 18, 2006).

At the request of Rep. Henry A. Waxman, this report is the first comprehensive evaluation of the award and management of contracts under the Bush Administration. It is based in large part on a review of over 500 reports from government auditors and investigators examining individual contracts. These reports include:

- 211 reports prepared by the Government Accountability Office, the independent, nonpartisan auditors and investigators working for Congress;
- 124 reports prepared by the Defense Contract Audit Agency, the agency responsible for performing contract audits for the Department of Defense and other government agencies; and
- 152 reports prepared by several agency inspectors general, who are charged by law with oversight of agency management and administration.

The report also reflects interviews with outside experts, as well as investigations into contract abuses conducted by the Special Investigations Division and investigative reporters.

For data on trends in contract spending, the report relies on the Eagle Eye Federal Prime Contracts (FPC) Database, a federal procurement database application published by Eagle Eye, Inc. The FPC database contains data from 1999 to 2005 that is compiled from the Federal Procurement Data System (FPDS), the federal contract tracking system established by the General Services Administration.[7] GAO has identified problems with the completeness and accuracy of the FPDS, but according to GAO, the FPDS is "currently the only system providing information on over $300 billion in annual government spending"[8] and is the best available data set for assessing "the impact that governmentwide acquisition policies and processes are having with respect to specific geographic areas, markets, and socio-economic goals."[9]

---

[7] Unless noted otherwise, data is given for the fiscal year, not the calendar year.

[8] Letter from Katherine Schinasi, Managing Director, Acquisition and Sourcing Management, U.S. Government Accountability Office, to Office of Management and Budget Director Joshua B. Bolten (Sept. 27, 2005) (online at www.gao.gov/new.items/d05960r.pdf).

[9] Letter from William T. Woods, Director, Acquisition and Sourcing Management, U.S. General Accounting Office, to Office of Management and Budget Director Joshua B. Bolten (Dec. 30, 2003) (online at www.gao.gov/new.items/d04295r.pdf).

I. THE GROWTH IN FEDERAL CONTRACTING

President Bush, in his own words, "ran on making sure we didn't grow the size of Government."[10] He has said that "limiting the size and scope of government" is one of the "values I hold dear to my heart."[11] Yet government has grown, not shrunk, under President Bush. Total federal expenditures in 2005 were $2.5 trillion, compared to $1.8 trillion in 2000.[12]
'green'
The part of the federal budget that the President has the most control over is the "discretionary" budget. Discretionary spending funds the operations of government departments and agencies and all federal programs, contracts, and grants other than "mandatory" spending programs, such as Social Security, Medicare, and Medicaid. Discretionary spending has grown from $614.8 billion in 2000 to $968.5 billion in 2005.[13]

President Bush has said that "limiting the size and scope of government" is one of the "values I hold dear to my heart." Yet total federal expenditures have increased from $1.8 trillion to $2.5 trillion since he has been in office.

The fastest-growing part of the discretionary budget over the last five years has been spending on federal contracts. From 2000 to 2005, procurement spending grew by 86%. This is twice as fast as the rest of discretionary spending, which has grown by 43%. Spending on federal contracts now consumes nearly 40 cents of every dollar of discretionary spending, a record level.

A. Overall Spending

Between 2000 and 2005, the federal government's annual procurement spending rose by $174.4 billion, from $203.1 billion in 2000 to $377.5 billion in 2005.[14] The largest annual increase occurred between 2004 and 2005, when procurement spending jumped by $48 billion. See Figure 1.

---

[10] President Bush, *Remarks at Oak Park High School in Kansas City, Missouri* (June 17, 2002).

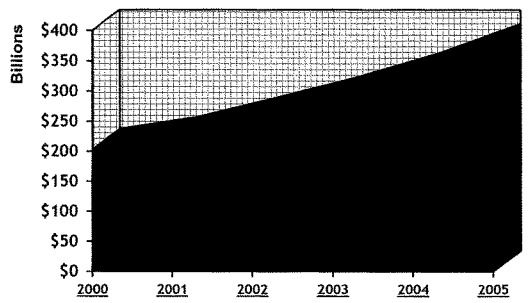
[11] President Bush, *Remarks at a Fundraiser for Representative Tom Lantham in Des Moines, Iowa* (Mar. 4, 2002).

[12] Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables* (Feb. 2006) (online at www.whitehouse.gov/omb/budget/fy2007/pdf/hist.pdf).

[13] *Id.*

[14] Unless otherwise noted, data on procurement spending in the report comes from the Eagle Eye Federal Prime Contracts (FPC) database application for FY 1999-FY 2003, FY 2004, and FY 2005 (Preliminary).

FIGURE 1: Overall Federal Contract Spending Has Increased



In percentage terms, procurement spending has increased by 86% between 2000 and 2005. This is equivalent to an annual increase of 13.2% per year under the Bush Administration. In contrast, inflation has increased by just 2.6% per year,[15] the gross domestic product by just 2.75% per year,[16] and the rest of the discretionary federal budget by 7.4% per year.[17]

Between 2000 and 2005, discretionary federal spending increased by $353.7 billion.[18] Nearly half of this increase — $174.4 billion — is due to increased spending on private contractors. As a result of the rapid increase in procurement spending, the size of the shadow government represented by federal contractors is now at record levels. In 2000, 33 cents of every discretionary federal dollar was spent on procurement. In 2005, 39 cents of every discretionary federal dollar was paid to private contractors.

---

[15] U.S. Department of Labor, Bureau of Labor Statistics, *Inflation Calculator* (online at http://data.bls.gov/cgi-bin/cpicalc.pl) (accessed May 8, 2006).

[16] U.S. Department of Commerce, Bureau of Economic Analysis, *National Income and Product Accounts Tables* (online at www.bea.gov) (accessed May 8, 2006).

[17] Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables* (Feb. 2006) (online at www.whitehouse.gov/omb/budget/fy2007/pdf/hist.pdf).

[18] *Id.*

B. Spending by Department

Procurement spending is growing at many federal departments. The department with the largest growth in contract spending in dollar terms is the Department of Defense. In 2000, the Defense Department spent $133.5 billion on federal contracts. By 2005, this spending had leaped by $136.5 billion to $270 billion, an increase of 102%. In 2005, the Defense Department consumed over 70% of the total federal procurement budget.

The Department of Homeland Security has also seen enormous increases in its procurement budget. In 2003, the Department of Homeland Security spent $3.5 billion on federal contracts. By 2005, this spending had increased by $6.5 billion to $10 billion, an increase of 189%.

The Department of State had the largest percentage increase in procurement spending of any major federal agency over the last five years. In 2000, the Department of State spent $1.2 billion on federal contracts. By 2005, this spending grew by $4.1 billion to $5.3 billion, an increase of 331.9%. Overall, 18 federal agencies now have contracting budgets in excess of $1 billion. See Figure 2.

FIGURE 2: Agencies With Contracting Budgets Over $1 Billion

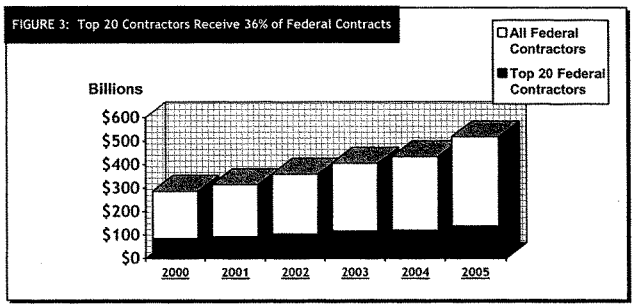
AGENCY	2000 Con. Budget	2005 Con. Budget	% Increase
DOD	$133,478,257,000	$270,028,727,487	102.3%
DOE	$17,007,176,000	$22,915,364,474	34.7%
NASA	$10,913,981,000	$14,973,687,518	37.2%
GSA	$11,304,606,921	$12,826,179,536	13.5%
DHS	0*	$9,997,384,261	N/A
DVA	$3,879,842,000	$8,545,084,495	120.2%
HHS	$4,058,009,000	$7,869,029,747	93.9%
STATE	$1,235,624,600	$5,337,068,210	331.9%
DOJ	$1,872,241,000	$4,648,980,436	148.3%
TREAS	$2,776,720,000	$3,489,286,298	25.7%
USDA	$3,674,554,912	$3,423,054,713	-6.8%
DOJ	$3,112,283,795	$3,358,808,945	7.9%
DOC	$1,792,846,000	$1,678,182,054	-6.4%
DOL	$1,294,760,000	$1,632,453,209	26.1%
DOT	$1,855,043,000	$1,316,647,915	-29%
EPA	$986,854,643	$1,228,961,996	24.5%
DED	$896,765,120	$1,111,157,370	23.9%
HUD	$1,126,888,644	$1,014,596,243	-10%

*DHS was formed in 2002

C. Spending by Company

Federal procurement spending has been concentrated among a few large private contractors. The 20 largest federal contractors received 36% of the contract dollars awarded in 2005. See Figure 3.

FIGURE 3: Top 20 Contractors Receive 36% of Federal Contracts



The top five recipients of federal contracts are Lockheed Martin, Boeing, Northrop Grumman, Raytheon, and General Dynamics. Collectively, they received $80 billion in 2005, 21% of all federal procurement spending.

The single largest federal contractor is Lockheed Martin. In 2005, Lockheed Martin had 12,400 contracts with the federal government and received $25 billion in federal tax dollars. Federal spending on this one company in 2005 exceeded the gross domestic product of 103 countries, including Iceland, Jordan, and Costa Rica.[19] The amount of taxpayer dollars received by Lockheed Martin was also larger than the combined budgets of the Department of Commerce, the Department of the Interior, the Small Business Administration, and the entire legislative branch of government.[20]

The fastest-growing major federal contractor during the Bush Administration has been Halliburton, the company formerly headed by Vice President Cheney. In 2000, Halliburton was the 28th largest contractor, receiving $763 million in federal dollars. By 2005, the company had leaped to the sixth largest federal contractor, receiving nearly $6 billion. This is an increase of 672% over the five year period. In 2004, Halliburton received nearly $8 billion.

---

[19] International Monetary Fund, *World Economic Outlook Database, April 2006* (online at www.imf.org/external/pubs/ft/weo/2006/01/data/dbginim.cfm) (accessed May 23, 2006).

[20] Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables* (Feb. 2006) (online at www.whitehouse.gov/omb/budget/fy2007/pdf/hist.pdf).

II. CONTRACT MISMANAGEMENT

Good contract outcomes depend on careful planning, fair and competitive awards, thoughtful administration, and vigilant oversight. Each step requires management by dedicated, well-trained contracting officials.

The surge in contract spending during the Bush Administration, however, has not been accompanied by responsible, competent contract management. Government reports and audits have documented failures in nearly all aspects of contract management. The primary areas of mismanagement can be grouped into seven categories:

- Award of Noncompetitive Contracts
- Reliance on Abuse-Prone Contract Types
- Abuse of Contract Flexibilities
- Poor Contract Planning
- Inadequate Contract Oversight
- Unjustified Award Fees
- Corruption

A. Award of Noncompetitive Contracts

Competition in federal contracting protects the interests of taxpayers by ensuring that the government gets the best value for the goods and services it buys. Competition also discourages favoritism by leveling the playing field for contractors while preventing fraud and abuse.

Since passage of the Competition in Contracting Act in 1984, "full and open competition" has been the gold standard in federal contracting. Under full and open competition, the government publishes a notice that it intends to award a contract. All responsible contractors are permitted to compete for the contract. Once bids are received, they are evaluated using a set of pre-established criteria, including price, technical expertise, and past performance. The government then makes a selection based on a determination of which bid will provide the government with the best value.[21]

Federal law recognizes that there are occasions when full and open competition is not feasible. Under the Competition in Contracting Act, agencies can award noncompetitive contracts in cases in which only one source can provide the needed goods or services or when emergency circumstances require immediate contract awards.[22] But these and the other permissible exceptions are intended to be limited. The Federal Acquisition

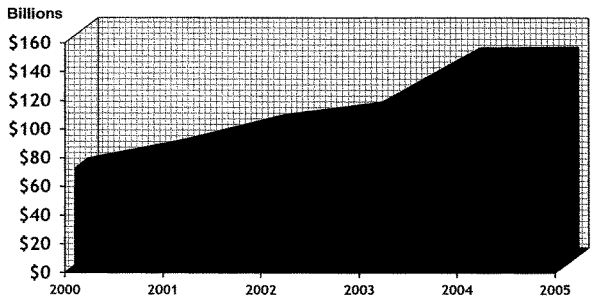
[21] 41 U.S.C. § 253(a)(1)(A); Federal Acquisition Regulation (hereinafter "FAR") § 6.1; FAR § 15.3.

[22] *See* Congressional Research Services, *Iraq Reconstruction: Frequently Asked Questions Concerning the Application of Federal Procurement Statutes* (June 23, 2003); 10 U.S.C. § 2304(c); 40 U.S.C. § 253(c); 48 C.F.R. § 6.302.

Regulation provides that "contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts."[23] Contracting officers using one of the exceptions must submit a written justification and, for noncompetitive procurements over $500,000, gain the approval of a more senior official.[24]

Despite the advantages to the taxpayer of full and open competition, contracts awarded without full and open competition have grown rapidly under the Bush Administration. In 2000, the federal government spent $67.5 billion on noncompetitive contracts.[25] By 2005, federal spending on noncompetitive contracts had grown by $77.5 billion to $145 billion, an increase of 115%. See Figure 4.

FIGURE 4: Noncompetitive Contract Spending Has Increased



This growth in noncompetitive contract spending significantly outstripped the growth in overall procurement spending, causing noncompetitive contract dollars to represent a rising share of federal contract dollars. In 2000, 33% of federal contract dollars ($67.5 billion) was awarded without full and open competition. In 2005, 38% ($145 billion) was awarded without full and open competition.

There are several different categories of noncompetitive contracts. Of the $145 billion in noncompetitive contracts awarded in 2005, $97.8 billion was awarded in no-bid contracts

[23] 48 C.F.R. § 6.101.

[24] 48 C.F.R. § 6.303-6.304.

[25] For the purposes of this report, a "noncompetitive" contract is defined as a contract awarded without full and open competition.

without any competition at all. This is an increase of 110% from 2000, when $46.6 billion in federal contracts were awarded with no competition.

Of the $97.8 billion awarded in 2005 without any competition, $63.4 billion was awarded under the rationale that the only one contractor could supply the needed goods or services. The other $34.4 billion in no-bid contract dollars was awarded under a variety of other exceptions to full and open competition, including the exception for emergency circumstances ($8.7 billion) and the exception for circumstances where a statute authorizes or requires restricted competition ($2.9 billion).

In other cases, the contracts were awarded under conditions of "limited competition." Limited competition differs from full and open competition in that only a small number of pre-selected contractors are permitted to bid on the contract. Of the $145 billion in noncompetitive contracts awarded in 2005, $47.2 billion was awarded through limited competition. An example of limited competition is the award of the main Iraq reconstruction contracts. Through the misapplication of a process called "advisory downselect," the Administration allowed only a handful of chosen companies to submit bids for cost-plus reconstruction contracts worth billions of dollars.[26]

Federal regulations require "full and open competition" in awarding contracts. From 2000 to 2005, federal spending on noncompetitive contracts grew by $77.5 billion to $145 billion, an increase of 115%.

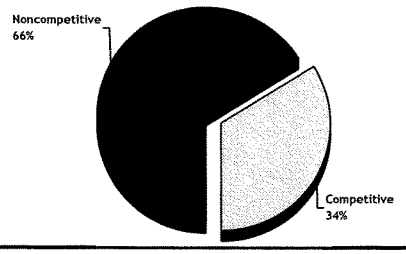
Hurricane Katrina provides a case study in how the exemptions to full and open competition have been stretched to justify the award of noncompetitive contracts. The urgent needs in the immediate aftermath of Hurricane Katrina provided a compelling justification for the award of noncompetitive contracts. Yet as the immediate emergency receded, the percentage of contract dollars awarded without full and open competition actually increased. In September 2005, the month after Hurricane Katrina, 51% of the contract dollars awarded by the Federal Emergency Management Agency were awarded without full and open competition. Rather than declining after September, the percentage of contract dollars awarded noncompetitively increased to 93% in October 2005. As late as December 2006, FEMA was still awarding 57% of the total dollar value of its contracts without full and open competition. In total, 66% of the contract dollars awarded by FEMA for the period ending May 29, 2006, were issued noncompetitively.[27] See Figure 5.

---

[26] Letter from Reps. Henry A. Waxman and John D. Dingell to Rear Admiral (ret.) David J. Nash, Director, Program Management Office, Coalition Provisional Authority (Dec. 18, 2003) (online at www.house.gov/commerce_democrats/press/nash.12.18.03.pdf).

[27] Department of Homeland Security, *FEMA Contracts Awarded in Support of Hurricane Katrina Recovery Efforts* (May 29, 2006).

FIGURE 5: Overall Hurricane Katrina Contracts Awarded by FEMA



B. Reliance on Abuse-Prone Contract Types

The problems generated by noncompetitive contracts have been compounded by the growing use by the Bush Administration of abuse-prone contract types, such as cost-plus contracts, monopoly contracts, and middlemen contracts. These contract vehicles create misalignments between the interest of the taxpayer in receiving good performance at a reasonable price and the interests of the profit-maximizing private contractors. Although these contract vehicles are lucrative for the private contractors, their growing use often entails steep costs for the taxpayer.

1. COST-PLUS CONTRACTS

An important principle in federal contracting is the preference for "fixed-price" contracts over "cost-plus" and other cost-based contracts.[28] Under fixed-price contracts, the private contractor bears the risk of cost overruns, providing the contractor with a powerful incentive to minimize costs. In contrast, under cost-based contracts, the government reimburses the contractor for its costs. Under "cost-plus" contracts, the government then pays an additional fee or bonus, which can be linked to a percentage of the costs incurred or fixed at a specific dollar amount. When the additional fee is not fixed, as is often the case, the contractor does not have an economic incentive to limit the costs of performance, making the contract type particularly prone to abuse.

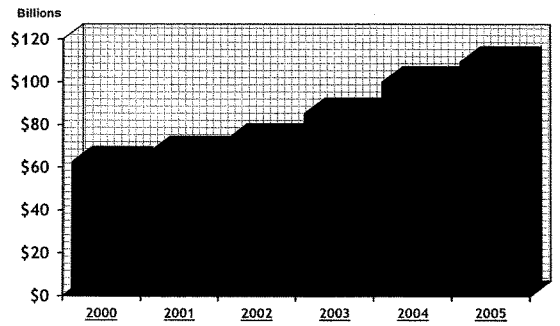
[28] *See, e.g.*, FAR § 16.103 and FAR § 16.301.

Experts, such as Peter Singer, Senior Fellow at the Brookings Institute, have expressed concerns about the "cost-plus" contract type. According to Mr. Singer:

> The incentive for businesses in a regular free market is to drive down costs to maximize profit margins. In the cost-plus mechanism, an incentive exists to raise costs, because your profit is based on the costs and goes up the more there are. It's a wicked reversal of the free market. ... We've completely turned Adam Smith on his head.[29]

Despite their disadvantages for the taxpayer, the Bush Administration has increasingly turned to cost-plus contracts. Between 2000 and 2005, the Administration's use of cost-plus contracts increased by 75%. In 2000, the federal government spent $62 billion on cost-plus contracts. By 2005, federal spending on cost-plus contracts had increased by nearly $50 billion to $110 billion. See Figure 6. Nearly half of the federal spending on these cost-plus contracts in 2005 ($52 billion) was spent on cost-plus-award-fee contracts, a type of cost-plus contract in which it is possible for the contractor to receive millions in profits even if the contract goes over budget.[30]

FIGURE 6: Cost Plus Contracts



[29] Telephone interview between Brookings Institute Senior Fellow Peter Singer and House Government Reform Committee Minority Staff (June 14, 2006).

[30] In a "cost-plus-award-fee" contract, the contractor's fee may include both a base fee, fixed at the inception of the contract (often as a percentage of the estimated costs), plus an additional fee based on the contractor's compliance with certain criteria set forth in the contract (e.g., quality, timeliness, technical ingenuity, or cost-effective management). *See* FAR § 16.3-16.4. Under this fee structure, it is possible for a contractor to earn most (or even all) of the award fee even when contract costs balloon, providing no economic incentive to the contractor to limit contract costs. *See also* Section II.F. *infra*.

The Defense Department was responsible for approximately 70% of the Administration's expenditures on cost-plus contracts in 2005. Other agencies with cost-plus expenditures over $1 billion in 2005 included the Department of Energy ($15.6 billion), NASA ($8.7 billion), the Department of Health and Human Services ($3 billion), and the Department of Homeland Security ($1.1 billion).

The single largest cost-plus contract is the Logistics Civil Augmentation Program contract (called "LOGCAP") that was awarded by the Defense Department to Halliburton in 2001. This contract, which is used in Iraq, Afghanistan, and elsewhere to provide food, shelter, and other support services to U.S. troops, is currently valued at $16.4 billion.[31] In 2005 alone, Halliburton received over $5 billion through the LOGCAP contract.[32]

In 2005, the federal government paid over $1 billion each under eleven cost-plus contracts. See Figure 7.

FIGURE 7: Cost-Plus Contracts Worth Over $1 Billion in 2005

Contractor	Contract	2005 Value
[illegible]	LOGCAP	$5,082,435,949
[illegible]	Joint Strike Fighter System	$3,327,634,511
[illegible]	Missile Defense Program	$2,515,234,778
[illegible]	Sandia National Laboratories	$2,291,554,411
[illegible]	Managed Health Care for DOD	$2,171,654,432
[illegible]	(NASA)	$2,041,458,378
[illegible]	Managed Health Care for DOD	$1,931,014,988
[illegible]	Managed Health Care for DOD	$1,894,225,281
[illegible]	(NASA)	$1,369,412,482
[illegible]	Savannah River Site (DOE)	$1,325,619,805
[illegible]	DD(X) Destroyer	$1,010,929,188

2. MONOPOLY CONTRACTS

A particularly pernicious form of contract is the "monopoly contract," which the Bush Administration made the cornerstone of its reconstruction effort in Iraq.

---

[31] Army Field Support Command, *Media Obligation Spreadsheet* (Apr. 20, 2006).

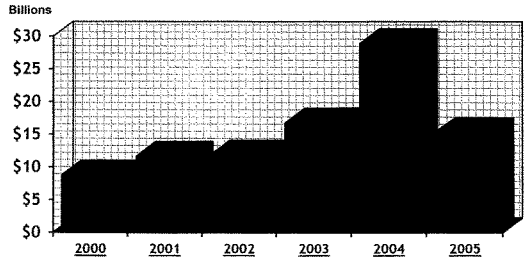
[32] Minority Staff, Special Investigations Division, House Committee on Government Reform, *Halliburton's Iraq Contracts Now Worth Over $10 Billion* (Dec. 9, 2004) (online at www.democrats.reform.house.gov/Documents/20050916123931-74182.pdf).

In technical procurement jargon, a monopoly contract is known as a "single-award indefinite-delivery/indefinite-quantity" contract. An indefinite-delivery/indefinite-quantity (IDIQ) contract permits the federal government to buy a range of undefined goods or services from a contractor. Ordinarily, IDIQ contracts are awarded to multiple contractors, who compete with each other to supply the good or service when specific "task orders" are issued for defined government procurements. In fact, federal procurement rules say that IDIQ contracts should be awarded to multiple contractors whenever possible.[33]

Under a single-award IDIQ contract, in contrast, the government commits to purchase the goods or services it may need from only one contractor. This precludes competition for individual task orders. In effect, it makes the winner of the overall contract a monopoly provider for every task order.

The Administration's use of monopoly contracts has exploded in the past five years. In 2000, the federal government spent $9 billion on single-award indefinite delivery contracts. In the five years since 2000, the Bush Administration awarded $85 billion in monopoly contracts. The largest volume of monopoly contracts was awarded in 2004, when the Administration spent nearly $28.9 billion on monopoly contracts. In 2005, the Administration spent $15.3 billion on these contracts. See Figure 8.

FIGURE 8: Monopoly Contract Spending Has Increased



Monopoly contracts have been particularly prevalent in the reconstruction of Iraq, with serious adverse consequences for the taxpayer. In 2003, the Administration created the Program Management Office (PMO) to manage the reconstruction of Iraq. The strategy selected by the PMO for the reconstruction was to divide Iraq geographically and by economic sector into twelve reconstruction contracts. Under this approach, one contract

[33] 48 CFR § 16.504(c) ("[T]he contracting officer must, to the maximum extent practicable, give preference to making multiple awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources").

was issued for oil infrastructure restoration in northern Iraq, while a second contract was issued for oil infrastructure work in southern Iraq. Other reconstruction contracts, such as the contracts involving electricity and water projects, were awarded similarly. The effect was to create a series of reconstruction fiefdoms. Individual contractors were awarded monopoly contracts for all the work in the economic sector within a given geographic region.

In December 2003, Rep. Waxman and Rep. Dingell objected to this contracting strategy, pointing out that because the monopoly contracts were to be awarded before specific reconstruction projects were identified, there would be no actual price competition for more than 2,000 discrete reconstruction projects.[34] These concerns were dismissed by Administration officials. Massive monopoly contracts worth over $7 billion were awarded in 2004 to eight companies for the reconstruction of Iraq.[35]

"What we did was so screwed-up that any other way would have been better."
-Prof. Charles Tiefer

Experts, such as Charles Tiefer, University of Baltimore Law School professor and former solicitor and deputy general counsel of the U.S. House of Representatives, have questioned the Administration's use of monopoly contracts in Iraq. According to Professor Tiefer:

> What we did was so screwed-up that any other way would have been better. ... The catastrophe of a monopoly system, of the lack of competition, was not only that it drove profits and prices up, it drove down the pace of employing Iraqis usefully and providing services desperately needed by Iraqis.[36]

3. MIDDLEMEN CONTRACTS

The Bush Administration has repeatedly used private contractors to purchase goods and services from other private contractors. In these contracts, the prime contractor becomes, in essence, a middleman, adding a layer of fees to the contract that is often unnecessary. In some instances, contracts are set up with multiple layers of contractors between the government and the subcontractor that actually performs the work, vastly multiplying expenses and complicating oversight.

---

[34] Letter from Reps. Henry A. Waxman and John D. Dingell to Rear Admiral (ret.) David J. Nash, Director, Program Management Office, Coalition Provisional Authority (Dec. 18, 2003) (online at www.house.gov/commerce_democrats/press/nash.12.18.03.pdf).

[35] Minority Staff, Special Investigations Division, House Committee on Government Reform, *Contracting Abuses Under the Bush Administration* (Sept. 20, 2005) (online at www.democrats.reform.house.gov/Documents/20050920172156-47879.pdf).

[36] Telephone interview between University of Baltimore Law School professor Charles Tiefer and House Government Reform Committee Minority Staff (June 8, 2006).

Because no database tracks middlemen contracts, a quantitative analysis of their growing use over the last five years is not possible. They have been used widely, however, from the reconstruction in Iraq to the response to Hurricane Katrina.

One example is the procurement of security services in Iraq. Because of the dire security environment in Iraq, major reconstruction contractors have hired security subcontractors, often through other subcontractors. For instance, Blackwater USA provided security services to Halliburton as a third-tier subcontractor under the LOGCAP troop support contract. The intermediate subcontractors were ESS and Regency Hotel. With each additional subcontractor level, there were more markups and less transparency. When Rep. Waxman requested documents from the Defense Department in order to understand how costs were incurred and billed through the chain of contractors, the Administration refused to provide the information.[37] According to one investigative account, the final cost to the taxpayer could be quadruple the actual cost of providing the security services.[38]

Another example involves the "blue roof" program in the aftermath of Hurricane Katrina. FEMA and the Army Corps of Engineers entered into contracts with three large contractors, the Shaw Group, Simon Roofing, and LJC Construction, to cover wind-damaged roofs with blue tarps.[39] These contractors subcontracted with other contractors, who in turn subcontracted with yet another layer of subcontractors. Because so many contractors take a cut of the funds, the fees charged to taxpayers were vastly inflated. According to one published account, the costs to the taxpayer under the tiered contracts were sometimes as high as 1,700% of the job's actual cost.[40] A second account reported that the taxpayer paid an average of $2,480 per roof for a job that should cost under $300.[41]

Another example of a middleman contract that has resulted in inflated charges is the "Prime Vendor" program, which was instituted at the Defense Logistics Agency (DLA) in the early 1990s and significantly expanded after January 2000. Under this program, DLA can order supplies for the military from a prime vendor who in turn purchases them from other suppliers. The prime vendor is supposed to provide products at cost (or a price agreed upon in advance with DLA) plus a negotiated management fee for administration and delivery.[42] But in practice, prime vendors have charged exorbitant prices for some items. The DLA Director conceded last year that the Pentagon spent $20

---

[37] *See* Letter from Rep. Henry A. Waxman to Brigadier General Jerome Johnson, Commander, U.S. Army Field Support Command (Nov. 30, 2004); Letter from Brigadier General Jerome Johnson, Commander, U.S. Army Field Support Command to Rep. Henry A. Waxman (Dec. 21, 2004).

[38] *Contractors in Iraq Make Costs Balloon*, News & Observer (Oct. 24, 2004).

[39] *See* III.C.3, *infra*.

[40] *Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup*, Washington Post (Mar. 20, 2006).

[41] *U.S. Paying a Premium to Cover Storm-Damaged Roofs*, Knight Ridder (Sept. 29, 2005).

[42] House Armed Services Committee, Testimony of Kenneth J. Krieg, Under Secretary of Defense, Acquisition, Technology and Logistics, *Hearings on the Defense Logistics Agency's Prime Vendor Program* (Nov. 9, 2005).

apiece for plastic ice cube trays under the prime vendor program.[43] According to one report, the Pentagon paid $81 apiece for coffeemakers that cost only $29 when purchased directly from the manufacturer.[44]

C. Abuse of Contract Flexibilities

In the 1990s, federal procurement laws were modified to give procurement officials more flexibility. The changes were contained in the Federal Acquisition Streamlining Act of 1994 (FASA), the Federal Acquisition Reform Act of 1996 (FARA, also known as the Clinger-Cohen Act), and the Service Acquisition Reform Act of 2003 (SARA). The aim of many of these reforms was to "streamline" the acquisition process, primarily by creating alternatives to full and open competition. The laws encouraged the purchase of commercial items, contracts with nontraditional contractors, multiple award contracts, and credit card transactions by exempting these and other contracting vehicles from competition and oversight requirements.

"The rules and the way they were changed allow you to do almost anything. People shouldn't be shocked." - Angela Styles, former head of procurement in the Bush White House

Over the last five years, these flexibilities have been expanded and distorted by the Bush Administration, sometimes beyond recognition. The authority to buy "commercial items" without competitive bidding has been used to purchase military aircraft. The authority to waive government accounting standards for small high-tech companies has been turned into a shield used by traditional defense contractors to avoid oversight. And interagency contracts for information technology have become vehicles for hiring interrogators at Abu Ghraib.

Travel and purchase cards were conceived as way to simplify small government purchases. But they have been used by wayward officials to buy luxury cruises, stereo equipment, and services at strip clubs. The preference given Alaska Native Corporations in federal procurement was intended to provide economic opportunities for impoverished Alaskan communities. But it has become a vehicle for avoiding competition and passing work through to large, non-Native contractors.

In responsible hands, many of the contract flexibilities Congress provided the executive branch may make sense. But as Angela Styles, the first head of procurement in the Bush White House, recognized: "The rules and the way they were changed allow you to do almost anything. People shouldn't be shocked."[45]

---

[43] House Armed Services Committee, Testimony of Vice Admiral Keith W. Lippert, Director, Defense Logistics Agency, Hearings on the Defense Logistics Agency's Prime Vendor Program (Nov. 9, 2005) (online at http://armedservices.house.gov/schedules/11-9-05LippertTestimony.pdf).

[44] *Pentagon Food Program Costs Taxpayers*, Knight Ridder (Oct. 23, 2005).

[45] *Contracts with America*, Mother Jones (May 1, 2004).

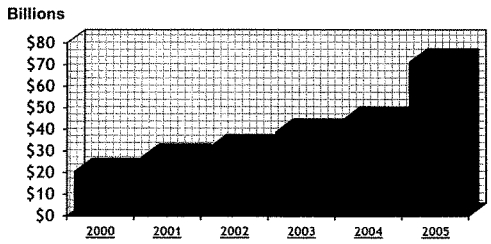
1. "COMMERCIAL ITEM" AUTHORITY

In 1994, Congress passed legislation to permit the government to acquire a wide range of "commercial items" with only minimal competitive bidding and limited oversight.[46] The rationale for the change in policy was straightforward: if an item is commonly bought and sold on an established commercial market, the federal government can rely on these market forces to ensure it obtains a reasonable price.

In practice, however, the Bush Administration has interpreted the "commercial item" exemption to cover a multitude of items that are not subject to open market forces. In 2003, the White House Office of Federal Procurement Policy (OFPP) issued a memorandum advocating, in bold print, that federal agencies use the commercial item authority to buy noncommercial items. OFPP told procurement officials to "recognize the benefits — and challenges — of buying non-commercial items within a commercial items framework." OFPP recognized that "the lack of market testing or commercial analogs ... and the potential absence of competition" may pose a challenge, but nonetheless urged agencies to structure contracts within the commercial item framework or "consider using other flexibilities."[47]

The bulk of the expenditures under the "commercial item" exception from 2000 to 2005 came from the Department of Defense. The Defense Department spent $71.2 billion through the commercial item exception in 2005, an increase of 249% from the $20.5 billion spent in 2000. See Figure 9. As a result, commercial item spending increased from 15% of the Department's 2000 budget to over 26% of its 2005 budget.

FIGURE 9: Use Of Commercial Item Authority at DOD



[46] Federal Acquisition Streamlining Act of 1994, Pub. L. No. 103-355.

[47] Office of Management and Budget, Office of Federal Procurement Policy, *Emergency Procurement Flexibilities: A Framework for Responsive Contracting and Guidelines for Using Simplified Acquisition Procedures* (May 2003) (online at www.whitehouse.gov/omb/procurement/emergency_procurement_flexibilities.pdf)

One example of how the commercial item exception has been misused by the Defense Department involves the C-130J aircraft, a plane intended for dropping troops and equipment into hostile areas. Under a program begun in the 1990s, the Air Force determined that the C-130J could be purchased as a "commercial item needing minor modification" from Lockheed Martin, even though no C-130J aircraft meeting the Air Force's requirements had ever been sold to the public. Ultimately, the Air Force paid billions of dollars from 1999 to 2003 for deficient aircraft.[48] The Defense Department Inspector General concluded:

> The Air Force conditionally accepted 50 C-130J aircraft at a cost of $2.6 billion even though none of the aircraft met commercial contract specifications or operational requirements. The Air Force also paid Lockheed Martin more than 99 percent of the C-130J aircraft's contracted price for the delivered aircraft. As a result, the Government fielded C-130J aircraft that cannot perform their intended mission.[49]

In 2003, the Bush Administration issued a new, multi-year contract for 60 C-130J aircraft using the "commercial item" authority. The Administration did not request bids from other contractors. It also relied on Lockheed's own cost and pricing data to determine the "commercial" price for the aircraft.[50] In 2005, according to news reports, Secretary of Defense Rumsfeld rejected a plan to cancel the contract.[51]

2. "OTHER TRANSACTION" AUTHORITY

In 1989, the Department of Defense was given the authority to enter into special purchasing agreements known as "other transactions" to fund research projects.[52] In 1994, the authority was extended to prototype weapons and weapons systems.[53] In 2002 and 2005, this authority was extended to the Department of Homeland Security and the Energy Department.[54] These "other transactions" are exempt from most contracting regulations and federal procurement oversight, including submission of accurate cost and pricing data, accounting rules, and other provisions that enhance transparency of contractor costs and provide tools to negotiate reasonable prices.[55]

---

[48] Department of Defense Inspector General, *Acquisition: Contracting for and Performance of the C-130J Aircraft* (July 2004) (D-2004-102).

[49] *Id.*

[50] *Id.*

[51] *Rumsfeld Reverses Decision to Cancel a Disputed Plane*, New York Times (May 12, 2005).

[52] 10 U.S.C. § 2371.

[53] National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160 § 845.

[54] The Homeland Security Act of 2002, Pub. L. No. 107-296; Energy Policy Act of 2005, Pub. L. No. 109-58. All other agencies with research and development authority can apply to the Office of Management and Budget for "other transaction" authority for contracts related to the "response to or defense against a chemical, biological, nuclear, radiological or terrorist attack." *See* Services Acquisition Reform Act of 2003, Pub. L. No. 108-136.

[55] Letter from Department of Defense Deputy Inspector General Robert J. Lieberman to Rep. Tom Davis (Mar. 12, 2002) (online at www.dodig.osd.mil/audit/reports/fy02/02-064.pdf).

When the exemption was enacted by Congress, it was intended to lure smaller, nontraditional contractors who might otherwise be dissuaded by federal contract regulations to participate in government research and development.[56] In practice, "other transaction" authority has been used by the Bush Administration to shield major acquisitions from normal contract oversight and competition requirements.

One example of the abuse of "other transaction" authority is the missile defense program. In 2002, Defense Secretary Rumsfeld gave the missile defense program authority to use "other transaction" authority for its major procurements.[57] The Defense Department used the authority to enter into transactions worth billions of dollars with major government contractors like Lockheed Martin, Northrop Grumman, Boeing, and Raytheon. In 2006, the Department estimated that the value of these "other transactions" would be $58 billion over the next six years.[58]

Another Department of Defense weapons program, the Future Combat Systems (FCS), also uses "other transaction" authority. FCS is a multiyear, multibillion-dollar program that is supposed to combine individual manned and unmanned systems to collect and deliver communications and intelligence.[59] The costs of FCS could reach between $90 billion and $157 billion by 2022, with the ultimate cost estimated to reach $200 billion.[60] When the Army awarded the contract for FCS to Boeing, the second largest government contractor ($19.7 billion in 2005), it argued that the use of "other transaction" authority was necessary because the traditional acquisition process would be inadequate to implement FCS. But according to GAO, the new contract does not give the Army sufficient opportunity or flexibility to conduct practical oversight of FCS.[61]

FCS is an example of a contract vehicle with multiple flaws. In addition to using "other transaction" authority to reduce oversight, the contract is a cost-plus contract with an award fee of up to 15%.[62] Although a portion of the fee is tied to the contractor's ability to control costs, the contract structure allows for the contractor to receive millions of dollars in profits while the costs of the contract balloon.

---

[56] Senate Committee on the Armed Services, Testimony of Department of Defense Deputy Inspector General Donald Mancuso, *Hearings on Defense Acquisition*, (Apr. 26, 2000) (online at www.dodig.osd.mil/audit/reports/fy00/00-118.pdf).

[57] Memorandum from Secretary of Defense Donald Rumsfeld to Deputy Secretary of Defense, Secretaries of the Military Departments *et al.*, Missile Defense Program Direction (Jan. 2, 2002) (online at www.pogo.org/m/dp/dp-rumsfeld1202memo.pdf).

[58] U.S. Government Accountability Office, *Defense Acquisitions: Missile Defense Agency Fields Initial Capability but Falls Short of Original Goals* (Mar. 2006) (GAO-06-327).

[59] U.S. Government Accountability Office, *Defense Acquisitions: Future Combat Systems Challenges and Prospects for Success* (Mar. 16, 2005) (GAO-05-428T).

[60] U.S. Government Accountability Office, *Defense Acquisition: Business Case and Business Arrangements Key for Future Combat System's Success* (Mar. 1, 2006) (GAO-06-478T).

[61] *Id.*

[62] *Id.*

3. INTERAGENCY CONTRACTS

Over the last five years, agencies have increasingly used interagency contracts to acquire services.[63] According to GAO, the use of interagency contracts has increased because of the combined pressures of the increase in government contracting and the lack of an adequate contracting workforce.[64] Instead of spending their own time and resources in awarding and managing contracts, agencies use contract vehicles already negotiated by another agency.

Mishandling of interagency contracts at the Department of Defense has wasted between $1 billion and $2 billion over the last five years.

Under an interagency contract, a "sponsor" agency enters into acquisition contracts with private contractors for goods and services. The sponsor agency then gives another agency access to the menu of goods and services at the contract price, plus a fee to cover the agency's administrative expenses. Leading examples of these interagency vehicles are the Federal Supply Schedule offered by the General Services Administration, which provides agencies access to commercial products and services; Government Wide Acquisition Contracts (GWACs) offered by the General Services Administration, NASA, the National Institute of Health, and the Department of Commerce, which provide agencies with information technology and telecommunications services; and franchise funds, such as GovWorks, offered by the Interior Department, and FedSource, offered by the Treasury Department, which award and administer contracts on behalf of other agencies.[65]

In recent years, the use of interagency contracts has grown dramatically. In 2004, the most recent year for which government-wide data is available, interagency contracting accounted for $139 billion — nearly 40% — of the federal government's contract spending.[66] Between 2000 and 2005, procurement using GSA's FSS increased from $11.2 billion to $21.4 billion, an increase of 92%. See Figure 10.

---

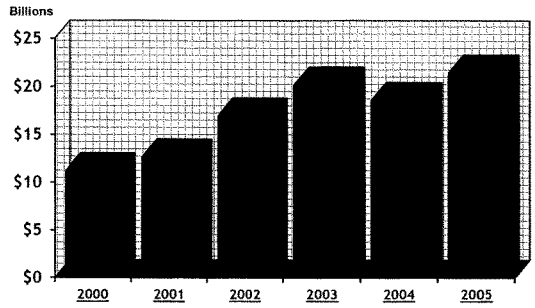
[63] U.S. Government Accountability Office, *High-Risk Series: An Update* (Jan. 2005) (GAO-05-207).

[64] U.S. Government Accountability Office, *GAO's 2005 High-Risk Update* (Feb. 17, 2005) (GAO-05-350T).

[65] Acquisition Advisory Panel, Interagency Contract Working Group, *Preliminary Working Group Draft* (Feb. 16, 2006) (online at www.acqnet.gov/comp/aap/workinggroups/ICWorkingGroupDraftBackgroundandIssues CreationandContinuationFindings16Feb06.pdf); U.S. Government Accountability Office, *Interagency Contracting: Franchise Funds Provide Convenience, But Value to DOD is Not Demonstrated* (July 2005) (GAO-05-456).

[66] Acquisition Advisory Panel, Interagency Contract Working Group, *Preliminary Working Group Draft* (Feb. 16, 2006) (online at www.acqnet.gov/comp/aap/workinggroups/ICWorkingGroupDraftBackgroundandIssues CreationandContinuationFindings16Feb06.pdf).

FIGURE 10: Federal Supply Schedules Increased 92%



When used correctly, interagency contracts provide an efficient vehicle for agencies to fulfill requirements while lowering administrative costs. But when used incorrectly, as has repeatedly been the case under the Bush Administration, interagency contracts lead to reduced competition and diminished oversight.

Both GAO and agency inspectors general have identified numerous contracts in which customer agencies have not followed procedures designed to promote competition. As a result, GAO designated interagency contracting a "high risk" area for 2005. Instead of promoting savings and efficiency, lack of competition and oversight resulted in the waste of billions of taxpayer dollars.[67]

At the Defense Department, for example, the Inspector General found that mishandling of interagency contracts has cost between $1 and $2 billion over the last five years. Based on a review of 75 interagency purchases made through GSA, the IG found that the responsible contracting officials and agency managers consistently failed to comply with procurement laws and regulations. Of the purchases reviewed, 91% lacked acquisition planning to determine that contracting through the GSA was the best alternative available; 98% had inadequate interagency agreements outlining the terms and conditions of the purchases; and 38% were funded improperly. Approximately 51% were not supported by an adequate audit trail.[68]

A particularly egregious abuse of interagency contracting involved the use by the Defense Department of an existing information technology contract at the Department of

[67] U.S. Government Accountability Office, *High-Risk Series: An Update* (Jan. 2005) (GAO-05-207).

[68] Department of Defense Inspector General, *DoD Purchases Made Through the General Services Administration* (July 29, 2005) (Report No. D-2005-096).

the Interior to hire interrogators for the Abu Ghraib prison in Iraq. According to a GAO review, the Defense Department issued $66 million worth of task orders to CACI International, Inc., for interrogation, intelligence, and other services in Iraq under the Interior Department contract. The GAO review found that both the Army and the Department of the Interior abdicated their oversight responsibilities under the CACI contract. The award of the interrogation contract was outside the scope of the existing Interior Department contract. Moreover, CACI developed its own requirements, drafted its own statements of work, and drafted its own justification and approval for awarding the contract without competition, as opposed to the normal practice of having government employees perform these tasks. For its part, the Army assigned an insufficient number of contract officials to oversee the CACI contractors and provided them with little or no training. An Army report also identified the lack of contractor oversight as a factor contributing to the prisoner abuses at the Abu Ghraib prison.[69]

Other abuses of interagency contracts have involved the Federal Technology Service (FTS) administered by GSA. The FTS is supposed to provide agencies with network and information technology services. But a GSA audit of procurements through the FTS identified numerous instances of waste, fraud, and abuse, such as the "misuse of contract vehicles, inadequate competition, nonexistent or ineffective contract management ... , using vendors to pass work through to preferred contractors, and adding 'open market' items to existing contracts without evaluating prices." The FTS also awarded task orders for work outside of its authority, such as construction services and the lease and acquisition of real property.[70]

4. PURCHASE AND TRAVEL CARDS

In 1994, Congress passed legislation allowing federal employees to use credit cards to buy goods or services directly from vendors without first awarding a contract.[71] There are two principal types of approved government credit cards. Purchase cards allow federal employees to buy goods or services up to $2,500.[72] Travel cards allow employees to make travel reservations and charge travel-related expenses.[73] These charge card programs are designed to provide an easy, efficient means for government agencies to

---

[69] U.S. Government Accountability Office, *Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations* (Apr. 2005) (GAO-05-201).

[70] General Services Administration Inspector General, *Compendium of Audits of the Federal Technology Service Regional Client Support Centers* (Dec. 14, 2004).

[71] Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103-355 § 4301.

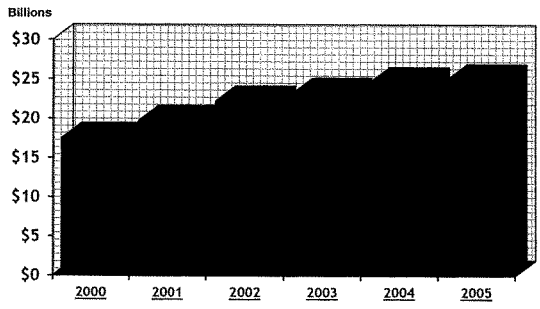
[72] FAR § 13.02. For acquisitions supporting a contingency operation or facilitating defense against or recovery from nuclear, biological, chemical, or radiological attack, the limit is $15,000 for purchases inside the United States and $25,000 for purchases outside the United States. *Id.*

[73] General Services Administration, *Frequently Asked Questions* (online at www.gsa.gov/Portal/gsa/ep/contentView.do?faq=yes&pageTypeId=8199&contentId=10141&contentType=GSA_OVERVIEW#23) (accessed Apr. 26, 2006).

make small, routine purchases while avoiding the requirements of the contracting regulations.[74]

The use of these cards by government agencies has grown considerably. From 2000 to 2005, the General Service Administration's purchase card program, which is used by most federal agencies, including the Department of Defense, increased by 42%, from $12 billion to over $17 billion.[75] The use of all GSA credit cards, including purchase and travel cards, increased by 43%, from $17 billion to nearly $25 billion.[76] See Figure 11.

FIGURE 11: GSA Charge Card Transactions



While the use of purchase and travel cards can increase flexibility and streamline acquisition procedures, careful supervision to prevent abuse has been lacking under the Bush Administration. A series of audits and investigations has found that the government's failure to properly manage and oversee the use of the cards has resulted in the waste of hundreds of millions of dollars.[77]

GAO and agency inspectors general have documented numerous instances of waste, fraud, and abuse with purchase cards. Examples include the purchase of $100 designer

---

[74] U.S. General Accounting Office, *Purchase Cards: Increased Management Oversight and Control Could Save Hundreds of Millions of Dollars* (Apr. 28, 2004) (GAO-04-717T).

[75] General Services Administration, *Charge Card Performance Summary* (online at www.gsa.gov/Portal/gsa/ep/programView.do?pageTypeId=8199&ooid=11490&programPage=%2Fep%2Fprogram%2FgsaDocument.jsp&programId=10137&channelId=-13503) (accessed May 17, 2006).

[76] *Id.*

[77] U.S. General Accounting Office, *Purchase Cards: Increased Management Oversight and Control Could Save Hundreds of Millions of Dollars* (Apr. 28, 2004) (GAO-04-717T).

PDA cases, $500 Bose wave radios, wine, cigars, and ski clothing.[78] A Navy cardholder spent $150,000 for automotive equipment, home building, and general home supplies, some of which the cardholder later sold for cash.[79] A Department of Education cardholder made fraudulent purchases from pornographic websites, including one named SlaveLaborProductions.com.[80]

Purchase cards create opportunities for waste even when used for legitimate purchases. According to GAO, most federal employees are not trained in the use of purchase cards. Many agencies also do not have procedures for identifying employees eligible for purchase cards. One FAA office, for example, issued purchase cards to about half of its employees without a determination of need or eligibility. Agencies have also failed to ensure that all cardholders and approving officials receive initial and refresher training. This results in cards being issued to employees unfamiliar with procurement best practices. Moreover, most agencies lack sufficient, trained personnel to monitor purchases and oversee employee purchase card transactions.[81]

Similar abuses have been experienced with travel cards. Examples documented by GAO include the purchase of luxury cruises and tickets to the Dallas Cowboys and the Backstreet Boys, as well as payment of gambling expenses. GAO also found that Air Force cardholders spent $32,000 in 187 separate transactions at strip clubs.[82]

Despite these problems with credit card purchases and oversight, the Administration sought — and received — legislative authority after Hurricane Katrina increasing the threshold for purchases on government credit cards from $15,000 to $250,000.[83] After receiving heavy criticism, the Administration reversed its position, and the higher threshold was repealed.[84] Even without the higher limit, federal cardholders have spent approximately $82 million in purchase card transactions for Hurricane Katrina recovery and reconstruction. Only a limited number of those transactions have been reviewed by government auditors.[85]

---

[78] *Id.*

[79] U.S. General Accounting Office, *Purchase Cards: Navy is Vulnerable to Fraud and Abuse but Is Taking Action to Resolve Control Weaknesses* (Sept. 2002) (GAO-02-1041).

[80] U.S. General Accounting Office, *Government Purchase Cards: Control Weaknesses Expose Agencies to Fraud and Abuse* (May 1, 2002) (GAO-02-676T).

[81] U.S. General Accounting Office, *Purchase Cards: Increased Management Oversight and Control Could Save Hundreds of Millions of Dollars* (Apr. 28, 2004) (GAO-04-717T).

[82] U.S. General Accounting Office, *Federal Budget: Opportunities for Oversight and Improved Use of Taxpayer Funds* (June 18, 2003) (GAO-03-922T).

[83] Katrina Relief Appropriations Bill, Pub. L. No. 109-62.

[84] Minority Staff, House Committee on Government Reform, *Administration Reverses Government Credit Card Limit Increase* (Oct. 4, 2005) (online at www.democrats.reform.house.gov/story.asp?ID=935).

[85] President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report to Congress* (Apr. 30, 2006).

5. ALASKA NATIVE PREFERENCES

The Alaska Native Claims Settlement Act was enacted in 1971 to resolve the claims of Alaska's indigenous populations to their aboriginal lands and foster economic development in Alaska.[86] The Act apportioned money and lands among thirteen regional Alaska Native Corporations and 182 village, urban, and group corporations.[87] The corporations are for-profit entities with direct control over their lands, assets, and income.[88] Although the shareholders are Alaska Natives, neither the employees nor the officers of the corporations are required to be.

In 1986, Congress made Alaska Native Corporations eligible, as "minority and economically disadvantaged" businesses, for participation in the Small Business Administration's section 8(a) program, under which firms can be awarded federal contracts on a sole-source basis.[89] Generally, sole-source 8(a) contracts must be valued under $5 million for goods or $3 million for services.[90] However, the 1986 law provided that this restriction does not apply to Alaska Native Corporations. These firms are thus eligible to receive sole-source federal contracts of any value. Moreover, joint ventures and partnerships between Alaska Native Corporations and non-Native companies are eligible for sole-source contracts so long as the Alaska Native Corporation controls a majority of the total equity and total voting power of the joint venture or partnership. Alaska Native Corporations are free to subcontract work to nonminority and non-economically disadvantaged corporations, provided the Alaska Native Corporation performs at least 50% of the contract work.[91]

Over the last five years, the number and value of noncompetitive federal contracts awarded to Alaska Native Corporations has increased nearly four times faster than federal contracting expenditures as a whole. The value of 8(a) noncompetitive contracts awarded to Alaska Native Corporations by six agencies increased from $265 million in 2000 to nearly $1.1 billion in 2004, an increase of 315%. The contracts issued during this period involved services such as managing commercial property in Virginia, renovating office buildings in Brazil, and training security guards in Iraq.[92]

---

[86] 43 USC § 1601 *et seq.*

[87] U.S. Government Accountability Office, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (Apr. 2006) (GAO-06-399).

[88] U.S. General Accounting Office, *Report to the Honorable Ted Stevens, U.S. Senate: Information on Alaska Native Corporations* (Aug. 16, 1983) (GAO/RCED-83-173).

[89] Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272 § 18015.

[90] *Id.*

[91] 13 C.F.R. § 125.6(a). In the case of certain construction contracts, the requirement that Alaska Native Corporations perform 50% of the work can be reduce to 15%. *Id.*

[92] U.S. Government Accountability Office, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (Apr. 2006) (GAO-06-399).

The original purpose of the 1986 legislation was to encourage economic opportunities for Alaska Natives. But recent investigations have shown that under the Bush Administration, the legislation has been seized upon as a way to circumvent competition requirements on contracts worth hundreds of millions of dollars and to pass through work to large, non-Native companies. When GAO examined how federal agencies are using the Alaska Native contracting provisions, it called the provisions an "open checkbook" and concluded that without appropriate oversight, "there is clearly the potential for unintended consequences or abuse."[93]

The GAO investigation found that federal agencies are awarding no-bid contracts to Alaska Native Corporations for two primary reasons: (1) signing noncompetitive contracts with Alaska Native Corporations is faster and requires less effort than holding a competition; and (2) contracts with Alaska Native Corporations help the agencies meet their small business contracting goals. GAO also found "almost no evidence" that contracting officials are effectively enforcing the requirement that at least 50% of the work under the 8(a) contracts is being performed by the Alaska Native Corporations rather than large, non-Native subcontractors. According to GAO, "there is an increased risk that an inappropriate degree of the work is being done by large businesses rather than by the ANC firm." In one case identified by GAO, an agency wanted to contract with a particular non-Native business but could not award a no-bid contract directly to that company. The agency solved this problem by awarding a "pass-through" contract to an Alaska Native Corporation and requiring it to subcontract with the desired non-Native company.[94]

Alaska Native Corporations are eligible to receive sole-source federal contracts of unlimited value. GAO called the provisions an "open checkbook."

The GAO report identified specific instances where use of Alaska Native Corporations inflated contract costs. In one case, the State Department awarded a no-bid contract to an Alaska Native Corporation even though the Alaska Native Corporation's proposed price was double the government's cost estimate and the final price remained higher than the estimate. In another case, rather than buying water and fuel tanks directly from a manufacturer, the Army awarded a no-bid contract to an Alaska Native Corporation, which had the effect of adding an unnecessary layer of fees to the contract.[95]

Another example of how the Alaska Native exemption has been abused involves two sole-source, five-year contracts worth up to $495 million to provide private security guards for Army bases. One contract went to Alutiiq Security and Technology, an Alaska Native firm, which subcontracted much of the work to Wackenhut, a U.S. subsidiary of a London-based company. The other contract went to Chenega, another Alaska Native firm, which subcontracted much of the work to Vance International. GAO

---

[93] U.S. Government Accountability Office, *Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (Apr. 27, 2006) (GAO-06-399).

[94] *Id.*

[95] *Id.*

and other investigative reports found that the Army contracted with Alutiiq and Chenega despite knowing that other contractors would supply the same services at significantly lower costs.[96]

D. Poor Contract Planning

In many instances over the last five years, contract mismanagement began well before any contract was signed. In these cases, federal contracts wasted taxpayer dollars because Administration officials did not adequately determine the government's needs or think through the contract requirements in advance.

One prominent example of the failure to plan involves the contingency contract for troop support, called the Logistics Civil Augmentation Program (LOGCAP) contract. Prior to the Iraq war, senior Administration officials engaged in an extensive exercise to plan for the takeover of Iraq's oilfields.[97] But these same officials did virtually no planning for how to support or supply the troops after the invasion of Iraq.

According to GAO, officials at the Department of Defense did not begin planning for the use of the LOGCAP contract to provide food and shelter for the troops until after the fall of Baghdad. Military acquisition rules recommend that "a comprehensive statement of work be developed during the early phases of contingency planning." But GAO found that the Defense Department did not follow that guidance when planning for the deployment of troops in Iraq. One consequence of the failure to plan was that "cost constraint did not become a factor in using LOGCAP in Iraq and Kuwait until almost a year into the operations," and the Army set "no spending limits for LOGCAP until spring 2004."[98]

This failure to plan also extended to the reconstruction of Iraq. According to Special Inspector General for Iraq Reconstruction Stuart Bowen:

> In order to efficiently procure an item or a service, contracting personnel must be provided with an adequate description of customers' needs. The inability to properly define and prepare these "requirements statements" for projects appears to be a significant and continuing shortcoming of the Iraq Reconstruction process.[99]

The response to Hurricane Katrina suffered from a similar lack of advance planning. A key component of preparedness is having contingency contracts in place to meet immediate needs after a disaster strikes. But GAO found that neither FEMA nor the

---

[96] *Id.; Union Reports Problems at Army Bases*, Washington Post (Sept. 6, 2005); *Security for the Homeland, Made in Alaska*, New York Times (Aug. 12, 2004).

[97] Letter from Rep. Henry A. Waxman to Vice President Richard B. Cheney (June 10, 2004).

[98] U.S. Government Accountability Office, *Military Operations: DOD's Extensive Use of Logistics Support Contracts Require Strengthened Oversight*, (July 21, 2004) (GAO-04-854).

[99] Senate Committee on Armed Services, Testimony of Special Inspector General for Iraq Reconstruction Stuart W. Bowen, Jr., *Hearings on Contracting Issues in Iraq* (Feb. 7, 2006).

Army Corps of Engineers had adequate contingency contracts in place before Hurricane Katrina.[100] According to GAO, the failure to "explicitly consider the need for and management of the contractor community" played a major role in the mismanagement of the relief effort.[101] GAO also found that FEMA failed to adequately anticipate the need for temporary housing and other buildings.[102]

The failure "to explicitly consider the need for and management of the contractor community" played a major role in the mismanagement of the Hurricane Katrina relief effort.
-U.S. Government Accountability Office

In fact, GAO reported in March 2006 that the Administration was repeating the same mistakes in the response to Hurricane Katrina that it made in Iraq. In Iraq, "without effective acquisition planning, management processes, and sufficient numbers of capable people, poor acquisition outcomes resulted."[103] GAO concluded that the Katrina response suffered from these same flaws.[104]

Spending by the Bush Administration on homeland security has also been plagued by poor planning. The Inspector General of the Department of Homeland Security recently reported that DHS procurements have suffered because contract technical and performance requirements were not adequately defined. The Inspector General warned that "[b]y approving programs without adequately defined technical requirements, DHS risks likely adverse cost and schedule consequences."[105]

On September 19, 2005, Greg Rothwell, the chief procurement officer of the Department of Homeland Security, met with Committee staff. He was asked to explain a series of wasteful homeland security contracts, including the Transportation Security Administration contract to hire passenger screeners at airports. He said that in many cases, the primary problem lay in poor contract planning. Because Department officials did not properly define what they wanted to purchase, enormous sums were misspent on technologies and services that never achieved their objectives.[106]

The FBI's Trilogy project is another example of poor contract planning. In 2001, the FBI launched Trilogy to modernize the FBI's antiquated information technology

---

[100] U.S. Government Accountability Office, *Agency Management of Contractors Responding to Hurricanes Katrina and Rita* (Mar. 16, 2006) (GAO-06-461R).

[101] Statement of U.S. Comptroller General David M. Walker, House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (Feb. 1, 2006) (GAO-06-365R).

[102] U.S. Government Accountability Office, *Agency Management of Contractors Responding to Hurricanes Katrina and Rita* (Mar. 16, 2006) (GAO-06-461R).

[103] U.S. Government Accountability Office, *Agency Management of Contractors Responding to Hurricanes Katrina and Rita* (Mar. 2006) (GAO-06-461R).

[104] *Id.*

[105] Department of Homeland Security, Inspector General, *Department of Homeland Security's Procurement and Program Management Operations* (Sept. 2005) (OIG-05-53).

[106] Briefing by Gregory D. Rothwell, Chief Procurement Officer, Department of Homeland Security, to House Government Reform Committee Staff (Sept. 19, 2005).

infrastructure. A key component of the Trilogy project was the Virtual Case File (VCF) system, a case management system intended to improve data management and information sharing within FBI offices.[107] The FBI awarded the contract to develop and deliver VCF to Science Applications International Corporation.

Four years later, the FBI announced that it was terminating the Virtual Case File contract at a loss of more than $170 million.[108] In explaining the contract's failure, FBI director Robert Mueller pointed to the lack of "a complete set of defined VCF requirements when the contract was signed."[109] Poor contract planning was not the only cause of this contract debacle, but it played a significant part. The Justice Department's Inspector General specifically found that the failure to anticipate the contract's technical requirements contributed to the failure to design and build an operable system.[110]

The FBI risks repeating the same mistakes with VCF's successor program, Sentinel, which the FBI launched in early 2005. GAO has warned that the examination and control of requirements for Sentinel is "critical" to that project's success.[111] The IG has also expressed concerns regarding program management and cost controls for Sentinel.[112]

E. Inadequate Contract Oversight

A large and recurring problem in contract management over the last five years has been insufficient and inept contract oversight. Billions of dollars in federal spending on homeland security, the war and reconstruction in Iraq, the response to Hurricane Katrina, and other programs have been imperiled by the failure of the Bush Administration to provide basic contract oversight.

A recent report from the Inspector General at the Defense Department examined the Department's oversight of contractor performance. The IG found that contracting officials failed to develop and implement adequate surveillance plans on 87% of contracts reviewed; performed insufficient reviews of contractor vouchers on 52% of contracts reviewed; and did not document contractor performance in 43% of contracts reviewed. Because of these and other failings, the report concluded: "overall, DOD was not assured

---

[107] Department of Justice Inspector General, *The Federal Bureau of Investigation's Management of the Trilogy Information Technology Modernization Project* (Feb. 2005) (Audit Report 05-07).

[108] Department of Justice Inspector General, *Top Management and Performance Challenges in the Department of Justice — 2005* (online at http:/www.usdoj.gov/oig/challenges/2005.htm) (accessed May 17, 2006).

[109] Senate Committee on Appropriations, Testimony of FBI Director Robert S. Mueller, III, *Hearings on the FBI's Information Technology Modernization Program, Trilogy* (Feb. 3, 2005).

[110] Department of Justice Inspector General, *The Federal Bureau of Investigation's Management of the Trilogy Information Technology Modernization Project* (Feb. 2005) (Audit Report 05-07).

[111] U.S. Government Accountability Office, *Information Technology: FBI Is Building Management Capabilities Essential to Successful System Deployments, but Challenges Remain* (Sept. 14, 2005) (GAO-05-1014T).

[112] Department of Justice Inspector General, *The Federal Bureau of Investigation's Pre-Acquisition Planning for and Controls Over the Sentinel Case Management System* (Mar. 2006) (Audit Report 06-14).

that contractors complied with the terms of their contracts, or that DOD received the best value when contracting for services."[113]

The same oversight problems exist at other agencies. GAO has designated contract management at the Department of Defense, the Department of Energy, and NASA as "high risk" areas due primarily to the lack of oversight at these agencies.[114] The Inspector General at the Department of Homeland Security has found that a lack of oversight has left DHS vulnerable to procurement waste, fraud, and abuse and recommended that the Department provide its oversight office "with sufficient staff and authority to effectively conduct oversight of DHS' procurement operations."[115]

Three factors in particular have contributed to the lack of contract oversight: (1) insufficient contract personnel; (2) insufficient training; and (3) the use of private contractors to conduct oversight.

1. INSUFFICIENT CONTRACT PERSONNEL

In 2001, GAO expressed concern that the lack of an adequate acquisition workforce would impact the future of contract management. William T. Woods, Acting Director for Acquisition and Sourcing Management, testified:

> [A]gencies are at risk of not having enough of the right people with the right skills to manage service contracts. Years of downsizing and curtailed investments in human capital have produced serious imbalances in the skills and experience of the acquisition workforce, and, in effect, created a retirement-driven talent drain. It is clear that more needs to be done to strengthen the acquisition workforce.[116]

Other experts, such as Steve Kelman, the former Director of the Office of Federal Procurement Policy in the Clinton White House, and Steven Schooner, Co-Director of the Procurement Law Program at George Washington University, have echoed these same concerns. According to Mr. Kelman and Mr. Schooner:

> A well-functioning procurement system depends on developing a large cadre of skilled government personnel. ... Sadly, the contracting workforce desperately requires a dramatic recapitalization. A bipartisan, post-Cold War, 1990s initiative severely reduced the contracting workforce, leaving the government unprepared for a post-Sept. 11

---

[113] Department of Defense Inspector General, *Acquisition: Contract Surveillance for Service Contracts* (Oct. 28, 2005) (Report No. 2006-010).

[114] U.S. Government Accountability Office, *High-Risk Series: An Update* (Jan. 2005) (GAO-05-207).

[115] Department of Homeland Security Inspector General, *Department of Homeland Security's Procurement and Program Management Operations* (Sept. 2005) (OIG-0-53).

[116] U.S. General Accounting Office, *Contract Management: Improving Services Acquisitions* (Nov. 1, 2001) (GAO-02-179T).

> spending binge. In the last four years, contracting dollars have increased by half, but there's been no corresponding growth in the workforce.[117]

Despite these warnings, the number of contract officials has not kept pace with the growth of federal contracting under the Bush Administration. While federal spending on contracts has surged during the Bush Administration, the acquisition workforce has remained stagnant. According to a database maintained by the Office of Personnel Management, there were 57,835 contracting officials in the federal government in 2000.[118] Five years later, the number was just 58,723.[119] In some key positions, the number of officials actually declined. For example, the number of government auditors decreased from 11,628 in 2000 to 11,025 in 2005.[120]

At many agencies, the demands on procurement officials are overwhelming. In 2004, when the Office of Procurement Operations at the Department of Homeland Security handled approximately $2 billion in federal contracts, each procurement officer was responsible for overseeing over $100 million in federal procurement spending.[121] In an interview with staff, Clark Kent Ervin, the former Inspector General at DHS, said that taxpayers were "taken to the cleaners" because of the lack of sufficient experienced acquisition personnel.[122] Today, the office still remains understaffed, with only 58% of the contracting officers it is authorized to have.[123] When asked why more contracting employees had not been hired, Mr. Ervin stated: "The Department's leadership just doesn't treat this as a serious issue."[124]

Because of insufficient trained acquisition personnel at the Department of Homeland Security, the taxpayers were "taken to the cleaners."
-Clark Kent Ervin, former Department of Homeland Security Inspector General

Contract officials providing oversight of federal spending in Iraq were similarly short-staffed. In 2003 and 2004, the Program Management Office in the Department of Defense had only 110 to 120 employees on the ground in Iraq to oversee $18.4 billion in

---

[117] Steven Kelman and Steven L. Schooner, *Scandal or Solution?*, Government Executive (Nov. 7, 2005) (online at www.govexec.com/dailyfed/1105/110705sl. htm).

[118] Office of Personnel Management, *Central Personnel Data File: Status File* (Sept. 2000). There is no clear definition for the acquisition workforce that is recognized by all agencies. This report defines the acquisition workforce as the following occupations: General Business; Contracting Series; Purchasing Officer; Procurement Clerical Support; and Industrial Specialist. Using another definition, Mr. Kelman also found a decrease in the number of contract officials, from over 30,000 in 2000 to under 30,000 in 2004. *See* Steve Kelman, *Procurement? A Quiet Crisis*, Federal Computer Week (Nov. 5, 2004) (online at www.fcw.com/article84488).

[119] Office of Personnel Management, *Central Personnel Data File: Status File* (Sept. 2005).

[120] *Id.*

[121] *Amid Wider Procurement Woes, Rothwell Gets High Marks Upon His Departure*, CQ Homeland Security – Industry & Contracting (Dec. 1, 2005).

[122] Telephone interview between former DHS Inspector General Clark Kent Ervin and House Government Reform Committee Minority Staff (May 22, 2006).

[123] *Id.*

[124] *Id.*

contracts. By comparison, the Army Corps of Engineers, which itself has a history of inadequate contract oversight, has 30,000 employees to administer an annual budget of $14 billion for its various domestic and international projects.[125]

Stuart Bowen, the Special Inspector General for Iraq Reconstruction, concluded that one of the key "lessons learned" from the Iraq reconstruction effort is the importance of including contracting officials from the beginning. According to Mr. Bowen:

> SIGIR research found that there was general agreement among agencies concerned with Iraq Reconstruction that contracting plays a central role in mission execution and cannot be an afterthought in the planning process. Whether for stabilization or reconstruction, contracting officials can provide an accurate and holistic picture of the resources needed to efficiently contract for a given mission.[126]

The lack of contract officials has also plagued the response to Hurricane Katrina. At the time the hurricane hit, FEMA had only 36 acquisition officials, far short of the minimum of 172 procurement officials that experts have recommended for the agency.[127] According to GAO, FEMA and the Army Corps of Engineers lacked sufficient personnel to perform adequate oversight on the contracts reviewed.[128] This lack of oversight put the agencies "at risk of being unable to identify and correct poor contractor performance ... [and] paying contractors more than the value of the services performed."[129] The DHS Inspector General responsible for Katrina reconstruction agreed, saying, "Inadequate contracting staff and a shortage of Contracting Officer Technical Representatives (COTRs) hampered FEMA's ability to effectively monitor Katrina response contracts."[130]

2. LACK OF TRAINING

The lack of sufficient personnel has been aggravated by a lack of adequate training for many of the existing contract officials. The DHS Inspector General reported that the Department suffers from an acute lack of qualified program managers. The IG found that only half of the Department's program managers are certified as having received the training in contract management required for their level of responsibility. In many of the

---

[125] Briefing by Deidre Lee, Coalition Provisional Authority Deputy for Operations, to House Government Reform Committee Staff (Dec. 17, 2003).

[126] Senate Committee on Armed Services, Testimony of Special Inspector General for Iraq Reconstruction Stuart W. Bowen, Jr., *Hearings on Contracting Issues in Iraq* (Feb. 7, 2006).

[127] Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative: The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina* (Feb. 15, 2006).

[128] U.S. Government Accountability Office, *Agency Management of Contractors Responding to Hurricanes Katrina and Rita* (Mar. 16, 2006) (GAO-06-461R).

[129] *Id.*

[130] Department of Homeland Security, Senate Committee on Homeland Security and Governmental Affairs, Testimony of Matt Jadacki, Special Inspector General Gulf Coast Hurricane Recovery, *Hearings on Katrina and Contracting* (Apr. 10, 2006).

Department's constituent agencies, the lack of training is even more pronounced. The IG reported that only 3 out 23 program managers at the Customs and Border Patrol are certified, as are only 6 out of 37 program managers in the Office of Procurement Operations. According to the Inspector General, "the need for effective department-wide standards for program management processes should not be underestimated."[131]

The DHS IG also found that DHS contracting officers do not receive sufficient training in ethics. The IG raised concerns that the "close relationship" between procurement officials and the private sector rendered insufficient even the "minimal" ethical training received by DHS employees, and he recommended that program and procurement officials receive "expanded training and guidance on their procurement ethics responsibilities."[132]

Similarly, the lack of an adequate, trained acquisition workforce at the Department of Defense has hampered contract management at that agency. GAO has issued numerous reports since 2000 concluding that "inadequate guidance and poor training played a role when DOD personnel did not use sound techniques to obtain the best prices for DOD."[133]

The military officials overseeing Halliburton's LOGCAP contract "had little understanding of these contracts," "did not fully understand their contract management responsibilities," and "received no training regarding their roles and responsibilities." -U.S. Government Accountability Office

One major example of ineffective contract management by the Defense Department is Halliburton's LOGCAP contract in Iraq. GAO reported that military officials utilizing Halliburton's services "do not understand their role in establishing LOGCAP requirements." When GAO conducted interviews with military officials responsible for oversight of the LOGCAP contract, the officials "told us that they knew nothing about LOGCAP before they deployed and had received no training regarding their roles and responsibilities." According to GAO, military officials "had little understanding of these contracts," "did not fully understand their contract management responsibilities," and "had little or no training on using contractors, including the LOGCAP contractor, on the battlefield."[134]

In addition, GAO found that logistical support units intended to help commanders utilize Halliburton's services had "no prior LOGCAP or contracting experience." Logistical support units are supposed to "write statements of work, prepare independent government cost estimates, review the contractor's cost estimates and

---

[131] Department of Homeland Security Inspector General, *Department of Homeland Security's Procurement and Program Management Operations* (Sept. 2005) (OIG-05-53).

[132] *Id.*

[133] U.S. General Accounting Office, *March 19 Hearing on Sourcing and Acquisition — Questions for the Record* (May 23, 2003) (GAO-03-771R).

[134] U.S. Government Accountability Office, *Military Operations: DOD's Extensive Use of Logistics Support Contracts Require Strengthened Oversight* (July 21, 2004) (GAO-04-854).

technical plans, and act as an interface between the customer and the contractor." But GAO reported that many individuals in these units "received only a 2-week training session before deploying and had little experience or training in developing independent government cost estimates." As a result, according to GAO, they had little basis on which to "judge the reasonableness" of Halliburton's costs.[135]

3. CONTRACTING FOR OVERSIGHT

Faced with an inadequate acquisition workforce, federal agencies have sometimes turned to contractors to provide oversight of other contractors. But this strategy has generated conflicts of interest and produced unsatisfactory results.

In 2004, the Administration awarded contracts worth $7 billion for the reconstruction of six main reconstruction sectors in Iraq, such as oil or electricity. For each of the six sectors, the Administration selected a private contractor to supervise and manage the construction contracts for that sector. A seventh overarching program management contract was also awarded to oversee the six oversight contractors.[136]

"The large-scale reconstruction and stability operations in Iraq could not be solved by contracting out these duties." -Special Inspector General for Iraq Reconstruction

Typically, government officials have the responsibility to develop project requirements and oversee construction work. But under the oversight contracts, these responsibilities were transferred to private contractors. According to contract solicitation documents, the oversight contractors were to be "responsible for the definition, prioritization, and coordination of requirements within defined work sectors and managing overall construction projects."[137] They were also expected to provide "oversight of multiple construction projects within the sector" and submit cost, schedule, and performance reports.[138]

This outsourcing of oversight was not effective. The Special Inspector General for Iraq Reconstruction found that contracting out key functions, including contract management, was inefficient and aggravated existing personnel management problems.[139] The IG concluded that "the large-scale reconstruction and stability operations in Iraq could not be solved by contracting out these duties."[140]

---

[135] *Id.*

[136] Department of Defense, *Press Release: Iraq Reconstruction Contracts Awarded* (Mar. 10, 2004).

[137] CPA Program Management Office, *Executive Summary of Draft Solicitations* (2003).

[138] CPA Program Management Office, *Statement of Objectives for the Coalition Provisional Authority Program Management Office and Sector Program Management Offices* (Jan. 6, 2004). *See also* Coalition Provisional Authority, *Iraq Reconstruction Pre-Proposal Conference Briefing* (Jan. 21, 2004).

[139] Special Inspector General for Iraq Reconstruction, *Iraq Reconstruction: Lessons in Human Capital Management* (Jan. 2006).

[140] *Id.*

The decision to privatize contract oversight also created serious organizational conflicts of interest. For example, CH2M Hill was hired to oversee the reconstruction activities of Washington Group International at the same time that CH2M Hill and Washington Group International were "integrated partners" on a $314 million Department of Energy contract in the United States.[141]

According to Daniel Gordon, GAO Managing Associate General Counsel, these organizational conflicts of interest are not limited to Iraq and have been growing under the Bush Administration.[142] In the first two months of 2006, GAO sustained two bid protests involving organizational conflicts of interest.[143] Mr. Gordon concluded that the increase in contractor conflicts of interest could be traced to a number of factors, including the consolidation of the defense and information technology industries and the increase in the type of services performed by contractors.[144]

4. OVERRULING CAREER CONTRACTING OFFICIALS

In some cases, government contracting officials conduct vigorous oversight of federal contracts, only to be overruled by political appointees or to face retaliation for doing their job. Halliburton's Iraq contracts, in particular, provide multiple examples of political interference resulting in contract mismanagement.

In November 2002, a political appointee at the Defense Department, Michael Mobbs, made the decision to award Halliburton a task order under the LOGCAP contract to plan for the U.S. occupation of the Iraqi oil fields. Although the task order itself was a relatively small contract, the decision to award it without competition to Halliburton had significant ramifications because Mr. Mobbs had determined — after consultation with White House officials, including the Vice President's chief of staff — that if Halliburton received the contingency planning contract, it would also be awarded a no-bid contract worth up to $7 billion to implement the plans it developed.[145] Mr. Mobbs made the decision to award Halliburton the contingency planning contract over the objections of a career attorney with the Army Materiel Command, the agency that oversees the LOGCAP contract, who found that the oil-related task order was outside the scope of the LOGCAP troop support contract. GAO later analyzed the transaction and concluded that the career lawyer's position was correct and that the work "should have been awarded using competitive procedures."[146]

---

[141] *CH2M Hill, Washington Group International, BWX Technologies Team Wins $314 Million Environmental Closure Contract in Ohio*, Washington Group International (Dec. 6, 2002).

[142] *Organization Conflicts of Interest: A Growing Integrity Challenge*, 35 Pub. Cont. L.J. 25 (Fall 2005).

[143] *Debate Over Contractor Conflicts of Interest Heats Up*, Government Executive (Feb. 3, 2006).

[144] *Organization Conflicts of Interest: A Growing Integrity Challenge*, 35 Pub. Cont. L.J. 25 (Fall 2005).

[145] Briefing by Michael Mobbs, Special Assistant to the Under Secretary of Defense for Policy Douglas Feith, for Staff, House Government Reform Committee (June 8, 2003). *See also* Letter from Rep. Henry A. Waxman to Vice President Richard B. Cheney (June 13, 2004) (online at www.democrats.reform.house.gov/Documents/20040623114026-70050.pdf) (describing June 8, 2004, briefing).

[146] U.S. General Accounting Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges* (June 2004) (GAO-04-605).

In March 2003, as the no-bid contract for the Iraqi oil fields was being awarded to Halliburton, a second career official voiced objections. In this instance, the chief contracting official at the Army Corps of Engineers, Bunnatine H. Greenhouse, raised multiple objections to the contract, including its five-year duration, the magnitude of Halliburton's proposed charges, and her observation that the line between Halliburton and government officials had "become so blurred that a perception of a conflict of interest existed."[147] Not only were Ms. Greenhouse's objections overruled, she was removed from her position and reassigned to a lower-level position with no contracting responsibilities after she spoke out about her objections.[148]

Once Halliburton's KBR subsidiary began work under the oil contract, political appointees intervened again, pressuring career contracting employees to drop their efforts to reduce the cost of fuel imports under the contract. State Department documents obtained by the Government Reform Committee show that rather than halting fuel overcharges, senior State Department officials, including Richard Jones, U.S. Ambassador to Kuwait, pressured contracting officials to drop their efforts to find a subcontractor that would charge less than Altanmia, the Kuwaiti subcontractor hired by Halliburton to bring gasoline from Kuwait into Iraq. On December 2, 2003, Ambassador Jones sent an e-mail directing officials to:

> [T]ell KBR to get off their butts and conclude deals with Kuwait NOW! Tell them we want a deal done with al-Tanmia within 24 hours and don't take any excuses. If Amb. Bremer hears that KBR is still dragging its feet, he will be livid.[149]

Within days, a senior government contracting official at the Corps of Engineers complained about this inappropriate political pressure. Mary Robertson was the career contracting official in Iraq responsible for Halliburton's oil contract. On December 6, 2003, she wrote to Halliburton: "I will not succumb to the political pressures from the GoK or the US Embassy to go against my integrity and pay a higher price for fuel than necessary." Ms. Robertson stated further: "there are other firms who have indicated they can provide the product and this is the ethical thing to do."[150] Ultimately, however, Ms. Robertson was overruled and the high-priced contract between Halliburton and Altanmia was renewed.

---

[147] Letter from Michael D. Kohn, Stephen M. Kohn, and David K. Colapinto, Counsel to Bunnatine H. Greenhouse, to the Honorable Les Brownlee, Acting Secretary of the Army (Oct. 21, 2004).

[148] *See* Letter from Rep. Henry A. Waxman to Defense Secretary Donald H. Rumsfeld (Aug. 29, 2005) (online at www.democrats.reform.house.gov/Documents/20050829160953-04500.pdf).

[149] *See* Letter from Rep. Henry A. Waxman to Secretary of State Condoleezza Rice (Feb. 17, 2005) (online at www.democrats.reform.house.gov/Documents/20050217120931-82072.pdf).

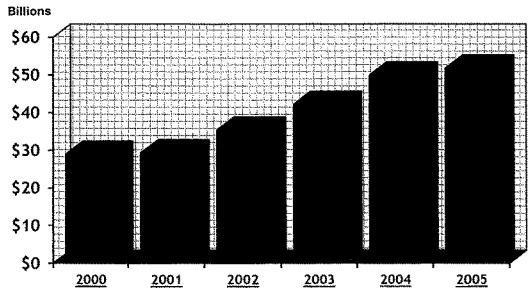
[150] Letter from Mary C. Robertson, Administrative Contracting Officer, U.S. Army Corps of Engineers, to Kellogg Brown & Root (Dec. 6, 2003). *See also Halliburton Unit Cites Pressure to Set Fuel Deals*, Wall Street Journal (Dec. 22, 2003).

F. Unjustified Award Fees

A key opportunity to discipline contractor performance and protect taxpayer interests occurs when agencies make decisions about contractor award fees. Good award fee decisions prevent wasteful expenditures and send a signal to contractors that poor performance will not be tolerated. Unjustified awards send exactly the opposite message.

The use of award fee contracts has grown rapidly over the past five years. In 2000, the federal government spent $29 billion on contracts that provided opportunities for the contractor to earn bonuses through award fees. By 2005, this spending grew to $52 billion, a 79% increase. See Figure 12.

FIGURE 12: Award Fee Contracts Have Increased 79%



While the use of award fee contracts may be appealing in theory as a way to encourage responsible contractor performance, the actual management of these contracts over the last five years has been deeply flawed. According to GAO, the Defense Department alone paid out $8 billion in award fees between 1999 and 2003, "regardless of whether the acquisition outcomes fell short of, met, or exceeded expectations."[151]

The GAO report found that the Defense Department paid approximately 90% of the available fee on award fee contracts active between 1999 and 2003. These awards were based on paperwork criteria, such as the quality of contract proposals or the timeliness of reports, rather than the contractor's performance in meeting cost requirements or delivering a functional product. Moreover, the Department did not use the award fees to

[151] U.S. Government Accountability Office, *Defense Acquisitions: DOD Has Paid Billions in Award and Incentive Fees Regardless of Acquisition Outcomes* (Dec. 2005) (GAO-06-66).

reward exceptional contractor performance, as required by federal acquisition regulations. GAO found that contractors who achieved "acceptable, average, expected, good or satisfactory" performance regularly received up to 90% of the award fee. This practice does not effectively drive or reward contractor excellence. In fact, approximately half of all award fee contracts surveyed by GAO reported costs overruns or schedule delays.[152]

In response to a question from Rep. Waxman, David Walker, the U.S. Comptroller General, testified that award fee contracts are not resulting in value for the taxpayer:

> I think one of the problems that we have in government, Mr. Waxman, is, is that if we're paying incentive and award fees, we need to pay for positive results achieved; that people do what they promise or what we need and what they promise, when they promised it, and at the cost that was agreed to. Unfortunately, that's not the case for all too many contracting arrangements in government. They pay for effort and that's it, not results.[153]

An example of unjustified award fees identified by GAO involved the F/A-22 Raptor tactical aircraft. On this contract, Lockheed received $849 million in award fees despite incurring $10.2 billion in cost overruns and delays of over two years. In total, Lockheed received 91% of the available award fee despite the large cost increases and lengthy delays.[154]

In some cases, Administration officials not only fail to assess contractor performance, they actively ignore auditor findings of large cost overruns in determining contractor payments and award fees. Auditors at DCAA found that Halliburton incurred unreasonable and unsupported costs of $263 million on its no-bid contract to restore Iraq's oil infrastructure.[155] Historically, procurement officials agree with DCAA auditors and withhold 56% to 75% of the challenged costs.[156] But in this case, Administration officials paid Halliburton $254 million of the disputed costs, upholding only 3% of DCAA's challenges. Halliburton also received profits and bonuses worth millions on top of the challenged costs.[157]

---

[152] *Id.*

[153] House Committee on Government Reform, Testimony of U.S. Comptroller General David Walker, *Hearings on Services, Government and Security in Iraq* (Apr. 25, 2006).

[154] U.S. Government Accountability Office, *Defense Acquisitions: DOD Has Paid Billions in Award and Incentive Fees Regardless of Acquisition Outcomes* (Dec. 2005) (GAO-06-66).

[155] Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Feb. 27, 2006).

[156] Letter from DCAA Assistant Director for Operations Joseph J. Garcia to House Committee on Government Reform Majority Staff (Mar. 31, 2006). *See also Army to Pay Halliburton Unit Most Costs Disputed by Audit*, New York Times (Feb. 27, 2006).

[157] Briefing by William Reed, Director, Defense Contract Audit Agency to Committee on Government Reform Staff (Mar. 3, 2006).

G. Corruption

Finally, corruption has exploited — and aggravated — contract mismanagement. There is no historical database that measures levels of corrupt contracting over time. It appears, however, that corruption has been on the rise and is infecting a growing number of government contracts. According to Angela Styles, the Director of the Office of Federal Procurement Policy at the White House from 2001 to 2003, the recent proliferation of indictments and prison terms for senior government officials is "a low-water mark for federal contracting."[158]

One cause of growing corruption appears to be the lack of responsible contract management. According to Stuart Bowen, Special Inspector General for Iraq Reconstruction, the lack of oversight allowed fraud and corruption to flourish in Iraq: "[O]versight delayed is oversight denied. ... Unfortunately, the establishment of an inspector general came months too late to deter these criminal activities. ... Provisions for formal oversight of Iraq reconstruction should have been established at the very beginning of the endeavor."[159]

1. INDICTMENTS AND CONVICTIONS

Since 2004, there have been at least 20 indictments or convictions of government officials and contractors for corruption related to procurement. These have included the conviction of a senior Republican congressman, the indictment of the top White House procurement official, and the conviction of one of the most senior procurement officials at the Air Force.

Corruption has tainted a wide array of contract initiatives, including the reconstruction in Iraq, the response to Hurricane Katrina, and major Defense Department procurements. Among the individuals who have been indicted or convicted are the following:

- **Rep. Randy "Duke" Cunningham (R-CA).** In November 2005, Rep. Cunningham pled guilty to accepting $2.4 million in bribes and evading more than $1 million in taxes. In exchange for cash, a Rolls-Royce, resort vacations, home furnishings, and the use of a yacht, Mr. Cunningham steered hundreds of millions of dollars worth of federal contracts to two military contractors.[160]

- **David Safavian, former head of the Office of Federal Procurement Policy at the Office of Management and Budget.** In October 2005, Mr. Safavian was indicted on charges of obstructing proceedings at the General Services Administration and the Senate and making false statements. Mr. Safavian, who

---

[158] Angela Styles, *Answer the Scandals*, Legal Times (Nov. 7, 2005).

[159] Senate Committee on Armed Services, Testimony of Special Inspector General for Iraq Reconstruction Stuart W. Bowen, Jr., *Hearings on Contracting Issues in Iraq* (Feb. 7, 2006).

[160] *Rep. Cunningham Pleads Guilty to Bribery, Resigns*, Los Angeles Times (Nov. 29, 2006).

was the Chief of Staff at GSA prior to becoming the top White House procurement official, accepted a golf trip to Scotland from lobbyist Jack Abramoff while allegedly helping Mr. Abramoff develop the historic Old Post Office in Washington, D.C., and acquire government land in Silver Spring, Maryland. According to the indictment, Mr. Safavian repeatedly lied to investigators about his close relationship to Mr. Abramoff.[161]

- **Darleen Druyun, former Air Force Principal Deputy Assistant Secretary for Acquisition and Management.** In April 2004, Ms. Druyun pled guilty to conspiracy for discussing employment opportunities with Boeing while developing a $23.5 billion plan to lease tanker aircraft from Boeing. In exchange for a lucrative executive position at Boeing for herself, Ms. Druyun inflated the price of the tanker lease, ignored Air Force cost analysts, and flouted a spectrum of federal procurement laws and regulations. Prior to joining Boeing in November 2002, Ms. Druyun was one of the most senior procurement officials at the Air Force.[162]

- **Kevin Marlowe, former chief of acquisitions for the Defense Information Systems Agency.** In September 2005, Mr. Marlowe pled guilty to accepting more than $500,000 in bribes. In exchange for cash, vacations, and other kickbacks, Mr. Marlowe awarded $18.1 million in contracts to Vector Systems Inc., an information technology company.[163]

- **Col. Tom Spellissy (ret.), Special Operations Command.** In November 2005, Col. Spellissy was indicted in a procurement fraud inquiry at Special Operations Command (SoCom), the Pentagon division with responsibility for the nation's elite commandos and the lead command in the war on terrorism. Prosecutors charged Col. Spellissy with making illegal payments in exchange for preferential treatment in the award of defense contracts by SoCom.[164]

- **Robert Stein, Jr., former comptroller for the Coalition Provisional Authority.** In February 2006, Mr. Stein pled guilty to conspiracy, bribery, money laundering, and other charges for steering millions of dollars to an American contractor in Iraq and diverting millions more for himself. At least six other federal officials and military officers are believed to have participated in the scheme.[165]

---

[161] *Former OMB Official Indicted*, Government Executive (Oct. 5, 2005); *Bush Official Arrested in Corruption Probe*, Washington Post (Sept. 20, 2005).

[162] Department of Defense Inspector General, *Management Accountability Review of the Boeing KC-767A Tanker Program* (May 13, 2005) (Report No. OIG-2004-171); *Ex-Pentagon Procurement Chief Pleads Guilty to Conspiracy*, Government Executive (Apr. 20, 2005).

[163] *Former Acquisition Official at Defense Agency Sentenced to 11 Years*, Government Executive (Apr. 7, 2006).

[164] U.S. Attorney, Middle District of Florida, *Press Release: Former SoCom Official Indicted* (Nov. 8, 2005).

[165] *Wide Plot Seen in Guilty Plea in Iraq Project*, New York Times (Feb. 2, 2006).

- **Jeff Mazon, Halliburton; Glenn Powell, Halliburton; Stephen Seamans, Halliburton; and Christopher Cahill, Eagle Global Logistics.** Since March 2005, multiple Halliburton officials have been indicted or convicted of corruption-related charges involving Halliburton contracts in Iraq. In March 2005, Mr. Mazon was indicted for accepting a $1 million kickback from LaNouvelle General Trading Company in exchange for inflating LaNouvelle billings by over $4 million.[166] In August 2005, Mr. Powell pled guilty to accepting $110,000 in kickbacks from an Iraqi subcontractor in exchange for awarding a building renovation contract to the subcontractor.[167] In March 2006, Mr. Seamans was charged with accepting $124,000 in kickbacks from Tamimi Global Company in exchange for awarding Tamini a dining hall contract in Kuwait.[168] In February 2006, Mr. Cahill, a subcontractor hired by Halliburton, pled guilty to inflating invoices by $1.14 million.[169]

- **Andrew Rose and Lloyd Holliman, FEMA:** In April 2006, Mr. Rose and Mr. Holliman pled guilty to receiving bribes from a food service contractor.[170] Mr. Rose and Mr. Holliman took advantage of their responsibilities during the response to Hurricane Katrina by demanding a $20,000 payment plus $2,500 a week in exchange for inflating the number of meals provided.[171]

- **Mitchell Kendrix, Army Corps of Engineers:** In December 2005, Mr. Kendrix, a Quality Assurance Representative for the Corps, was charged with conspiracy to commit bribery. Mr. Kendrix allegedly accepted multiple bribes to falsify the debris removal records of a contractor involved in the response to Hurricane Katrina.[172]

2. ONGOING INVESTIGATIONS

In addition to these indictments and convictions, there are hundreds of additional corruption investigations underway. Many of these involve procurement corruption in Iraq or in connection with the restoration of the Gulf Coast after Hurricane Katrina.

According to the Special Inspector General for Iraq Reconstruction, over 70 corruption investigations are currently underway in Iraq. Twenty-three of the open cases involve allegations of contract fraud, overcharging or product substitution, or false claims. At

---

[166] Indictment, *United States v. Mazon* (Mar. 16, 2005).

[167] *Former KBR Worker Admits to Fraud in Iraq*, Washington Post (Aug. 23, 2005).

[168] *Infra* § IV.B.1.

[169] *Company Executive Pleads Guilty to $1 Million Fraud in Iraq*, New York Times (Feb. 16, 2005).

[170] 2 *FEMA Workers Plead Guilty in Bribery Case*, Los Angeles Times (Apr. 6, 2006).

[171] 2 *Held on Katrina Bribery Charges*, Los Angeles Times (Feb. 3, 2006); *FEMA Workers Are Indicted in Bribe Case*, New Orleans Times Picayune (Feb. 3, 2006).

[172] U.S. Attorney, Southern District of Mississippi, *Press Release: Bribery Charges Filed for Katrina Debris Removal* (Dec. 6, 2005).

least thirty-two of the cases involve allegations of theft, bribery, kickbacks, or gratuities.[173]

In addition, private whistleblowers reportedly have brought over 50 cases under the False Claims Act alleging fraud by contractors operating in Iraq, including Halliburton. In the one case that has gone to trial, a federal jury found that the security firm Custer Battles engaged in dozens of acts of fraud and ordered the company to pay over $10 million in penalties and refunds.[174] Under the False Claims Act, privately filed cases cannot proceed to trial until the Department of Justice decides whether the United States will participate in the litigation. For reasons that have not been explained, the Department of Justice has delayed making this decision in the other False Claims Act cases, preventing them from going forward.[175]

Hurricane Katrina auditors have opened an even larger number of corruption investigations. According to the Department of Homeland Security Inspector General, 785 cases of reported criminal activity, including procurement fraud and abuse, are currently under investigation.[176]

---

[173] Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (Apr. 2006).

[174] *Attorney Pursues Iraq Contractor Fraud*, Wall Street Journal (Apr. 19, 2006).

[175] *Some Iraq Rebuilding Funds Go Untraced*, Wall Street Journal (Jan. 17, 2006); *US Firms Suspected of Bilking Iraq Funds*, Boston Globe (Apr. 16, 2006).

[176] President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report to Congress* (Apr. 30, 2006).

III. COSTS TO THE TAXPAYER

The costs to the taxpayer of contract mismanagement are often hidden from view. There is no existing database that systematically tracks the extent of waste, fraud, and abuse in federal contracts. And the Administration frequently refuses to release audits documenting overcharges unless the audits are requested by a Republican chairman in Congress.

It is unquestionable, however, that the pervasive mismanagement of contracts under the Bush Administration has been expensive. This report identified over 100 contracts collectively worth over $700 billion that have been found by government auditors or investigators to involve substantial waste, fraud, abuse, or mismanagement.

"Einstein said insanity is doing the same thing over and over again and expecting a different result. They never learn anything. ... No wonder costs are out of control." -Clark Kent Ervin, former Department of Homeland Security Inspector General

Since 2000, the Bush Administration has engaged in three major "binges" of contract spending. The first occurred after the attacks of September 11, which led to a surge of spending on homeland security contracts. The second occurred as part of the war in Iraq, where the Administration has spent billions of dollars for troop support and reconstruction efforts. And the third occurred after Hurricane Katrina, where costly efforts are underway to restore the Gulf Coast. Each of these major initiatives has been marred by ineffective and sometimes corrupt contract mismanagement, which has led to extensive waste, fraud, and abuse.

Since September 11, the Bush Administration has spent $19.4 billion on contracts to bolster homeland security, such as contracts to screen passengers and baggage at airports, deploy radiation screening machines at ports and border crossings, and install cameras along the border. Many of these contracts have been characterized by large cost overruns, long delays, and poor performance. As a result, billions of taxpayer dollars have been squandered.

The situation in Iraq is similar. The Administration has spent over $30 billion in taxpayer funds on the reconstruction of Iraq, much of it on massive monopoly contracts. Notwithstanding this extensive spending, oil production, electricity, and drinking water remain below prewar levels. The troop support contract with Halliburton, which has consumed another $14.8 billion, has also been characterized by repeated overcharges. According to government auditors, Halliburton alone has billed the government over $1.4 billion in questioned and unsupported charges.

These mistakes are now being repeated in the Administration's efforts to rebuild the Gulf Coast after Hurricane Katrina. So far, $9.7 billion has been awarded to private contractors for services including trash removal, road-building, and roof repair in the Gulf

Coast. Government auditors have already found waste, fraud, abuse, and mismanagement in dozens of the Katrina contracts.

These have not been the only wasteful contracts during the last five years. Major Defense Department procurements, such as Future Combat Systems, the Joint Strike Fighter, and the missile defense program, will waste billions of dollars before completion. A retired Air Force procurement official recently lamented, "The incentive now is to spend as much as you can" for malfunctioning systems with exorbitant costs.[177] And civilian agencies have repeatedly been plagued by contract cost overruns and inadequate performance.

The overall magnitude of the squandered spending is enormous. The discussion below provides a summary of over two dozen wasteful contracts, while an appendix to the report identifies 118 contracts that have been examined by government auditors and investigators and found to contain significant waste, fraud, or abuse or to have been poorly managed. The total value of the costs incurred or projected to be incurred under the 118 problem contracts is $745.5 billion.

A. Wasteful Homeland Security Contracts

Since the attacks of September 11, 2001, the Department of Homeland Security (and its predecessor agencies) has entered into contracts worth $19.4 billion. In 2005 alone, DHS entered into over 63,000 contracts worth $10 billion. Approximately 55% of those contracts, worth $5.5 billion, were awarded without full and open competition.

Due to poor management, many of the largest homeland security contracts have proven vulnerable to waste, fraud, abuse, and mismanagement. Examples of these contracts are described below. Now, more than four years after the September 11 attacks, the Administration is moving to replace or alter much of the equipment acquired in the first binge of spending because it has been ineffective or unreliable.

1. THE CONTRACT TO HIRE AIRPORT SCREENERS

In February 2002, the Transportation Security Administration (TSA) awarded a $104 million contract to NCS Pearson, Inc. to test and hire airport passenger and baggage screeners. In less than one year, the contract ballooned to $741 million.[178] Despite this expenditure, the rate at which screeners fail to detect weapons has remained unchanged for over four years.[179]

---

[177] *Forward Observer: A Whistleblower's Lament*, CongressDaily (Mar. 13, 2006) (online at www.govexec.com/story_page.cfm?articleid=33594).

[178] Letter from Peter A. Iovino, Assistant Administrator for Legislative Affairs, Department of Homeland Security, to Rep. Henry A. Waxman (Sept. 2, 2005).

[179] *Contracting Rush for Security Led to Waste, Abuse*, Washington Post (May 22, 2005).

The chief executive of an "event logistics" company — newly formed by two former travel agency employees — received over $5 million for just nine months of work.

Federal auditors examining the Pearson contract have reported multiple problems. According to the DHS Inspector General, TSA's failure to develop a project management plan, an acquisition plan, or an acquisition baseline meant that the agency began the contract without having finalized the number of screeners, the schedule, or the budget.[180]

An audit by the Defense Contract Audit Agency questioned at least $297 million of the costs claimed by Pearson under the contract.[181] The DCAA audit called into question spending by Pearson on luxury hotels, long distance phone calls, and noncompetitive subcontracts. Among the disputed charges were $526.95 for one phone call from the Hyatt Regency O'Hare in Chicago to Iowa City and $8,100 for elevator operators at the Marriott Marquis in Manhattan.[182] One of the subcontracts challenged by DCAA paid the chief executive of an "event logistics" company — newly formed by two former travel agency employees — over $5 million for just nine months of work.[183]

A Pearson employee who supervised Pearson's hiring efforts at 43 sites in the United States admitted in a media interview: "There was abuse of the taxpayers' trust. We didn't get the bang for our buck."[184]

In December 2004, TSA agreed to pay Pearson $741 million, withholding only $143 of the $297 million in costs challenged by DCAA.[185]

2. THE CONTRACT TO SCREEN AIRPORT LUGGAGE

In June 2002, TSA awarded a large cost-plus contract to Boeing for the installation and maintenance of luggage screening equipment at commercial airports, despite the fact that Boeing submitted the highest bid. The contract was structured to allow Boeing to function as project manager while subcontracting over 90% of the work, mostly to two companies that made the baggage screening machines. TSA estimated the contract value

---

[180] Department of Homeland Security Inspector General, *Review of the Transportation Security Administration's Management Controls Over the Screener Recruitment Program* (Dec. 2005) (OIG-06-18).

[181] Letter from Peter A. Iovino, Assistant Administrator for Legislative Affairs, Department of Homeland Security, to Rep. Henry A. Waxman (Sept. 2, 2005); Defense Contract Audit Agency, *Audit Report on Costs Recorded Through November 2, 2002 Contract No. DTSA20-02-C-00400* (May 3, 2004) (Audit Report No. 3541-2002A10100001).

[182] Defense Contract Audit Agency, *Audit Report on Costs Recorded Through November 2, 2002 Contract No. DTSA20-02-C-00400* (May 3, 2004) (Audit Report No. 3541-2002A10100001).

[183] Defense Contract Audit Agency, *Audit Report on Costs Recorded Through November 2, 2002 Contract No. DTSA20-02-C-00400* (May 3, 2004) (Audit Report No. 3541-2002A10100001).

[184] *The High Cost of a Rush to Security*, Washington Post (June 30, 2005).

[185] Letter from Peter A. Iovino, Assistant Administrator for Legislative Affairs, Department of Homeland Security, to Rep. Henry A. Waxman (Sept. 2, 2005).

to be $508 million for an initial period of seven months. But the costs ballooned to at least $1.2 billion and the performance period was extended by an additional 18 months.[186]

According to published accounts, the baggage screening equipment installed under the contract has suffered from high false alarm rates. After passengers and airline managers complained of delays due to the false alarms, the machines were calibrated to be less sensitive. Although this has lowered the rate of false alarms, the decreased sensitivity has also made the machines far less effective at detecting bombs.[187]

GAO testified that the screening machines also suffer from a variety of other operational "inefficiencies," including the fact that baggage must be moved manually from the conveyor belt to the machine and back again.[188] According to GAO, TSA will have to spend an additional $3 billion to $5 billion to upgrade to more efficient in-line machines that rely on the latest technology.[189]

The DHS Inspector General has also been critical of the contract. The IG found that TSA made mistakes in the award and management of the contract with Boeing. Until December 2003, according to the IG, TSA paid all of Boeing's costs and based Boeing's profit on a percentage of total costs, creating a prohibited "cost-plus-a-percentage-of-cost" contract.[190]

In addition, the IG found that TSA paid Boeing $44 million in award fees without evaluating Boeing's performance, removing any incentive to improve performance that the award fee might have provided. The IG also reported that TSA paid Boeing a disproportionate amount of profit compared to Boeing's costs and risks. Under the contract, Boeing subcontracted 92% of the work but earned profits on all contract-related costs, including the subcontractors' costs. In 2003, for example, Boeing itself incurred only $39 million in direct costs, but the company received $82 million in profit based on costs incurred by the subcontractors. The IG judged at least $49 million of Boeing's profit to be "excessive."[191]

---

[186] Department of Homeland Security Inspector General, *Evaluation of TSA's Contract for the Installation and Maintenance of Explosive Detection Equipment at United States Airports* (Sept. 2004) (OIG-04-44); *Contracting Rush for Security Led to Waste, Abuse*, Washington Post (May 22, 2005).

[187] *Contracting Rush for Security Led to Waste, Abuse*, Washington Post (May 22, 2005).

[188] U.S. General Accounting Office, *Aviation Security: Challenges Exist in Stabilizing and Enhancing Passenger and Baggage Screening Operations* (Feb. 12, 2004) (GAO-04-440T).

[189] U.S. General Accounting Office, *Aviation Security: Better Planning Needed to Optimize Deployment of Checked Baggage Screening Systems* (July 13, 2005) (GAO-05-896T).

[190] In a "cost-plus-a-percentage-of cost" contract, the contractor receives its profit as a percentage of the contractor's actual costs. This type of contract is prohibited under federal law. *See* 10 U.S.C. §1306; 41 U.S.C. §254(b). This differs from a cost-plus-award-fee contract, discussed in sections II.B.1 and II.F, *supra*, in which the contractor's fee includes both a base fee, fixed at the inception of the contract (often as a percentage of the estimated costs), plus an additional fee based on the contractor's compliance with criteria set forth in the contract. *See* FAR § 16.3-16.4.

[191] Department of Homeland Security Inspector General, *Evaluation of TSA's Contract for the Installation and Maintenance of Explosive Detection Equipment at United States Airports* (Sept. 2004) (OIG-04-44).

3. THE CONTRACT TO UPGRADE AIRPORT COMPUTER NETWORKS

In August 2002, TSA entered into a $1 billion contract with Unisys Corp. to upgrade airport computer networks. This contract, however, has been marred by significant overcharges.[192]

According to published accounts, the Defense Contract Audit Agency found that Unisys "overbilled taxpayers for as much as 171,000 hours worth of labor ... by charging up to $131 an hour for employees who were paid less than half that amount."[193] DCAA also found that Unisys had billed for 24,982 hours of overtime not permitted under the contract.[194]

One TSA official said that he was instructed by senior administration officials to cite the $1 billion cost figure, which was "a number out of the air" that "would be more palatable" to congressional officials.

In a report released in February 2006, the DHS Inspector General reported that by September 2005, less than halfway through the contract period, TSA had already spent $834 million on the Unisys contract, over 80% of the contract ceiling.[195] An additional $106 million had been spent by other DHS agencies on the project.[196]

An additional problem involving the Unisys contract is that it appears that Administration officials misled Congress about the true costs of the contract. According to the IG, contract officials at TSA estimated that the contract costs would reach $3 billion to $5 billion, but decided to set an artificial ceiling of $1 billion.[197] The former chief information officer at TSA said that he was instructed by senior administration officials to cite the $1 billion cost figure to congressional officials, which was "a number out of the air" that "would be more palatable."[198]

4. THE CONTRACT FOR RADIATION DETECTORS

In 2003, the Department of Homeland Security awarded an indefinite-delivery/indefinite-quantity contract to Science Applications International Corp. (SAIC) to manufacture radiation detection machines for the nation's borders and ports. As of December 2005, the Office of Customs and Border Protection had bought 670 of the machines, called

---

[192] Department of Homeland Security Inspector General, *Transportation Security Administration's Information Technology Managed Services Contract* (Feb. 2006) (OIG-06-23).

[193] *Contractor Accused of Overbilling U.S.*, Washington Post (Oct. 23, 2005).

[194] *Id.*

[195] Department of Homeland Security Inspector General, *Transportation Security Administration's Information Technology Managed Services Contract* (Feb. 2006) (OIG-06-23).

[196] *Id.*

[197] *Id.*

[198] *Contractor Accused of Overbilling U.S.*, Washington Post (Oct. 23, 2005).

radiation portal monitors, at a cost of about $286 million, approximately $427,000 each.[199]

According to published accounts, the radiation portal monitors supplied by SAIC are so highly sensitive to radiation that they cannot distinguish between weapons-grade nuclear material and items that naturally emit radioactivity, including cat litter, granite, porcelain toilets, and bananas. As a result, the machines set off so many false alarms that customs officials were compelled to decrease the machines' sensitivity levels.[200]

The Department of Homeland Security has conceded that the main problem with the radiation portals is their inability to discriminate among nuclear materials. According to Vayl Oxford, the acting director of the Domestic Nuclear Detection Office at the Department of Homeland Security: "today's equipment lacks a refined capability to rapidly determine the type of radioactive materials it detects." Moreover, Mr. Oxford testified that increasing the sensitivity level would not guarantee that the machines will recognize all potentially harmful materials because high-density shields made from lead or steel successfully block the machine's ability to detect uranium.[201]

DHS's failure to manage the detection system has further limited the machines' effectiveness. According to GAO, DHS allowed trucks to pass through the monitors in 2005 at speeds too high for accurate screening.[202] Moreover, the majority of cargo entering the United States is not screened at all. According to published reports, on an average day at the combined ports of New York and Newark, only 6% to 7% of the shipments are run through the radiation portals.[203]

5. THE CONTRACT FOR BORDER SURVEILLANCE

The Office of Border Patrol has deployed thousands of cameras and sensors to monitor activity on the Mexican and Canadian borders through a program known as the Integrated Surveillance and Intelligence System (ISIS). The ISIS contract was initiated in 1997, but much of the spending under the contract has occurred over the last five years, with over $429 million having been spent to date.[204] A typical surveillance site under the ISIS contract consists of a 60-foot pole mounted with seven to ten cameras and costs over

---

[199] U.S. Government Accountability Office, *Combating Nuclear Smuggling: DHS Has Made Progress Deploying Radiation Detection Equipment at U.S. Ports-of-Entry, but Concerns Remain* (Mar. 2006) (GAO-06-389); U.S. Government Accountability Office, *Combating Nuclear Smuggling: Challenges Facing U.S. Efforts to Deploy Radiation Detection Equipment in Other Countries and in the United States* (Mar. 28, 2006) (GAO-06-558T).

[200] *U.S. to Spend Billions More to Alter Security Systems*, New York Times (May 8, 2005).

[201] House Homeland Security Committee, Testimony of Vayl Oxford, Acting Director, Domestic Nuclear Detection Office, Department of Homeland Security, *Hearings on Detecting Nuclear Weapons and Radiological Materials* (June 21, 2005).

[202] U.S. Government Accountability Office, *Combating Nuclear Smuggling: Efforts to Deploy Radiation Detection Equipment in the United States and in Other Countries* (June 21, 2005) (GAO-05-840T).

[203] *On the Waterfront*, CBS News (Feb. 26, 2006).

[204] Department of Homeland Security Inspector General, *A Review of Remote Surveillance Technology Along U.S. Land Borders* (Dec. 2005) (OIG-06-15).

$300,000.[205] The contract was initially awarded to International Microwave Corporation, but is now held by L-3 Communications, which acquired IMC in 2003.

In December 2003, GSA auditors reported substantial problems with the ISIS contract. The auditors found cameras and other pieces of equipment that did not work and surveillance sites where no equipment had been delivered and no work performed.[206] According to published accounts, the auditors also reported substantial cost overruns, including $13 million in potential overcharges by L-3 Communications.[207] In one case, the Office of Border Patrol paid $20 million for malfunctioning camera systems at eight border patrol zones and for poles, cameras, and gear that were never installed.[208] The GSA auditors concluded that lack of oversight "placed taxpayers' dollars and ... national security at risk."[209]

A recent audit by the DHS Inspector General reported that the ISIS system is largely ineffective. Because the remote video surveillance cameras do not have the ability to detect movement automatically, illegal activity goes unnoticed unless border patrol personnel are monitoring the cameras at the time. The cameras are also vulnerable to power outages and many sites do not have back-up power sources. The cameras malfunction when exposed to snow, ice, humidity, and extreme temperatures. Moreover, the remote video surveillance system can cover only 5% of the border. As a result, the IG concluded that the surveillance system has hobbled field operations.[210]

The Office of Border Patrol has acknowledged that the existing system is inadequate. On January 5, 2006, DHS announced its plan to address these deficiencies with new "highly mobile detection systems." The Office of Border Patrol described the ISIS system as "no longer state of the market" and several steps behind the current state of technology. As a result, the agency is "significantly challenged by the ever-changing threat environment."[211]

Rather than learn from these mistakes, Administration officials are poised to repeat them. DHS Deputy Secretary Michael Jackson recently told potential bidders for the Secure Border Initiative, a new federal contract to design, build, test, and operate a massive border security system, "We're asking you to come back and tell us how to do our business."[212] In an interview with Committee staff, former DHS Inspector General

---

[205] House Homeland Security Committee, Testimony of L-3 Communications President Joseph A. Saponaro, *Hearings on the Mismanagement of the Border Surveillance System and Lessons for the New America's Shield Initiative* (June 16, 2005).

[206] House Homeland Security Committee, *Hearings on the Mismanagement of the Border Surveillance System and Lessons for the New America's Shield Initiative* (June 16, 2005).

[207] *Probe Faults System for Monitoring U.S. Borders*, Washington Post (Apr. 11, 2005).

[208] *Id.*

[209] *Id.*

[210] Department of Homeland Security Inspector General, *A Review of Remote Surveillance Technology Along U.S. Land Borders* (Dec. 2005) (OIG-06-15).

[211] *Homeland Security Seeks Proposals for Border Technology*, Government Executive (Jan. 5, 2006).

[212] *Bush Turns to Big Military Contractors for Border Control*, New York Times (May 18, 2006).

Clark Kent Ervin was astonished by the refusal of DHS to alter its approach and set meaningful contract requirements:

> Einstein said insanity is doing the same thing over and over again and expecting a different result. They never learn anything. It's just crazy. It's turning logic on its head. No wonder costs are out of control. The government should know how these things work and hold contractors accountable.[213]

6. THE CONTRACT FOR US-VISIT

In June 2004, the Department of Homeland Security awarded a ten-year, $10 billion contract to Accenture to implement US-VISIT, a program designed to collect and store personal, travel, and biometric information (fingerprints and photographs) from foreign nationals entering the United States.[214] Although the company promised to create a "virtual border," auditors and inspectors general have found serious and ongoing problems with the program.

According to GAO, US-VISIT lacks the "capability to track the entry and exit of persons entering the United States at air, land, and sea ports of entry."[215] GAO concluded that "the program continues to invest hundreds of millions of dollars for a mission-critical capability under circumstances that introduce considerable risk that cost-effective mission outcomes will not be realized."[216]

Two years after awarding a $10 billion contract, the Department of Homeland Security has yet to demonstrate that US-VISIT is the "right solution" for immigration and border management.
-U.S. Government Accountability Office

One cause of these repeated problems is US-VISIT's reliance on out-of date and ineffective technologies. For example, US-VISIT uses a fingerprint identification system that is not fully integrated with the system used by the FBI. As a result, according to GAO, US-VISIT lacks full access to the FBI's master criminal database. Moreover, because US-VISIT's database of travel and biometric information is not linked to other law enforcement systems, border officials must search multiple systems to determine a

---

[213] Telephone interview between former DHS Inspector General Clark Kent Ervin and House Government Reform Committee Minority Staff (May 22, 2006).

[214] Department of Homeland Security Inspector General, *Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry* (Feb. 2005) (OIG-05-11).

[215] U.S. Government Accountability Office, *Homeland Security: Some Progress Made, but Many Challenges Remain on U.S. Visitor and Immigrant Status Indicator Technology Program* (Feb. 2005) (GAO-05-202).

[216] *Id.*

foreign national's identity and eligibility for entry.[217] DHS has announced its intention to address this lack of interoperability and integration in the coming months.[218]

A recent review of US-VISIT by the DHS IG found both technological and management issues that could compromise the program's security and integrity. The IG reported that the system's security has multiple weaknesses that leave it vulnerable to unauthorized access. The IG also found that the lack of communication and coordination between and among the US-VISIT program and other DHS branches has weakened information security and security management.[219]

Even when US-VISIT functions correctly, it may not prove to be an efficient or effective tool for securing the nation's borders. According to GAO, the Department of Homeland Security has yet to demonstrate that US-VISIT is the "right solution" for immigration and border management.[220] GAO also found that DHS still has not approved a strategic plan for how US-VISIT will operate with other border and homeland security initiatives, nor performed cost-benefit analyses that justify the Department's expenditures on the US-VISIT program.[221]

7. THE CONTRACT FOR THE TRANSPORTATION SECURITY OPERATIONS CENTER

From February to April 2003, TSA entered into contracts to lease and renovate an empty facility to house its crisis management operations unit. The renovation was completed in July 2003, but an audit by the DHS Inspector General found that TSA's management and oversight of the building's renovation resulted in waste and abuse.[222]

The IG found that TSA spent over $19 million to equip the facility lavishly. The building itself has 55 offices, 150 workstations, 12 conference rooms, 7 kitchens, and a fitness center, yet only 80 employees and 60 contract employees are expected to use the space. The project manager and facility operations officer paid $500,000 to a tool company for artwork and decorative items, including $29,032 for an art consultant and her assistant and $30,085 for silk plants. Moreover, an unnecessary decision to accelerate the

---

[217] Department of Homeland Security Inspector General, *Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry* (Feb. 2005) (OIG-05-11); U.S. Government Accountability Office, *Homeland Security: Visitor and Immigrant Status Program Operating, but Management Improvements Are Still Needed* (Jan. 25, 2006) (GAO-06-318T).

[218] Senate Committee on Appropriations, Testimony of Jim Williams, US-VISIT Program Director, Department of Homeland Security, *United States Entry/Exit Tracking: Is the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) On Track for Success?* (Jan. 25, 2006).

[219] Department of Homeland Security Inspector General, *US-VISIT System Security Management Needs Strengthening* (Dec. 2005) (OIG-06-16).

[220] U.S. Government Accountability Office, *Homeland Security: Visitor and Immigrant Status Program Operating, but Management Improvements Are Still Needed* (Jan. 25, 2006) (GAO-06-318T).

[221] U.S. Government Accountability Office, *Recommendations to Improve Management of Key Border Security Program Need to Be Implemented* (Feb. 2006) (GAO-06-296).

[222] Department of Homeland Security Inspector General, *Irregularities in the Development of the Transportation Security Operations Center* (Mar. 2005) (OIG-05-18).

construction deadline cost TSA between $400,000 and $600,000, not including approximately $575,000 in unjustified "approved construction change orders."[223]

In addition, two TSA employees spent over $136,000 on purchase cards for personal convenience items such as leather briefcases without proper authorization. The employees also used the purchase cards to acquire tables, chairs, loveseats, and armoires for the office, despite TSA's express prohibition against the purchase of furniture with purchase cards.[224]

B. Wasteful Iraq Contracts

The Administration has spent approximately $30 billion in taxpayer dollars to rebuild Iraq. The Administration also spent an additional $20 billion in Iraqi funds under its control. Yet the Administration has produced little of lasting value to show for this expenditure. Basic services in Iraq remain below prewar levels. Despite spending over $2 billion on oil-related projects, oil production in Iraq in March 2006 was 2 million barrels per day, below the prewar level of 2.6 million barrels per day.[225] Despite spending $4 billion on electricity projects, electricity generation in Iraq in March 2006 was 4,100 megawatts, below the prewar level of 4,300 megawatts.[226] And despite spending over $1 billion on water projects, only 43% of Iraqis had access to drinkable water in March 2006, fewer than before the war.[227]

Moreover, it appears that major reconstruction projects in Iraq may never be completed. The Special Inspector General for Iraq Reconstruction warns that the United States faces a "reconstruction gap," which he defines as the "difference between what was originally planned for reconstruction in the various sectors and what will actually be delivered."[228] For example, of the 136 water projects the Administration promised to complete, only 49 (36%) will be completed.[229]

Contracts for military support in Iraq have also been plagued by extensive waste, fraud, and abuse. In fact, DCAA identified over $1 billion in questioned and unsupported costs

---

[223] *Id.*

[224] *Id.*

[225] U.S. Government Accountability Office, *Rebuilding Iraq: Governance, Security, Reconstruction, and Financing Challenges* (Apr. 25, 2006) (GAO-06-697T).

[226] *Id; cf.* Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (Apr. 30, 2006) (Electricity generation in Iraq in March 2006 was 4,004 megawatts, below the prewar level of 4,500 megawatts.).

[227] Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (Apr. 30, 2006); Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (Jan. 30, 2006). According to the January report, 8.25 million Iraqis had potable water availability as of November 30, 2005. The April report stated that 3.0 million more Iraqis had been added in the last quarter. The total — 11.25 million — is still less than the number of Iraqis with access to clean water before the war. *See* Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (Jan. 30, 2006).

[228] Special Inspector General for Iraq Reconstruction, *Quarterly Report* (Jan. 30, 2006).

[229] *Id.*

in its review of just one contract. This contract — Halliburton's LOGCAP contract — and examples of other wasteful Iraq contracts are described below.

1. THE LOGCAP CONTRACT

One of the Administration's most problematic contracts is Halliburton's multi-year contract with the U.S. Army to provide logistical support to the troops. Known as the Logistics Civil Augmentation Program (LOGCAP), this cost-plus, monopoly contract was awarded to Halliburton subsidiary KBR in December 2001. LOGCAP is the largest contract in Iraq, and as of April 2006, its value for work in Iraq was $14.8 billion.[230]

Problems with the LOGCAP contract have been described in detail by internal company whistleblowers, federal government auditors, and congressional investigators. These problems include the Administration's failure to plan properly, control exorbitant contractor costs, or heed the advice of auditors who recommended curtailing contractor payments.

Over the past two years, several former Halliburton employees have come forward publicly to provide Congress with information about egregious overcharges under LOGCAP. For example:

- Marie deYoung, a Halliburton logistics specialist, testified about subcontracts under which Halliburton paid $45 per case of soda and $100 per 15-pound bag of laundry. Ms. deYoung also disclosed that Halliburton refused the Army's request to move Halliburton employees from a five-star hotel in Kuwait, where it cost taxpayers approximately $10,000 per day to house the employees, into air-conditioned tent facilities, which would have cost taxpayers under $600 per day.[231]

- Henry Bunting, a Halliburton procurement officer, described how he and other buyers were instructed to split large purchase orders into multiple purchase orders below $2,500 in order to avoid the requirement to solicit multiple bids. Supervisors routinely told the employees responsible for purchasing: "Don't worry about price. It's cost-plus."[232]

- David Wilson, a convoy commander for Halliburton, and James Warren, a Halliburton truck driver, testified that brand new $85,000 Halliburton trucks were abandoned or "torched" if they got a flat tire or experienced minor mechanical problems. Mr. Warren brought these and other concerns to the personal attention

---

[230] Army Field Support Command, *Media Obligation Spreadsheet* (Apr. 20, 2006).

[231] House Committee on Government Reform, *Hearings on Contracting and the Rebuilding of Iraq: Part IV*, 108th Cong. (July 22, 2004).

[232] Senate Democratic Policy Committee, *Hearings on Iraq Contracting Abuses* (Feb. 13, 2004).

of Randy Harl, the president and CEO of KBR. Mr. Warren was fired a few weeks later.[233]

GAO investigators attributed many of LOGCAP's problems to planning, training, and oversight failures by the federal government. In July 2004, GAO found that "planning for the use of the LOGCAP contract to support the troops in Iraq did not begin until after the fall of Baghdad." GAO reported that planning was "ineffective" and "piecemeal," and military officials told GAO that "they knew nothing about LOGCAP before they deployed and had received no training."[234]

Government auditors from DCAA have also found multiple problems with Halliburton's work under the LOGCAP contract. After identifying "significant unsupported costs" and "numerous, systemic issues" with Halliburton's "inadequate proposals," DCAA recommended on three occasions that the Army begin withholding a portion of contractor payments until Halliburton corrected these deficiencies, as federal law requires.[235] In total, DCAA has now identified over $1.1 billion in questioned and unsupported costs under the LOGCAP contract.[236]

2. THE ORIGINAL RIO CONTRACT

On March 8, 2003, the U.S. Army Corps of Engineers awarded Halliburton subsidiary KBR a no-bid monopoly contract to restore and operate Iraq's oil infrastructure. The Restore Iraqi Oil (RIO) contract was awarded in secret, and other qualified companies, like Bechtel, which did most of the oilfield work after the first Gulf War, were precluded from bidding.[237] Ultimately, Halliburton charged approximately $2.4 billion under the RIO contract, split generally between oil infrastructure projects and fuel importation.[238] Work has now concluded on all ten RIO task orders.

Reps. Henry A. Waxman and John D. Dingell began to raise questions about Halliburton's RIO contract soon after it was awarded.[239] In a series of letters, they provided evidence that Halliburton's prices to import gasoline from Kuwait were inflated,

---

[233] House Committee on Government Reform, *Hearings on Contracting and the Rebuilding of Iraq: Part IV*, 108th Cong. (July 22, 2004).

[234] Government Accountability Office, *DOD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight* (July 2004) (GAO-04-854).

[235] *See* Letter from Rep. Henry A. Waxman to Defense Secretary Donald H. Rumsfeld (Aug. 24, 2004) (online at www.democrats.reform.house.gov/story.asp?ID=453&Issue=Iraq+Reconstruction) (citing Memorandum from Defense Contract Audit Agency to U.S. Army Field Support Command (Aug. 16, 2004)).

[236] Minority Staff, House Committee on Government Reform, *Halliburton's Questioned and Unsupported Costs in Iraq Exceed $1.4 Billion* (June 27, 2005).

[237] Minority Staff, Special Investigations Division, House Committee on Government Reform, *Halliburton's Gasoline Overcharges* (July 21, 2004).

[238] U.S. Army Corps of Engineers, *Frequently Asked Questions: Engineer Support to Operation Iraqi Freedom* (Oct. 7, 2004).

[239] Letter from Rep. Henry A. Waxman to Lt. Gen. Robert Flowers, U.S. Army Corps of Engineers (Mar. 26, 2003) (online at www.democrats.reform.house.gov/Documents/20040628090509-06652.pdf).

concluding that Halliburton appeared to be charging twice as much as it should have for fuel imports.[240] Independent experts agreed, characterizing Halliburton's fuel charges as "highway robbery" and "outrageously high."[241]

These concerns about Halliburton's inflated costs were validated by Pentagon auditors. In audits of the ten task orders under the RIO contract, DCAA identified $219 million in "questioned" costs and $60 million in "unsupported" costs.[242] The DCAA auditors criticized virtually every aspect of Halliburton's work, including excessive charges to import fuel into Iraq from Kuwait and unnecessary retroactive payments to its Turkish fuel subcontractors.[243]

Despite these congressional and auditor findings, the Corps of Engineers opted to reimburse Halliburton for nearly all of the $263 million in challenged costs under the RIO contract.[244]

3. THE RIO 2 CONTRACT

In January 2004, the Army Corps of Engineers awarded Halliburton subsidiary KBR a $1.2 billion, cost-plus contract to restore oil infrastructure in southern Iraq, known as "RIO 2."[245] The award of the RIO 2 contract to Halliburton was controversial because DCAA had warned the Corps of Engineers not to enter into future negotiations with the company without consulting the auditors about Halliburton's significant cost estimating

---

[240] Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert Flowers, U.S. Army Corps of Engineers (Oct. 21, 2003). *See also Halliburton's Gasoline Overcharges*, House Committee on Government Reform, Minority Staff, Special Investigations Division (July 21, 2004) (online at www.democrats.reform.house.gov/Documents/20040817115902-43717.pdf).

[241] Letter from Reps. Henry A. Waxman and John D. Dingell to Joshua Bolten, Director, Office of Management and Budget (Oct. 15, 2003).

[242] DCAA, *Report on Audit of Proposal for Restore Iraqi Oil, Task Order No. 1* (Audit Report No. 3311-2004K17900011) (Mar. 19, 2004); DCAA, *Report on Audit of Proposal for Restore Iraqi Oil, Task Order No. 2* (Audit Report No. 3311-2004K17900009) (Apr. 9, 2004); DCAA, *Report on Audit of Proposal for Restore Iraqi Oil, Task Order No. 3* (Audit Report No. 3311-2004K17900056) (Oct. 2, 2004); DCAA, *Report on Audit of the Additional Funding Proposal for RIO I Task Order No. 04* (Audit Report No. 3311-2004K17900086) (Sept. 3, 2004); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 5* (Audit Report No. 3311-2005K21000024) (Feb. 25, 2005); DCAA, *Report on Audit of Proposal for Restore Iraqi Oil Task Order No. 6* (Audit Report No. 3311-2004K21000028) (Sept. 16, 2004); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 7* (Audit Report No. 3311-2005K21000025) (Feb. 25, 2005); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 8* (Audit Report No. 3311-2005K21000026)(Feb. 25, 2005); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 9* (Audit Report No. 3311-2005K21000019) (Feb. 3, 2005); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 10* (Audit Report No. 3311-2005K21000020) (Feb. 3, 2005). Revised audits lowered the total amount of questioned and unsupported costs to $263 million. *See Army to Pay Halliburton Unit Most Costs Disputed by Audit*, New York Times (Feb. 27, 2006).

[243] *See, e.g.*, DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 5*, (Audit Report No. 3311-2005K21000024) (Feb. 25, 2005); DCAA, *Report on Audit of Revised Proposal for Restore Iraqi Oil Delivery Order No. 7*, (Audit Report No. 3311-2005K21000025) (Feb. 25, 2005).

[244] Letter from DCAA Assistant Director for Operations Joseph J. Garcia to John Brosnan, House Committee on Government Reform Majority Staff (Mar. 31, 2006). *See also Army to Pay Halliburton Unit Most Costs Disputed by Audit*, New York Times (Feb. 27, 2006).

[245] U.S. Army Corps of Engineers, *Press Release: U.S. Army Corps of Engineers Awards Contracts for Repair of Iraq's Oil Infrastructure* (Jan. 16, 2004).

deficiencies.[246] Just days before the award of RIO 2, the auditors advised that Halliburton's systemic deficiencies "bring into question [Halliburton's] ability to consistently produce well-supported proposals that are acceptable as a basis for negotiation of fair and reasonable prices."[247] Nevertheless, the Corps of Engineers ignored these auditor warnings and awarded the work to Halliburton without consulting with DCAA.[248]

Government officials and investigators harshly criticized Halliburton's performance under RIO 2, citing "profound systemic problems," "exorbitant indirect costs," "misleading" and "distorted" cost reports, a "lack of cost control," an "overwhelmingly negative" evaluation, and an "obstructive" corporate attitude toward oversight.[249] By January 29, 2005, the problems were so severe that the government took the unusual step of issuing a "cure notice" to Halliburton, which is a notification that the contract may be terminated for cause.[250] When Pentagon auditors reviewed $365 million in Halliburton costs, they challenged $45 million as questioned or unsupported.[251]

4. THE HOSPITAL AND HEALTH CLINIC CONTRACT

In March 2004, Parsons received a $500 million, cost-plus contract to rebuild hospitals, health clinics, and buildings throughout Iraq.[252] Two years later, the Special Inspector General for Iraq Reconstruction reported that despite spending $186 million for the reconstruction of hospitals and clinics, Parsons had made "little progress."[253] The IG found that Parsons was scheduled to complete just 20 of the 142 health clinics it had committed to building.[254] In addition, the IG found that "poor contractor performance delayed completion of the project and escalated costs."[255]

The IG found that one of the major causes of Parsons' poor performance was the failure of the Army Corps of Engineers to provide proper oversight. The IG stated: "the

---

[246] Defense Contract Audit Agency, *Flash Report on Estimating System Deficiency Found in the Proposal for Contract No. DAAA09-02-D-0007, Task Order No. 59* (Dec. 31, 2003) (Audit Report No. 3311-2004K24020001).

[247] Defense Contract Audit Agency, *Status of Brown & Root Services (BRS) Estimating System Internal Controls* (Jan. 13, 2004).

[248] House Committee on Government Reform, *Hearings on The Complex Task of Coordinating Contracts Amid Chaos* (Mar. 11, 2004).

[249] Minority Staff, House Committee on Government Reform, *Halliburton's Performance Under the Restore Iraqi Oil 2 Contract* (Mar. 28, 2006).

[250] Memorandum from Contracting Officer, Project and Contracting Office, to Contracts Manager, KBR (Jan. 29, 2005).

[251] Briefing by William Reed, Director, Defense Contract Audit Agency, to House Government Reform Committee Staff (Mar. 3, 2006).

[252] Department of Defense, *News Release: Iraqi Reconstruction Contract Awarded* (Mar. 25, 2004).

[253] Special Inspector General for Iraq Reconstruction, *Management of the Primary Healthcare Centers Construction Projects* (Apr. 29, 2006) (Report No. 06-011).

[254] *Id.*; *U.S. Plan to Build Iraq Clinics Falters*, Washington Post (Apr. 3, 2006); *Contractor's Plans Lie Among Ruins of Iraq*, Los Angeles Times (Apr. 29, 2006).

[255] Special Inspector General for Iraq Reconstruction, *Management of the Primary Healthcare Centers Construction Projects* (Apr. 29, 2006) (Report No. 06-011).

overriding question is how the U.S. government lost control of the project and its ability to enforce schedule and quality requirements." According to the IG, government oversight suffered from a number of serious deficiencies, including "a failure to follow required procedures for making contract changes; poor cost controls; poor cost to complete reporting; a failure to properly execute its administrative responsibilities; and a failure to establish an adequate quality assurance program."[256]

On March 3, 2006, the Corps of Engineers terminated the health clinic portions of the contract. According to Army Corps Brigadier General William H. McCoy, "[f]rom the beginning of the project, Parsons failed to meet various contract requirements through numerous significant management and technical shortcomings."[257]

5. THE CUSTER BATTLES CONTRACTS

In July 2003, a U.S. security firm with no previous experience, Custer Battles, was awarded a $16.8 million sole-source contract to provide security at Baghdad International Airport.[258] A month later, the company also received a $21.3 million contract to provide security for the exchange of Iraqi currency.[259] These contracts resulted in widespread fraud.

Custer Battles was formed in 2002 by Scott Custer, a former Army Ranger and defense consultant, and Michael Battles, a former CIA Officer. Mr. Battles, also a former Fox News Channel commenter, ran for Congress in Rhode Island in 2002 but was defeated in the Republican primary. He was later fined by the Federal Election Commission for misrepresenting campaign contributions.[260]

Custer Battles had no experience in the security industry. In fact, the government reportedly "fronted the startup money: $2 million in cash, stuffed by partner Mike Battles into a duffel bag."

In 2004, two former Custer Battles employeeds filed a civil case against the company under the False Claims Act. These employees claimed that Custer Battles engaged in a variety of fraudulent acts, including setting up shell subcontractors to charge inflated prices to the government and submitting fake invoices from sham subsidiary companies. In one instance, Custer Battles seized forklifts abandoned by Iraqi Airways from the Baghdad airport, repainted them to cover the Iraqi Airways markings, claimed the forklifts were owned by a Cayman Islands shell company created by Custer Battles, and billed the government to lease the forklifts.[261]

---

[256] *id.*

[257] *Contractor's Plans Lie Among Ruins of Iraq*, Los Angeles Times (Apr. 29, 2006).

[258] Special Inspector General for Iraq Reconstruction, *Quarterly and Semiannual Report to the United States Congress* (Jan. 30, 2005).

[259] *id.; see also U.S. Contractor Found Liable for Fraud in Iraq*, Los Angeles Times (Mar. 10, 2006).

[260] *Contractor Accused of Fraud in Iraq*, Los Angeles Times (Oct. 9, 2004).

[261] Amended Complaint, *U.S. ex rel. DRC, Inc. v. Custer Battles, LLC*, CV-04-199-A (E.D.Va Aug. 26, 2004).

In March 2006, a federal jury found that Custer Battles committed 37 separate acts of fraud under the currency security contract and ordered the company to pay over $10 million in penalties and refunds to the government.[262] The claims relating to the airport security contract are still pending in federal court. During the legal proceedings, Brigadier General Hugh Tant III (ret.) testified that Custer Battles' work in Iraq "was probably the worst I've ever seen in over 30 years of my times in the Army."[263]

According to published accounts, the government awarded this contract even though Custer Battles had no experience in the security industry. In fact, the government reportedly "fronted the startup money: $2 million in cash, stuffed by partner Mike Battles into a duffel bag."[264]

C. Wasteful Katrina Contracts

To date, federal agencies — primarily FEMA and the Army Corps of Engineers — have awarded $9.7 billion to private contractors for Gulf Coast recovery and reconstruction following Hurricane Katrina. Nearly all of this amount ($9.3 billion) was awarded in 1,203 contracts valued at $500,000 or more. Fewer than 30% of these contracts were awarded with full and open competition. Over 50% were awarded on a sole-source basis.[265]

Like the spending surges on homeland security and the war in Iraq, the Katrina contracts have been characterized by waste, fraud, abuse, and mismanagement. In fact, GAO reported in March 2006 that the Administration was repeating the same mistakes in the response to Hurricane Katrina that it made in Iraq. In Iraq, according to GAO, "without effective acquisition planning, management processes, and sufficient numbers of capable people, poor acquisition outcomes resulted."[266] GAO concluded that the Katrina response suffered from these same flaws.[267] Examples of specific wasteful Katrina contracts are described below.

1. THE CONTRACTS FOR DEBRIS REMOVAL

In September 2005, the Corps of Engineers awarded four contracts worth $500 million each to remove and dispose of debris. According to internal government documents, lax

---

[262] *U.S. Contractor Found Liable for Fraud in Iraq*, Los Angeles Times (Mar. 10, 2006).

[263] *Id.*

[264] *Fortunes of War*, Fortune (July 26, 2004).

[265] President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report to Congress* (Apr. 30, 2006).

[266] U.S. Government Accountability Office, *Agency Management of Contractors Responding to Hurricanes Katrina and Rita* (Mar. 2006) (GAO-06-461R).

[267] *Id.*

government oversight allowed the contractors to double bill for the same debris, overstate mileage to claim extra fees, haul ineligible debris from private property to boost reimbursements, and inflate prices by improperly mixing low-cost vegetative debris into loads of high-cost construction and demolition debris. The problems included:

- Failure to Empty Trucks. Government inspectors observed contractors "fraudulently being paid for the same load" by exiting dump sites "without completely unloading the debris from its truck bed." These problems were compounded by the absence of federal oversight. The Corps of Engineers frequently failed to inspect trucks leaving the dumps. According to the auditors, "This provides the opportunity for truck drivers to leave debris in the bed of the truck while receiving full credit for each load, resulting in government overpayments to the contractors and minimizing the amount of debris being cleared from the right-of-ways."[268]

- Excessive Mileage Claims. Contractors took advantage of a system that paid them an extra $2 per cubic yard for debris carried over 15 miles. In one instance, "mileages were overstated" in over 50% of the 303 trips examined by auditors.[269]

- Payments for Ineligible Debris. One subcontractor was hired to remove debris from public rights-of way, but submitted bills for "hauling debris collected from ... wooded lots, beyond the public right of way." According to the auditors, this was "a recurring problem" for both this and other contractors.[270]

- Mixing Debris. Contractors fraudulently mixed vegetative debris with construction and demolition debris to inflate their billings by $2.84 per cubic yard.[271]

- Overpayments for Partial Loads. Government investigators reported that Corps of Engineers officials regularly credited contractors with hauling more debris to dumps than they actually carried. Auditors found that the Corps' assessments of contractor performance were "overly generous," "unusually high," "more on the liberal side," "often very liberal," and "consistently on the high side."[272]

The effect of these problems was compounded by the high rates paid by the Corps for debris removal under the contracts. Ashbritt Inc., one of the prime contractors hired by the Corps, testified in Congress that it received approximately $23 per cubic yard for

---

[268] Memorandum from Rep. Henry A. Waxman to Democratic Members of the House Government Reform Committee (May 4, 2006) (citing Army Corps of Engineers and Defense Contract Audit Agency documents) (online at www.democrats.reform.house.gov/story.asp?ID=1050).

[269] *Id.*

[270] *Id.*

[271] *Id.*

[272] *Id.*

debris removal in Mississippi.[273] In contrast, a local contractor testified at the same hearing that it could have removed the debris for just $12.90 per cubic yard, a savings of 44% for the taxpayer.[274]

2. THE "BLUE ROOF" CONTRACTS

After Hurricane Katrina struck, the Corps of Engineers issued contracts collectively worth over $300 million to contractors for temporary roof repairs using blue plastic sheeting. But when the auditors examined these contracts, they found consistently inflated charges and unsatisfactory supervision and oversight. The problems included:

- Repeated Overbillings. One evaluation revealed net overbillings of 43%; a second revealed overbillings of 52%. In one case, a contractor "listed nearly 4 times as many square feet covered than was actually covered." In another, Corps of Engineers officials went on "final inspections only to arrive at the location and find that there was no blue roof plastic installed despite the contractor's assertion of completion through attending final inspection."[275]

- Inadequate Supervision of Subcontractors. The prime contractors hired by the Corps did not directly install blue sheeting. Instead, their role was to hire subcontractors, who often hired additional layers of subcontractors, to do the actual work. The auditors found, however, that the prime contractors consistently failed to supervise the work of the subcontractors, calling into question what value they provided. The prime contractors failed to inspect work and had little knowledge of or control over the activities of the subcontractors.[276]

- Lax Oversight. Government inspectors found that the Corps officials had an "informal agreement" not to challenge bills that exceeded estimates by 50%. According to the inspectors, this understanding was "excessive and unreasonable" and "does not adequately protect the Government from waste or abuse."[277]

The "blue roof" contracts also illustrate the costs of tiering subcontracts. According to one account, because so many contractors took a cut of the contract, the fee charged to taxpayers was as high as 1,700% of the job's actual cost.[278] In one case, the subcontractor who actually covered the roofs received a payment of just $0.02 per square

---

[273] House Committee on Government Reform, Testimony of Ashbritt, Inc. President Randall Perkins, *Hearings on Contracting and Hurricane Katrina* (May 4, 2006).

[274] House Committee on Government Reform, Testimony of David Machado, Necaise Brothers Contstruction, *Hearings on Contracting and Hurricane Katrina* (May 4, 2006).

[275] Memorandum from Rep. Henry A. Waxman to Democratic Members of the House Government Reform Committee (May 4, 2006) (citing Army Corps of Engineers and Defense Contract Audit Agency documents) (online at www.democrats.reform.house.gov/story.asp?ID=1050).

[276] *Id.*

[277] *Id.*

[278] *Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup*, Washington Post (Mar. 20, 2006).

foot, while the subcontractor at the top of the chain received over 36 times more for the work.[279]

3. THE CONTRACTS FOR MANUFACTURED HOMES AND TRAILERS

In the aftermath of Hurricane Katrina, FEMA purchased 24,967 manufactured homes and 1,755 modular homes at a cost of $915 million to provide housing and temporary office space for hurricane victims and relief workers.[280] But according to the DHS Inspector General, as of January 2006, only 4,600 manufactured homes and 100 modular homes had been used for housing or office space. Not one of the homes had been sent to the most ravaged parts of Louisiana and Mississippi because FEMA's own regulations prohibit the use of the homes in flood plains. More than 2,360 of the manufactured homes cannot be used by FEMA at all because they exceed FEMA's size specifications. Nearly 11,000 homes worth over $301 million are sitting on the runways at one Arkansas airport.[281]

Similar mismanagement characterized the contracts to buy travel trailers. After Hurricane Katrina, FEMA spent $1.7 billion to purchase 114,000 travel trailers.[282] FEMA bought at least 27,000 of those trailers "off the lot," without negotiating either price or specifications.[283] Yet over 23,700 of these travel trailers sit unused. Moreover, because FEMA has not maintained the trailers, they are losing their value as housing or for eventual resale.[284]

In December, Scott Wells, FEMA's Federal Coordinating Officer in Louisiana for Hurricanes Katrina and Rita, testified before the Senate that the entire concept of purchasing trailers for temporary housing was flawed. According to Mr. Wells, the cost to house a family for 18 months (the limit for FEMA-financed temporary housing) can reach $90,000 to $100,000 for housing in a mobile home or $30,000 to $40,000 for housing in a travel trailer. Mr. Wells testified that if FEMA had simply given the families $26,200 in cash for housing, which is the maximum entitlement for hurricane victims, this would "allow them to quickly get on with rebuilding their lives and afford

---

[279] *Tiers of Subcontractors Bleed Off Reconstruction Money*, Newhouse News Service (Jan. 9, 2006).

[280] President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report to Congress* (Apr. 30, 2006); Committee on Homeland Security and Governmental Affairs, Testimony of Department of Homeland Security Inspector General Richard L. Skinner, *Hearings on Hurricane Katrina: Waste, Fraud and Abuse Worsen the Disaster* (Feb.13, 2006).

[281] Senate Homeland Security and Governmental Affairs Committee, Testimony of DHS Inspector General Richard L. Skinner, *Hearings on Hurricane Katrina: Waste, Fraud and Abuse Worsen the Disaster* (Feb. 13, 2006).

[282] *Id.*

[283] President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A Semiannual Report to Congress* (Apr. 30, 2006).

[284] *Id.*; *FEMA's Trailer 'Boneyard' Blasted*, The Sun Herald (Dec. 13, 2005) (online at www.sunherald.com/mld/sunherald/13394657.htm).

them a permanent housing solution" while saving the taxpayer hundreds of thousands of dollars.[285]

4. THE CONTRACT WITH CARNIVAL CRUISE LINES

In September 2005, the Military Sealift Command, acting on behalf of FEMA, awarded Carnival Cruise Lines three contracts worth a combined $236 million to provide temporary housing to Hurricane Katrina evacuees. These contracts proved wasteful for the federal taxpayer, costing more than $50,000 to house a single person for six months, almost $300 per person for each night's lodging.[286]

One reason for the high costs of the Carnival contracts was their generous terms. Under the contracts, Carnival received the same level of profit from the government contract as it would have received under normal operating conditions. Rather than being paid based on the cost of housing evacuees, this highly profitable company was compensated for both the revenues the company would have earned under normal operations and any additional expenses that Carnival incurred under the contract. As a result, the taxpayer reimbursed the company for both the cost of housing the evacuees and the revenues the ships would have earned from their casino operations, liquor and drink sales, and on-shore excursions if they were operating normally. The $236 million contract value also did not take into account all the cost savings that Carnival realized under the contract, such as avoided entertainment and navigational expenses.[287]

5. THE CONTRACT FOR BASE CAMPS

In September 2005, FEMA awarded an $80 million contract to Clearbrook LLC to build and supply base camps for emergency workers responding to Hurricane Katrina.[288] In November, the government suspended payments on the contract at the direction of Department of Homeland Security auditors.[289] The auditors reported a "complete lack of documentation supporting price reasonableness" and found that $4.9 million had been paid for work performed before the effective date of the contract.[290] The auditors also

---

[285] Senate Homeland Security and Governmental Affairs Committee, Testimony of Scott Wells, Deputy Federal Coordinating Officer, FEMA, *Hearings on Hurricane Katrina: Perspectives of FEMA's Operations Professionals* (Dec. 8, 2005).

[286] The occupancy rates used in this calculation are based on FEMA and Department of Homeland Security reports. *See* FEMA Weekly Reports (Oct. 13, 2005 through Feb. 28, 2006); Department of Homeland Security, *Management Advisory Report on the Acquisition of Cruise Ships for Hurricane Katrina Evacuees (Report Number GC-HQ-06-11)* (Feb. 16, 2006) (online at www.dhs.gov/interweb/assetlibrary/OIG_GC_HQ_06-11.pdf).

[287] Letter from Rep. Henry A. Waxman to Secretary of Homeland Security Michael Chertoff (Oct. 20, 2005).

[288] Department of Homeland Security Inspector General, *Clearbrook, LLC Billing Errors Under Contract Number HSFE-06-05-F-6232* (Nov. 2005) (GC-LA-06-07).

[289] *Payments on Katrina Contract Halted After Billing Questions*, Washington Post (Nov. 17, 2005).

[290] Department of Homeland Security Inspector General, *Clearbrook, LLC Billing Errors Under Contract Number HSFE-06-05-F-6232* (Nov. 2005) (GC-LA-06-07).

found that Clearbrook had billed FEMA for over $3 million in overcharges based on mathematical error.[291]

6. THE CONTRACT FOR PORTABLE CLASSROOMS

In September 2005, the Army Corps of Engineers awarded Akima Site Operations LLC, a subsidiary of an Alaska Native Corporation, a $40 million no-bid contract to install portable classrooms in Mississippi. According to a recent investigation by GAO, this contract resulted in the waste of millions of taxpayer dollars.[292]

The GAO investigation found that the Corps agreed to pay Akima $40 million despite knowing that Akima was charging significantly more than the cost of the classrooms. According to GAO, the Akima price was nearly double what local Mississippi businesses said they would have bid. GAO found that the Corps entered into the contract with Akima without negotiating a better value because there was no competition for the contract.[293]

D. Other Wasteful Contracts

Federal contracts involving homeland security, Iraq, and Hurricane Katrina are by no means the only procurement programs afflicted by waste, fraud, abuse, and mismanagement over the last five years. Weapons acquisition programs at the Department of Defense have cost the taxpayer billions of dollars through flawed contract management. Other agencies have experienced similar problems.

GAO recently completed a review of selected major weapons procurement programs at the Defense Department. GAO's report found that the cost of a weapons system generally exceeds its budget by 30% to 40%, resulting in lower quantities and missed deadlines.[294] Based on the findings of the report, U.S. Comptroller General David Walker testified:

> DOD is simply not positioned to deliver high quality products in a timely and cost-efficient fashion. It is not unusual to see cost increases that add up to tens or hundreds of millions of dollars, schedule delays that add up

---

[291] *Id.*

[292] U.S. Government Accountability Office, *Hurricane Katrina: Army Corps of Engineers Contract for Mississippi Classrooms* (May 2006) (GAO-06-454).

[293] U.S. Government Accountability Office, *Hurricanes Katrina and Rita: Contracting for Response and Recovery Efforts* (Nov. 2, 2005) (GAO-06-235T).

[294] U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapons Programs* (Mar. 2006) (GAO-06-391).

to years, and large and expensive programs frequently rebaselined or even scrapped after years of failing to achieve promised capability.[295]

In the report, GAO identified several major acquisition programs where mismanagement has reduced the government's buying power and led to cost overruns, schedule delays, and performance problems. These wasteful procurements include:

- Future Combat Systems. GAO found that costs for Future Combat Systems, a program to develop a new generation of networked and unmanned weapons and vehicles, have increased by 54% ($44.9 billion) since 2003 because of undefined requirements and immature technologies. GAO estimates that total costs for the program will now reach $127.5 billion.[296]

- Joint Strike Fighter. GAO found that the unit cost for the Joint Strike Fighter, a family of stealth fighter aircraft, has increased 27% ($17.7 million each) since 2001. GAO estimates that the total cost for the program will reach now $206.3 billion, which is $16.5 billion over budget, due to a lack of demonstrated knowledge about performance or producibility.[297]

- Space Based Infrared System High. GAO found that the program cost for SBIRS High, a satellite system intended for use in the missile defense system, will exceed its cost estimate by 149.3% ($6.1 billion). The cost increase is due to design flaws in major components of the program. GAO estimates that the average cost per unit is now 224% more than the 2002 estimate and that the total cost for the program will reach $10.2 billion.[298]

Virtually every other agency has also been plagued by wasteful contract spending over the last five years. In 2001, the FBI entered into a contract to improve data management and information sharing within FBI offices.[299] Four years later, the FBI scrapped the contract, called the Virtual Case File system, at a loss of more than $100 million.[300] Now questions are being raised by GAO and the Justice Department Inspector General about whether the FBI will be able to execute the successor program, Sentinel, without similar levels of waste.[301]

---

[295] U.S. Government Accountability Office, *Defense Acquisitions: Actions Needed to Get Better Results on Weapons Systems Investments* (Apr. 5, 2006) (GAO-06-585T).

[296] U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapons Programs* (Mar. 2006) (GAO-06-391).

[297] *Id.*

[298] *Id.*

[299] Department of Justice Inspector General, *The Federal Bureau of Investigation's Management of the Trilogy Information Technology Modernization Project* (Feb. 2005) (Audit Report 05-07).

[300] U.S. Department of Justice Inspector General, *Top Management and Performance Challenges in the Department of Justice — 2005* (online at http:/www.usdoj.gov/oig/challenges/2005.htm) (accessed May 17, 2006).

[301] U.S. Government Accountability Office, *Information Technology: FBI Is Building Management Capabilities Essential to Successful System Deployments, but Challenges Remain* (Sept. 14, 2005) (GAO-05-1014T);

GAO has reported significant cost overruns for major NASA projects such as the Gravity Probe B and the Mars Exploration Rover.[302] Inspectors General have documented contract abuses at the Department of Education,[303] the Department of Labor,[304] the Department of Veterans Affairs,[305] and the Environmental Protection Agency.[306]

The appendix to this report contains a list of 118 contracts that GAO, agency inspectors general, DCAA, or other government investigators have found to involve significant waste, fraud, abuse, or mismanagement. In each case, the contract abuses or mismanagement occurred during the last five years. The cumulative amount of taxpayer dollars spent or projected to be spent on these 118 contracts is $745.5 billion.

CONCLUSION

This report is the first comprehensive assessment of contract spending under the Bush Administration. It finds that (1) the "shadow government" represented by private government contracts has expanded rapidly under the Bush Administration; (2) mistakes have been made in virtually every aspect of contract management, from pre-contract planning to contract award and oversight; and (3) the cumulative costs to the taxpayer are enormous. Major Administration initiatives, including spending on homeland security, the war and reconstruction in Iraq, and the response to Hurricane Katrina, have been characterized by extensive waste, fraud, abuse, and mismanagement in federal contracting.

Department of Justice Inspector General, *The Federal Bureau of Investigation's Pre-Acquisition Planning for and Controls Over the Sentinel Case Management System* (Mar. 2006) (Audit Report 06-14).

[302] U.S. Government Accountability Office, *NASA: Lack of Disciplined Cost-Estimating Processes Hinders Effective Program Management* (May 2004) (GAO-04-642).

[303] Department of Education Inspector General, *Review of Formation Issues Regarding the Department of Education's Fiscal Year 2003 Contract with Ketchum, Inc. for Media Relations Services* (Apr. 2005) (online at www.ed.gov/about/offices/list/ oig/aireports/a19f0007.pdf)

[304] Department of Labor Inspector General, *Award and Management of Contracts for Encryption Software Were Significantly Flawed* (Mar. 31, 2005).

[305] U.S. Government Accountability Office, *Contract Management: Further Action Needed to Improve Veterans Affairs Acquisition Function* (Oct. 2005) (GAO-06-144).

[306] Environmental Protection Agency Inspector General, *EPA Needs to Improve Oversight of Its Information Technology Projects* (Sept. 14, 2005) (Report No. 2005-P-00023).

APPENDIX A:
PROBLEM CONTRACTS

Total Number of Contracts: 118
Total Estimated Value: $745.5 Billion

This Appendix lists 118 contracts that the U.S. Government Accountability Office, agency inspectors general, the Defense Contract Audit Agency, or other government investigators have found to involve one or more of the following problems: wasteful spending, mismanagement, lack of defined contract requirements, lack of competition, or corruption. In each case listed, auditors found that contract abuses or mismanagement occurred during the last five years.

The cumulative estimated value of these 118 contracts is approximately $745.5 billion. Estimated value is defined as the total program cost or contract ceiling. When contracts have been completed and actual costs are known, or if total program costs or contract ceilings are unknown, value is estimated as the most recent contract costs cited by federal auditors.

In some cases, agency auditors have not publicly released the identity of contractors to which their audit reports refer. In these cases, this Appendix notes that the contractor's name is "Not Released." The Appendix provides citations to all listed audit reports, as well as electronic hyperlinks for all listed audit reports that are publicly available on the Internet.

---

1. **Contractor:** Accenture (and partners).

   Department or Agency: Department of Homeland Security.

   Estimated Value: $10 billion.

   Contract Description: United States Visitor and Immigrant Status Technology (US-VISIT).

   Selected Audit Report(s): Department of Homeland Security Inspector General, *Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry* (Feb. 2005) (OIG-05-11); Department of Homeland Security Inspector General, *US-VISIT System Security Management Needs Strengthening* (Dec. 2005) (OIG-06-16); U.S. Government Accountability Office, *Recommendations to Improve Management of Key Border Security Program Need to Be Implemented* (Feb. 2006) (GAO-06-296).

   Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

2. **Contractor:** Aegis Defence Services Ltd.

   Department or Agency: Department of Defense.

   Estimated Value: $292 million.

   Contract Description: Reconstruction Security Support Services (RSSS) for Reconstruction Activities Through Four Regions of Iraq.

   Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Compliance with Contract No. W911S0-04-C-003 Awarded to Aegis Defence Services Limited* (Apr. 20, 2005) (Report No. 05-005).

   Problem(s) with Contract: Mismanagement.

---

3. **Contractor:** Akima Site Operations, LLC.

   Department or Agency: Department of Defense.

   Estimated Value: $40 million.

   Contract Description: Portable Classrooms for Mississippi Schools.

   Selected Audit Report(s): U.S. Government Accountability Office, *Hurricane Katrina: Army Corps of Engineers Contract for Mississippi Classrooms* (May 2006) (GAO-06-454); U.S. Government Accountability Office, *Hurricanes Katrina and Rita: Contracting for Response and Recovery Efforts* (Nov. 2, 2005) (GAO-06-235T)

   Problem(s) with Contract: Wasteful Spending; Lack of Competition.

---

4. **Contractor:** Alutiiq Fluor Constructors, LLC.

   Department or Agency: State Department.

   Estimated Value: $55 million.

   Contract Description: Renovation of Existing Office Buildings.

   Selected Audit Report(s): U.S. Government Accountability Office, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (Apr. 2006) (GAO-06-399).

   Problem(s) with Contract: Wasteful Spending; Lack of Competition.

---

5. **Contractor:** Alutiiq Security and Technology.

   Department or Agency: Department of Defense.

   Estimated Value: $480 million.

   Contract Description: Security Guards for Army Installations.

   Selected Audit Report(s): U.S. Government Accountability Office, *Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach* (Apr. 2006) (GAO-06-284).

   Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

6. **Contractor:** Ashbritt.

   Department or Agency: Department of Defense.

Estimated Value: $500 million.

Contract Description: Debris Removal.

Selected Audit Report(s): Army Corps of Engineers and Defense Contract Audit Agency, Audit Documents (various).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

7. **Contractor:** BAE Systems, Bath Iron Works, Northrop Grumman Ship Systems, Raytheon.

Department or Agency: Department of Defense.

Estimated Value: $8.1 billion.

Contract Description: DD(X) Destroyer.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248); U.S. Government Accountability Office, Defense Acquisitions: Challenges Facing the DD(X) Destroyer Program (Sept. 2004) (GAO-04-973).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

8. **Contractor:** BearingPoint.

Department or Agency: Department of Homeland Security.

Estimated Value: $8.9 million.

Contract Description: Electronically Managing Enterprise Resources for Government Effectiveness and Efficiency (eMerge2).

Selected Audit Report(s): U.S. Government Accountability Office, Financial Management Systems: DHS Has an Opportunity to Incorporate Best Practices in Modernization Efforts (Mar. 29, 2006) (GAO-06-553T); House Government Reform Committee, Testimony of Scott Charbo, Chief Information Officer, Department of Homeland Security, and Eugene Schied, Deputy Chief Financial Officer, Department of Homeland Security, Hearings on eMerge2 (Mar. 29, 2006).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

---

9. **Contractor:** Bechtel National, Inc.

Department or Agency: Department of Homeland Security.

Estimated Value: $100 million.

Contract Description: Manage Temporary Housing for Katrina Evacuees.

Selected Audit Report(s):

Department of Homeland Security Inspector General, Management Advisory Report on the Major Technical Assistance Contracts (Nov. 2005) (OIG-06-02).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

10. **Contractor:** Bechtel National, Inc.

Department or Agency: Department of Energy.

Estimated Value: $11 billion.

Contract Description: Hanford Waste Treatment Plant.

Selected Audit Report(s): U.S. Government Accountability Office, *Hanford Waste Treatment Plant: Contractor and DOE Management Problems Have Led to Higher Costs, Construction Delays, and Safety Concerns* (Apr. 6, 2006) (GAO-06-602T); U.S. Government Accountability Office, *Department of Energy: Further Actions Are Needed to Strengthen Contract Management for Major Projects* (Mar. 2005) (GAO-05-123); U.S. General Accounting Office, *Nuclear Waste: Absence of Key Management Reforms on Hanford's Cleanup Project Adds to Challenges of Achieving Cost and Schedule Goals* (June 2004) (GAO-04-611).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

11. **Contractor:** Bell-Boeing JPO.

Department or Agency: Department of Defense.

Estimated Value: $48.9 billion.

Contract Description: V-22 Osprey.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Major Weapon Programs* (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending.

---

12. **Contractor:** Boeing.

Department or Agency: Department of Defense.

Estimated Value: $5.6 billion.

Contract Description: Airborne Laser (Missile Defense).

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

13. **Contractor:** Boeing.

Department or Agency: Department of Defense.

Estimated Value: $127.5 billion.

Contract Description: Future Combat Systems.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, *Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy* (Apr. 2006) (GAO-06-368); U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Major Weapon Programs* (Mar. 2004)

(GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

14. **Contractor:** Boeing.

Department or Agency: Department of Defense.

Estimated Value: $29.2 billion.

Contract Description: Ground-Based Midcourse Defense (Missile Defense).

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

15. **Contractor:** Boeing.

Department or Agency: Department of Defense.

Estimated Value: $16.2 billion.

Contract Description: Joint Tactical Radio System Cluster 1.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy (Apr. 2006) (GAO-06-368); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

16. **Contractor:** Boeing.

Department or Agency: Department of Defense.

Estimated Value: $23.5 billion.

Contract Description: Boeing KC-767A Tanker Lease Program.

Selected Audit Report(s): Department of Defense Inspector General, Management Accountability Review of the Boeing KC-767A Tanker Program (May 13, 2005) (Report No. OIG-2004-171).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition; Corruption.

---

17. **Contractor:** Boeing Launch Services, Lockheed Martin Space Systems.

Department or Agency: Department of Defense.

Estimated Value: $28 billion.

Contract Description: Evolved Expendable Launch Vehicle-Atlas V, Delta IV.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-

06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

18. **Contractor:** Boeing Service Company.

Department or Agency: Department of Homeland Security.

Estimated Value: $1.2 billion.

Contract Description: Installation and Maintenance of Baggage Screening Machines.

Selected Audit Report(s): Department of Homeland Security Inspector General, Evaluation of TSA's Contract for the Installation and Maintenance of Explosive Detection Equipment at United States Airports (Sept. 2004) (OIG-04-44).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

19. **Contractor:** Boeing, Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $6.6 billion.

Contract Description: Navstar Global Positioning System II Modernized Space/OCS.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

20. **Contractor:** CACI International, Inc.

Department or Agency: Department of Defense, Department of Interior.

Estimated Value: $66 million.

Contract Description: Interrogators and Translators for Abu Ghraib Prison.

Selected Audit Report(s): U.S. Government Accountability Office, Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations (Apr. 2005) (GAO-05-201).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

21. **Contractor:** Carnival Cruise Lines.

Department or Agency: Department of Homeland Security.

Estimated Value: $82.7 million.

Contract Description: Cruise Ship Housing for Katrina Evacuees (Ecstasy).

Selected Audit Report(s): Naval Audit Service, Chartered Cruise Ships (Feb. 2006) (Audit Report N2006-0015); Department of Homeland Security Inspector General, Management Advisory Report on the Acquisition of Cruise Ships for Hurricane Katrina Evacuees (Feb. 2006) (Report No. GC-HQ-06-11).

Problem(s) with Contract: Wasteful Spending.

22. **Contractor:** Carnival Cruise Lines.

Department or Agency: Department of Homeland Security.

Estimated Value: $62.2 million.

Contract Description: Cruise Ship Housing for Katrina Evacuees (Holiday).

Selected Audit Report(s): Naval Audit Service, *Chartered Cruise Ships* (Feb. 2006) (Audit Report N2006-0015); Department of Homeland Security Inspector General, *Management Advisory Report on the Acquisition of Cruise Ships for Hurricane Katrina Evacuees* (Feb. 2006) (Report No. GC-HQ-06-11).

Problem(s) with Contract: Wasteful Spending.

---

23. **Contractor:** Carnival Cruise Lines.

Department or Agency: Department of Homeland Security.

Estimated Value: $91.1 million.

Contract Description: Cruise Ship Housing for Katrina Evacuees (Sensation).

Selected Audit Report(s): Naval Audit Service, *Chartered Cruise Ships* (Feb. 2006) (Audit Report N2006-0015); Department of Homeland Security Inspector General, *Management Advisory Report on the Acquisition of Cruise Ships for Hurricane Katrina Evacuees* (Feb. 2006) (Report No. GC-HQ-06-11).

Problem(s) with Contract: Wasteful Spending.

---

24. **Contractor:** Ceres Environmental Services.

Department or Agency: Department of Defense.

Estimated Value: $500 million.

Contract Description: Debris Removal.

Selected Audit Report(s): Army Corps of Engineers and Defense Contract Audit Agency, *Audit Documents* (various).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

25. **Contractor:** CH2M Hill Constructors, Inc.

Department or Agency: Department of Homeland Security.

Estimated Value: $100 million.

Contract Description: Manage Temporary Housing for Katrina Evacuees.

Selected Audit Report(s): Department of Homeland Security Inspector General, *Management Advisory Report on the Major Technical Assistance Contracts* (Nov. 2005) (OIG-06-02).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

26. **Contractor:** CH2M Hill Hanford Group.

Department or Agency: Department of Energy.

Estimated Value: $40 million.

Contract Description: Transuranic Mixed Tank Waste at Hanford Site.

Selected Audit Report(s): Department of Energy Inspector General, *Management Controls over the Hanford Site Transuranic Mixed Tank Waste* (Nov. 2005) (OAS-M-06-01).

Problem(s) with Contract: Mismanagement.

---

27. **Contractor:** Chenega Integrated Systems.

Department or Agency: Department of Defense.

Estimated Value: $480 million.

Contract Description: Security Guards for Army Installations.

Selected Audit Report(s): U.S. Government Accountability Office, *Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach* (Apr. 2006) (GAO-06-284).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

28. **Contractor:** Clearbrook, LLC.

Department or Agency: Department of Homeland Security.

Estimated Value: $80 million.

Contract Description: Food and Lodging at Base Camps for Hurricane Katrina.

Selected Audit Report(s): Department of Homeland Security Inspector General, *Clearbrook, LLC Billing Errors Under Contract Number HSFE-06-05-F-6232* (Nov. 2005).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

---

29. **Contractor:** Computer Sciences Corp., Science Applications International Corp.

Department or Agency: Department of Justice, General Services Administration.

Estimated Value: $537 million.

Contract Description: Trilogy.

Selected Audit Report(s): U.S. Government Accountability Office, *Federal Bureau of Investigation: Weak Controls over Trilogy Project Led to Payment of Questionable Contractor Costs and Missing Assets* (Feb. 2006) (GAO-06-306); Department of Justice Inspector General, *The Federal Bureau of Investigation's Management of the Trilogy Information Technology Modernization Project* (Feb. 2005) (05-07).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

30. **Contractor:** Custer Battles.

Department or Agency: Department of Defense.

Estimated Value: $24.8 million.

Contract Description: National Currency Exchange/Iraqi Banknote Exchange.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, Coalition Provisional Authority's Contracting Processes Leading Up To and Including Contract Award (Report No. 04-013) (July 27, 2004).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement; Corruption.

---

31. **Contractor:** Environmental Chemical Corp.

Department or Agency: Department of Defense.

Estimated Value: $500 million.

Contract Description: Debris Removal.

Selected Audit Report(s): Army Corps of Engineers and Defense Contract Audit Agency. Audit Documents (various).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

32. **Contractor:** Environmental Chemical Corp.

Department or Agency: Department of Defense.

Estimated Value: $29.2 million.

Contract Description: Repair and Renovate Schools, Iraqi Ministry of Environment.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

33. **Contractor:** Fluor Enterprises, Inc.

Department or Agency: Department of Homeland Security.

Estimated Value: $100 million.

Contract Description: Manage Temporary Housing for Katrina Evacuees.

Selected Audit Report(s): Department of Homeland Security Inspector General, Management Advisory Report on the Major Technical Assistance Contracts (Nov. 2005) (OIG-06-02).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

34. **Contractor:** Fluor Fernald, Inc.

Department or Agency: Department of Energy.

Estimated Value: $4.5 billion.

Contract Description: Fernald Closure Project.

Selected Audit Report(s):

U.S. Government Accountability Office, Department of Energy: Further Actions Are Needed to Strengthen Contract Management for Major Projects (Mar. 2005) (GAO-05-123); Department of Energy Inspector General, Closure of the Fernald Environmental Management Project (June 2002) (DOE/IG-0555).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

35. **Contractor:** Fluor Hanford, Inc.

Department or Agency: Department of Energy.

Estimated Value: $1.8 billion.

Contract Description: Spent Nuclear Fuels Stabilization and Disposition at Hanford Site.

Selected Audit Report(s): U.S. Government Accountability Office, *Department of Energy: Further Actions Are Needed to Strengthen Contract Management for Major Projects* (Mar. 2005) (GAO-05-123); Department of Energy Inspector General, *Sludge Removal Operations at the Hanford Site's K Basins* (Sept. 2005) (DOE/IG-0698).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

36. **Contractor:** Fluor Intercontinental, Inc.

Department or Agency: Department of Defense.

Estimated Value: $102.5 million.

Contract Description: Repair and Restore the Iraqi Electrical Infrastructure.

Selected Audit Report(s): U.S Government Accountability Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges* (June 2004) (GAO-04-605).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

37. **Contractor:** General Dynamics.

Department or Agency: Department of Defense.

Estimated Value: $11.1 billion.

Contract Description: Expeditionary Fighting Vehicle.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, *Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy* (Apr. 2006) (GAO-06-368); U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Major Weapon Programs* (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

38. **Contractor:** International American Products, Worldwide.

Department or Agency: Department of Homeland Security, Department of Defense.

Estimated Value: $100 million.

Contract Description: Emergency Ice.

Selected Audit Report(s): President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, *Oversight of Gulf Coast Hurricane Recovery: A*

90-Day Progress Report to Congress (Dec. 30, 2005); U.S. Government Accountability Office, Hurricane Katrina: Better Plans and Exercises Needed to Guide the Military's Response to Catastrophic Natural Disasters (May 2006) (GAO-06-643).

Problem(s) with Contract: Mismanagement.

---

39. **Contractor:** Halliburton/KBR.

Department or Agency: Department of Defense.

Estimated Value: $1.2 billion.

Contract Description: Restore Iraqi Oil 2 - Southern Iraq.

Selected Audit Report(s): DCAA, *RIO 2 Delinquencies* (Dec. 2004); DCAA, *RIO 2 Review* (Nov. 22, 2004); Special Inspector General for Iraq Reconstruction, Attestation Engagement Concerning the Award of Non-Competitive Contract DACA63-03-D-0005 to Kellogg, Brown, and Root Services, Inc. (Sept. 30, 2005).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

40. **Contractor:** Halliburton/KBR.

Department or Agency: Department of Defense.

Estimated Value: $14.8 billion.

Contract Description: Iraq Work Under Logistics Civil Augmentation Program (LOGCAP).

Selected Audit Report(s): U.S. Government Accountability Office, Military Operations: DOD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight (July 2004) (GAO-04-854); Army Audit Agency, Logistics Civil Augmentation Program in Kuwait: U.S. Army Field Support Command (Nov. 24, 2004) (Audit Report A-2005-0043-ALE); U.S Government Accountability Office, Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges (June 2004) (GAO-04-605).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

41. **Contractor:** Halliburton/KBR.

Department or Agency: Department of Defense.

Estimated Value: $2.4 billion.

Contract Description: Restore Iraqi Oil.

Selected Audit Report(s): DCAA, *Report on Audit of Proposal for Restore Iraqi Oil Task Order No. 6* (Audit Report No. 3311-2004K21000028) (Sept. 16, 2004); DCAA, *Report on Audit of the Additional Funding Proposal for RIO I Task Order No. 04* (Audit Report No. 3311-2004K17900086) (Sept. 3, 2004); U.S Government Accountability Office, Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges (June 2004) (GAO-04-605).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

42. **Contractor:** L-3 Communications.

Department or Agency: Department of Homeland Security.

Estimated Value: $429 million.

Contract Description: Integrated Surveillance Intelligence System (ISIS).

Selected Audit Report(s): Department of Homeland Security Inspector General, A Review of Remote Surveillance Technology Along U.S. Land Borders (Dec. 2005) (OIG-06-15); U.S. Government Accountability Office, Border Security: Key Unresolved Issues Justify Reevaluation of Border Surveillance Technology Program (Feb. 2006) (GAO-06-295).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

43. **Contractor:** L-3 Communications.

Department or Agency: Department of Defense.

Estimated Value: $49 million.

Contract Description: Army Data Link System.

Selected Audit Report(s): U.S. Government Accountability Office, DOD Contract Payments: Management Action Needed to Reduce Billions in Adjustments to Contract Payment Records (Aug. 2003) (GAO-03-727).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

44. **Contractor:** Landstar Express America Inc.

Department or Agency: Department of Transportation.

Estimated Value: $136.9 million.

Contract Description: Bus Transportation Services.

Selected Audit Report(s): President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, Oversight of Gulf Coast Hurricane Recovery: A 90-Day Progress Report to Congress (Dec. 30, 2005); Department of Transportation Inspector General, Internal Controls Over The Emergency Disaster Relief Transportation Services Contract (Jan. 20, 2006).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

45. **Contractor:** Lipsey Mountain Spring Water Co.

Department or Agency: Department of Homeland Security, Department of Defense.

Estimated Value: $74.5 million.

Contract Description: Emergency Water.

Selected Audit Report(s): President's Council on Integrity and Efficiency, Executive Council on Integrity and Efficiency, Oversight of Gulf Coast Hurricane Recovery: A 90-Day Progress Report to Congress (Dec. 30, 2005); U.S. Government Accountability Office, Hurricane Katrina: Better Plans and Exercises Needed to Guide the Military's Response to Catastrophic Natural Disasters (May 2006) (GAO-06-643).

Problem(s) with Contract: Mismanagement.

---

46. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $4 billion.

Contract Description: Aerial Common Sensor.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy (Apr. 2006) (GAO-06-368).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

47. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $861 million.

Contract Description: C-5 Avionics Modernization Program (C-5 AMP).

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

48. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $6.2 billion.

Contract Description: Advanced Extremely High Frequency (AEHF) Satellite.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

49. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $9.5 billion.

Contract Description: C-5 Reliability Enhancement and Reengining Program.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

50. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $65.4 billion.

Contract Description: F-22A Raptor.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

51. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $206.3 billion.

Contract Description: Joint Strike Fighter.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy (Apr. 2006) (GAO-06-368); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

52. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $10.2 billion.

Contract Description: Space Based Infrared System High.

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

53. **Contractor:** Lockheed Martin.

Department or Agency: Department of Defense.

Estimated Value: $2.6 billion.

Contract Description: C-130J Aircraft.

Selected Audit Report(s): Department of Defense Inspector General, Acquisition – Contracting for and Performance of the C-130J Aircraft (July 23, 2004) (D-2004-102).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

54. **Contractor:** Lockheed Martin.

Department or Agency: Department of Justice.

Estimated Value: $305 million.

Contract Description: Sentinel.

Selected Audit Report(s): U.S. Government Accountability Office, *Information Technology: FBI is Building Management Capabilities Essential to Successful System Deployments, but Challenges Remain* (Sept. 14, 2005) (GAO-05-1014T); Department of Justice Inspector General, *The Federal Bureau of Investigation's Pre-Acquisition Planning for and Controls Over the Sentinel Case Management System* (Mar. 2006) (06-14).

Problem(s) with Contract: Mismanagement.

---

55. **Contractor:** Lockheed Martin Integrated Systems.

Department or Agency: Department of Defense.

Estimated Value: $359 million.

Contract Description: F-6 Mission Training Center Simulator Services.

Selected Audit Report(s): Department of Defense Inspector General, *Acquisition: Procurement Procedures Used for F-16 Mission Training Center Simulator Services* (Mar. 24, 2006).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

56. **Contractor:** Lockheed Martin Northrop Grumman Joint Venture.

Department or Agency: Department of Homeland Security.

Estimated Value: $17 billion.

Contract Description: Deepwater.

Selected Audit Report(s): U.S. Government Accountability Office, *Department of Homeland Security: Financial Management Challenges* (Jul. 8, 2004) (GAO-04-945T).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

57. **Contractor:** Lockheed Martin Vought Systems Corporation.

Department or Agency: Department of Defense.

Estimated Value: $565 million.

Contract Description: Army Tactical Missile System.

Selected Audit Report(s): U.S. Government Accountability Office, *DOD Contract Payments: Management Action Needed to Reduce Billions in Adjustments to Contract Payment Records* (Aug. 2003) (GAO-03-727).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

58. **Contractor:** Lockheed Martin, Raytheon.

Department or Agency: Department of Defense.

Estimated Value: $8.5 billion.

Contract Description: Aegis Ballistic Missile Defense (Aegis BMD).

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

59. **Contractor:** Meganet.

Department or Agency: Department of Labor.

Estimated Value: $3.8 million.

Contract Description: Encryption Software and Services.

Selected Audit Report(s): Department of Labor Inspector General, Award and Management of Contracts for Encryption Software Were Significantly Flawed (Mar. 31, 2005) (Report No. 05-05-005-07-720).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

60. **Contractor:** Multiple Contractors.

Department or Agency: Department of Homeland Security.

Estimated Value: $915 million.

Contract Description: Manufactured/Modular Homes for Katrina and Rita Evacuees.

Selected Audit Report(s): Department of Homeland Security Inspector General, Mobile Homes and Modular Homes at Hope and Red River (Feb. 2006) (Report No. GC-HQ-06-12); Department of Homeland Security Inspector General, Oversight of Gulf Coast Hurricane Recovery, A Semiannual Report to Congress (Apr. 30, 2006); Senate Committee on Homeland Security and Governmental Affairs, Testimony of Department of Homeland Security Inspector General Richard L. Skinner (Feb. 13, 2006).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

---

61. **Contractor:** Multiple Contractors.

Department or Agency: Department of Homeland Security.

Estimated Value: $1.7 billion.

Contract Description: Travel Trailers for Katrina Evacuees.

Selected Audit Report(s): Department of Homeland Security Inspector General, Oversight of Gulf Coast Hurricane Recovery, A Semiannual Report to Congress (Apr. 30, 2006); Senate Committee on Homeland Security and Governmental Affairs, Testimony of Department of Homeland Security Inspector General Richard L. Skinner (Feb. 13, 2006).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

62. **Contractor:** NCS Pearson, Inc.

Department or Agency: Department of Homeland Security.

Estimated Value: $741 million.

Contract Description: Test and Hire Passenger Screeners for Airports.

Selected Audit Report(s): Department of Homeland Security Inspector General, *Review of the Transportation Security Administration's Management Controls Over the Screener Recruitment Program* (Dec. 2005) (OIG-06-18).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

---

63. **Contractor:** Northrop Grumman.

Department or Agency: Department of Defense.

Estimated Value: $30 billion.

Contract Description: Future Aircraft Carrier CVN-21.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

64. **Contractor:** Northrop Grumman.

Department or Agency: Department of Defense.

Estimated Value: $6.4 billion.

Contract Description: Global Hawk Unmanned Aircraft System.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, *Defense Acquisitions: Major Weapon Systems Continue to Experience Cost and Schedule Problems under DOD's Revised Policy* (Apr. 2006) (GAO-06-368); U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Major Weapon Programs* (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

65. **Contractor:** Northrop Grumman.

Department or Agency: Department of Defense.

Estimated Value: $4.6 billion.

Contract Description: Space Tracking and Surveillance System.

Selected Audit Report(s): U.S. Government Accountability Office, *Defense Acquisitions: Assessments of Selected Major Weapon Programs* (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, *Defense Acquisitions:*

Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

66. **Contractor:** Northrop Grumman.

Department or Agency: Department of Defense, National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration.

Estimated Value: $8 billion.

Contract Description: National Polar-Orbiting Operational Environmental Satellite System (NPOESS).

Selected Audit Report(s): U.S. Government Accountability Office, Defense Acquisitions: Assessments of Selected Major Weapon Programs (Mar. 2006) (GAO-06-391); U.S. Government Accountability Office, Defense Acquisitions: Assessments of Major Weapon Programs (Mar. 2004) (GAO-04-248).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

67. **Contractor:** Parsons Delaware Inc.

Department or Agency: Department of Defense.

Estimated Value: $500 million.

Contract Description: Build and Renovate Hospitals, Clinics, and Housing.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, Management of the Primary Healthcare Centers Construction Projects (Apr. 29, 2006) (Report No. SIGIR-06-011); DCAA, *Report on Audit of Proposal for Al Alwaiya Children's Hospital, No. 02132-2004N27000007* (Oct. 19, 2004); DCAA, *Report on Application of Agreed-Upon Procedures of Proposal for Programmaric Support Services, No. 2131-2005N28000003* (Dec. 21, 2004); DCAA, *Report on Agreed-Upon Procedures for Subcontract Proposal for Renovation and Modernization of Al Ramadi Gynecology, Obstetrics and Children's Hospital, No. 2131-2005N28000012* (Dec. 21, 2004).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

68. **Contractor:** Parsons Iraq Joint Venture.

Department or Agency: Department of Defense.

Estimated Value: $800 million.

Contract Description: Restore Iraqi Oil 2 - Nothern Iraq.

Selected Audit Report(s): DCAA, *Report on Audit of Contractor's Billing System Internal Controls, No. 3521-2004V11010001* (Mar. 31, 2005).

Problem(s) with Contract: Wasteful Spending.

---

69. **Contractor:** Perini Corporation.

Department or Agency: Department of Defense.

Estimated Value: $66.6 million.

Contract Description: Repair and Restore the Iraqi Electrical Infrastructure.

Selected Audit Report(s): U.S Government Accountability Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges* (June 2004) (GAO-04-605).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

70. **Contractor:** Phillips and Jordan.

Department or Agency: Department of Defense.

Estimated Value: $500 million.

Contract Description: Debris Removal.

Selected Audit Report(s): Army Corps of Engineers and Defense Contract Audit Agency, *Audit Documents* (various).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

71. **Contractor:** Russian and Eastern European Partnership, Inc. d/b/a Operational Support Services.

Department or Agency: Department of Defense.

Estimated Value: $10.7 million.

Contract Description: Bilingual-Bicultural Advisor.

Selected Audit Report(s): U.S. Government Accountability Office, *WorldWide Language Resources, Inc.; SOS International Ltd.* (Nov. 14, 2005) (B-296984).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

72. **Contractor:** Russian and Eastern European Partnership, Inc. d/b/a Operational Support Services.

Department or Agency: Department of Defense.

Estimated Value: $35.5 million.

Contract Description: Bilingual-Bicultural Advisor.

Selected Audit Report(s): U.S. Government Accountability Office, *WorldWide Language Resources, Inc.; SOS International Ltd.* (Nov. 14, 2005) (B-296984).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

73. **Contractor:** Science Applications International Corp.

Department or Agency: Department of Defense.

Estimated Value: $82.4 million.

Contract Description: Establish an Iraqi Media Capability, Including Print, Television, and Radio.

Selected Audit Report(s): U.S Government Accountability Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges* (June 2004) (GAO-04-605).

Problem(s) with Contract: Mismanagement.

74. **Contractor:** Science Applications International Corp.

Department or Agency: Department of Defense.

Estimated Value: $24.8 million.

Contract Description: Recruit and Provide Logistical Support for Subject Matter Experts to Assist the Iraqi Reconstruction and Development Council.

Selected Audit Report(s): U.S Government Accountability Office, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges* (June 2004) (GAO-04-605).

Problem(s) with Contract: Mismanagement.

75. **Contractor:** Scotia Prince Cruise Line.

Department or Agency: Department of Homeland Security.

Estimated Value: $13 million.

Contract Description: Cruise Ship Housing for Katrina Evacuees.

Selected Audit Report(s): Naval Audit Service, *Chartered Cruise Ships* (Feb. 2006) (Audit Report N2006-0015); Department of Homeland Security Inspector General, *Management Advisory Report on the Acquisition of Cruise Ships for Hurricane Katrina Evacuees* (Feb. 2006) (Report No. GC-HQ-06-11).

Problem(s) with Contract: Wasteful Spending.

76. **Contractor:** Shaw Environmental, Inc.

Department or Agency: Department of Homeland Security.

Estimated Value: $100 million.

Contract Description: Manage Temporary Housing for Katrina Evacuees.

Selected Audit Report(s): Department of Homeland Security Inspector General, *Management Advisory Report on the Major Technical Assistance Contracts* (Nov. 2005) (OIG-06-02).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

77. **Contractor:** Systems Research and Application Corp., Northrop Grumman.

Department or Agency: State Department.

Estimated Value: $82 million.

Contract Description: GSA-FEDSIM Millenia Contract.

Selected Audit Report(s): Department of State Inspector General, *Independent Accountant's Report on the Application of Agreed-Upon Procedures Relating to Bureau of Information Resource Management Enterprise Network Management Office GSA-FEDSIM Millenia Contract Task Order GS-T004AJM049* (Mar. 2006) (Report No. AUD/PP-06-08).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

78. **Contractor:** Systems and Electronics, Inc.

Department or Agency: Department of Defense.

Estimated Value: $158 million.

Contract Description: 60K Tunner Cargo Loader Logistics Support.

Selected Audit Report(s): Department of Defense Inspector General, *Acquisition: Air Force Procurement of 60K Tunner Cargo Loader Contractor Logistics Support* (Mar. 3, 2006).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

79. **Contractor:** Tetra Tech FW, Inc.

Department or Agency: Department of Defense.

Estimated Value: $5.5 million.

Contract Description: Renovate Iraqi Ministry of Trade Building.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority* (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

80. **Contractor:** TKC Communications, LLC.

Department or Agency: Department of Defense.

Estimated Value: $100 million.

Contract Description: Leasing and Management of Commercial Property and Construction Oversight.

Selected Audit Report(s): U.S. Government Accountability Office, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (Apr. 2006) (GAO-06-399).

Problem(s) with Contract: Wasteful Spending; Lack of Competition.

---

81. **Contractor:** Toltest.

Department or Agency: Department of Defense.

Estimated Value: $7.6 million.

Contract Description: Pump Stations at Karbala and Mandilee.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority* (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

82. **Contractor:** Unisys.

Department or Agency: Department of Homeland Security.

Estimated Value: $1 billion.

Contract Description: Airport Telecommunications.

Selected Audit Report(s): Department of Homeland Security Inspector General, Transportation Security Administration's Information Technology Managed Services Contract (Feb. 2006) (OIG-06-23).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement.

---

83. **Contractor:** Washington Group International.

Department or Agency: Department of Defense.

Estimated Value: $218.3 million.

Contract Description: Restore Iraqi Electricity.

Selected Audit Report(s): U.S Government Accountability Office, Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges (June 2004) (GAO-04-605); DCAA, *Report on Audit of Reconstruction of Iraqi Electrical, No. 4261-2004W21000001* (Dec. 12, 2003).

Problem(s) with Contract: Wasteful Spending.

---

84. **Contractor:** Westinghouse Savannah River, Bechtel Savannah River.

Department or Agency: Department of Energy.

Estimated Value: $500 million.

Contract Description: Tritium Extraction Facility at Savannah River Site.

Selected Audit Report(s): U.S. Government Accountability Office, Department of Energy: Further Actions Are Needed to Strengthen Contract Management for Major Projects (Mar. 2005) (GAO-05-123).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

85. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $663 thousand.

Contract Description: Al Hillah General Hospital.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, Management of Rapid Regional Response Program Contracts in South-Central Iraq (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement.

---

86. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $108 thousand.

Contract Description: Al Hillah Olympic Swimming Pool Pumps.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, Management of Rapid Regional Response Program Contracts in South-Central

Iraq (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

87. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $28 thousand.

Contract Description: Building Improvements for the Meshkahab Council Building.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

88. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $86 thousand.

Contract Description: Renovation of the Tribal Democracy Center in Karbala.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

89. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $47 thousand.

Contract Description: Upgrade the Police Department Facilities in Hillah.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

90. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $32 thousand.

Contract Description: Upgrades and Repairs at the Al Mahawel Fire Department.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

91. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $420 thousand.

Contract Description: Two Armored Vehicles.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

92. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $99 thousand.

Contract Description: Site Preparation for Water Treatment Compacting Unit.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

93. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $41 thousand.

Contract Description: Rebuild Al Nasser School.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

94. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $120 thousand.

Contract Description: Convoy Security Force.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

95. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $14 thousand.

Contract Description: Oversight in Original Contract Specifications.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

96. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $128 thousand.

Contract Description: Road Paving in Grait Kabaza in Kharat.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

97. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: Not Provided.

Contract Description: Extended Cab Pickup Trucks for Border Police.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Coalition Provisional Authority's Contracting Processes Leading Up to and Including Contract Award* (July 27, 2004) (Report No. 04-013).

Problem(s) with Contract: Mismanagement; Lack of Competition.

---

98. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $188 thousand.

Contract Description: Double Cab Trucks for Maysan Police.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Coalition Provisional Authority's Contracting Processes Leading Up to and Including Contract Award* (July 27, 2004) (Report No. 04-013).

Problem(s) with Contract: Mismanagement.

---

99. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $561 thousand.

Contract Description: DABV01-03-M-0003.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Iraqi Armed Forces Seized Assets Fund: Review of Contracts and Financial Documents* (Apr. 28, 2006) (Report No. SIGIR-06-015); Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

100. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $581 thousand.

Contract Description: APFCRP40420001.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Iraqi Armed Forces Seized Assets Fund: Review of Contracts and Financial Documents* (Apr. 28, 2006) (Report No. SIGIR-06-015).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

101. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $6.2 million.

Contract Description: DABV01-03-M-0034.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Iraqi Armed Forces Seized Assets Fund: Review of Contracts and Financial Documents* (Apr. 28, 2006) (Report No. SIGIR-06-015); Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

102. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $4.8 million.

Contract Description: DABV01-04-C3075.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Iraqi Armed Forces Seized Assets Fund: Review of Contracts and Financial Documents* (Apr. 28, 2006) (Report No. SIGIR-06-015); Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

103. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $9 million.

Contract Description: DABV01-03-C-0034.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

104. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $1 million.

Contract Description: DABV01-03-D0002.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

105. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $2.4 million.

Contract Description: DABV01-04-D-0001.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Review of the Multi-National Security Transition Command-Iraq Reconciliation of the Iraq Armed Forces Seized Assets Fund* (Apr. 28, 2006) (Report No. SIGIR-06-010).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

---

106. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $5.7 million.

Contract Description: Renovate Police Academy.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority* (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

107. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $12 million.

Contract Description: Renovate Baghdad Airport.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority* (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

108. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $4.5 million.

Contract Description: Renovate Logistics/Police Academy at Erbil and Zahko.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support*

of the Coalition Provisional Authority (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

109. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $25.8 million.

Contract Description: Construct Bridges at Al Madeen, al Sharquat, and Burbriz.

Selected Audit Report(s): Coalition Provisional Authority Inspector General, *Task Orders Awarded by the Air Force Center for Environmental Excellence in Support of the Coalition Provisional Authority* (July 28, 2004) (Report No. 04-004).

Problem(s) with Contract: Mismanagement.

---

110. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $131 thousand.

Contract Description: Jasrah Pedestrian Bridge.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of Rapid Regional Response Program Contracts in South-Central Iraq* (Jan. 23, 2006) (Report No. SIGIR-05-023).

Problem(s) with Contract: Mismanagement; Wasteful Spending.

---

111. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $125.4 million.

Contract Description: Erbil Water Treatment Plant.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Controls Over Equipment Acquired by Security Contractors* (Sept. 9, 2005) (Report No. SIGIR-O5-013).

Problem(s) with Contract: Mismanagement.

---

112. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $3.6 million.

Contract Description: Security for Governorate and Regional Teams.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Controls Over Equipment Acquired by Security Contractors* (Sept. 9, 2005) (Report No. SIGIR-O5-013).

Problem(s) with Contract: Mismanagement.

---

113. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $3.6 million.

Contract Description: Personal Security Detail for Senior Adviser to the Minister of Interior.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Controls Over Equipment Acquired by Security Contractors* (Sept. 9, 2005) (Report No. SIGIR-O5-013).

Problem(s) with Contract: Mismanagement.

---

114. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $172.4 million.

Contract Description: Nasiriyah Water Construction Project.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Controls Over Equipment Acquired by Security Contractors* (Sept. 9, 2005) (Report No. SIGIR-O5-013).

Problem(s) with Contract: Mismanagement.

---

115. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $69 million.

Contract Description: Construct Sixty Primary Health Centers in Southern Iraq.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Controls Over Equipment Acquired by Security Contractors* (Sept. 9, 2005) (Report No. SIGIR-O5-013).

Problem(s) with Contract: Mismanagement.

---

116. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $945 thousand.

Contract Description: Provide Seven Armored Mercedes Benz Vehicles.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Acquisition of Armored Vehicles Purchased Through Contract W914NS-05-M-1189* (Oct. 21, 2005) (Report No. SIGIR-2005-14).

Problem(s) with Contract: Wasteful Spending; Mismanagement; Lack of Competition.

---

117. **Contractor:** Not Released.

Department or Agency: Department of Defense.

Estimated Value: $5.3 million.

Contract Description: Establish and Operate Babylon Police Academy.

Selected Audit Report(s): Special Inspector General for Iraq Reconstruction, *Management of the Contracts and Grants Used To Construct and Operate the*

Babylon Police Academy (Oct. 26, 2005) (Report No. SIGIR-05-016).

Problem(s) with Contract: Lack of Defined Requirements; Wasteful Spending; Mismanagement; Lack of Competition.

---

118. **Contractor:** Not Released.

Department or Agency: Department of Homeland Security.

Estimated Value: $19 million.

Contract Description: Transportation Security Operations Center.

Selected Audit Report(s): Department of Homeland Security Inspector General, *Irregularities in the Development of the Transportation Security Operations Center* (March 2005) (OIG-05-18).

Problem(s) with Contract: Wasteful Spending; Mismanagement.

REP. HENRY A. WAXMAN
RANKING MINORITY MEMBER
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
JUNE 21, 2006

Document Analysis

Problems with Alaska Native Corporation Contracts

On March 4, 2005, Chairman Tom Davis and Ranking Member Henry A. Waxman jointly requested documents regarding federal contracts with Alaska Native Corporations (ANCs) from the Departments of Defense, Homeland Security, and State.[1] In response, these federal agencies provided thousands of pages of documents. The documents obtained by the Committee highlight significant problems with no-bid contracts with ANCs, including political interference with the contracting process and serious performance deficiencies.

The discussion below summarizes some of the documents relating to two of the ANC contracts: (1) a Transportation Security Administration Contract for maintenance of airport screening equipment, and (2) a National Imagery and Mapping Agency contract for information technology services.

TSA Contract for Screening Equipment Maintenance

In late 2004, the Transportation Security Administration (TSA) planned to hold a competition for a contract for maintenance of airport screening equipment. The plan was for companies to submit informal "white paper" proposals before a formal "Request for Proposal" was sent to a smaller number of select contractors. An ANC named Chenega was among the contractors who made it to the second round.

Documents obtained from the Department of Homeland Security show that this ongoing competition was halted in response to political pressure. According to a November 1, 2004, email from Lee Kair, the Acting Assistant Secretary for Acquisition at DHS, the entire Alaska congressional delegation was pushing for Chenega to receive the work under an existing no-bid contract it had with the DHS Customs and Border Patrol Office. The email states:

> After the receipt of these white papers, we received inquiries by Senators Murkowski and Stevens and Chairman Young concerning an Alaska Native Corporation named Chenega. Staff from

[1] Letter from Reps. Tom Davis and Henry A. Waxman to Donald H. Rumsfeld, Michael Chertoff, and Condoleezza Rice (Mar. 4, 2005).

> these offices have been adamant that we evaluate an option using a [Customs and Border Patrol] contract with Chenega for similar services.[2]

A letter from Assistant Secretary of Homeland Security for TSA David M. Stone to Senator Stevens confirms that "on October 19, 2004, members of [Admiral Stone's] staff met with a member of Senator Murkowski's staff and Ms. Kate Williams from [Sen. Stevens'] office regarding the Airport Security Equipment Maintenance procurement."[3]

Following this meeting, Senator Murkowski's chief counsel and TSA officials discussed the outcome of the meeting in a series of emails. Senator Murkowski's staff clearly believed that they had successfully influenced TSA. According to an October 22, 2004, email from the chief counsel to the TSA congressional liaison:

> Senator Murkowski greatly appreciates the time and effort of TSA to come to our offices to met. Mr. Lee Kair was very understanding our the Alaska Delegations' concerns. ... As a result of that meeting our specific understanding is that TSA will not release the RFP until after Chenega has had a chance to make a presentation of capabilities using the procurement options including the use of the Customs mechanism. The cost savings in time and money are quite significant. If the agencies decided to consider fair and open competition, please let me know what analysis has been done to address the increased cost and time for the bid process.[4]

The congressional liaison replied, "In order to guarantee equal and fair opportunity for all companies competing for work on this project, TSA articulated in Monday's meeting that we would be unable to individually meet with Chenega."[5]

Senator Murkowski's staff was not satisfied with this response. A reply email from the chief counsel states:

> We strangely have very different recollection of the discussions. We were under the distinct understanding that TSA was going to confirm there were no impediments to meetings with Chenega but there was going to be an opportunity for Chenega to present what cost savings and technologies exist prior to the release of the RFP. ... It would appear TSA had a different agenda or conclusion from our meeting.[6]

---

[2] Email from Lee Kair (Nov. 1, 2004).
[3] Letter from Admiral David M. Stone, Assistant Secretary of Homeland Security for Transportation Security Administration, to Senator Ted Stevens (Jan. 31, 2005).
[4] Email from Jon DeVore, Chief Counsel to Senator Lisa Murkowski, to Congressional Liaison, Transportation Security Administration (Oct. 22, 2004). All spelling and grammatical errors in the original.
[5] Email from Congressional Liaison, Transportation Security Administration, to Jon DeVore, Chief Counsel to Senator Lisa Murkowski (Oct. 25, 2004).
[6] Email from Jon DeVore, Chief Counsel to Senator Lisa Murkowski, to Congressional Liaison, Transportation Security Administration (Oct. 25, 2004).

When Lee Kair, the Acting Assistant Secretary for Acquisition, saw this email, he wrote: "The only commitment I made was to ensure that there were no impediments in the language of the RFP around alternative proposals such that Chenega's alternative proposal would be evaluated fairly."[7] He also stated: "I'm not sure how we got to this point."

Nevertheless, TSA appeared to succumb to this political pressure and gave Chenega special access to present its no-bid plan to TSA. A November 29, 2004, letter from Mr. Kair to Chenega thanked the ANC for its "presentation to the joint DHS panel convened on November 19th 2004 to evaluate your alternative approach to TSA's solicitation for logistics support for security equipment at the nation's airports."[8]

Ultimately, Mr. Kair and TSA opted to proceed with the competition.

National Imagery and Mapping Agency IT Contract

In 2001, the National Imagery and Mapping Agency (NIMA), now the National Geospatial-Intelligence Agency, decided to transition its information technology and services functions to an Alaska Native Corporation. The company, NJVC, is a joint venture formed by two ANCs, Chenega and Arctic Slope Regional Corporation. It received a no-bid, 15-year contract worth up to $2.2 billion that began on January 1, 2002. By March 15, 2005, the contract was worth $550 million.[9] Under this cost-plus contract, NJVC can receive a fee of up to 9%.[10]

Documents obtained from the Department of Defense reveal that NJVC's performance has been seriously deficient with respect to security issues. In a March 2003 award fee evaluation, the ANC received a "poor" rating for its security performance.[11] Security incidents involved the misuse of computer resources, the improper securing of vault areas, and the lack of necessary security clearances. Despite these lapses, NJVC received 81% of the maximum award fee for the one-year period.

A September 2003 award fee evaluation resulted in a security score of 0 and a security rating of "poor."[12] In one case, a NJVC employee "traveled with un-marked, classified documents" and "took clearly marked, classified documents off base and to the motel with him."

An August 2004 award fee evaluation gave NJVC a "marginal" security rating.[13] The government found improper handling of bomb threats, improper handling of classified data, and improper securing of secure areas. However, NJVC received 87% of the maximum award fee.

---

[7] Email from Lee Kair, Acting Assistant Secretary for Acquisition (Oct. 25, 2004).
[8] Letter from Lee Kair, Acting Assistant Secretary for Acquisition, to Ken Ogden, Chenega Technology Services Corporation (Nov. 29, 2004).
[9] National Imagery and Mapping Agency, *Record of Modification — NJVC* (undated).
[10] National Imagery and Mapping Agency, *Award Fee Plan* (Dec. 14, 2001).
[11] National Imagery and Mapping Agency, *Award Fee Evaluation for Base Year Period 2* (Mar. 5, 2003).
[12] National Imagery and Mapping Agency, *Award Fee Evaluation for Option Year 1 Period 3* (Sept. 11, 2003).

PROBLEMS WITH ALASKA NATIVE CORPORATION CONTRACTS

A February 2005 award fee evaluation was the latest evaluation provided to the Committee. NJVC received another "poor" security rating due to a host of incidents involving failures to properly secure classified vaults, failures to properly handle classified information, and the misuse of computers to access "pornographic material."[14] Yet the ANC received 77% of the maximum award fee for this period.

The documents also reveal that over three years into the contract, NJVC employees were doing only a small portion of the work. This contract involved shifting approximately 600 NIMA employees from federal employment to jobs with NJVC.[15] The same employees would do the same work, but would be employed by the ANC instead of the federal government. But by March 15, 2005, NJVC was only doing 36% of the work.[16] The rest was being done by subcontractors and agency employees. In addition, the government evaluators found that "[t]here were government people who were under the impression that NJVC was directing what is to be outsourced rather than the Government."[17]

---

[13] National Geospatial-Intelligence Agency, *Award Fee Evaluation for Option Year 2 Period 5* (Aug. 12, 2004).
[14] National Geospatial-Intelligence Agency, *Award Fee Evaluation for Option Year 2 Period 6* (Feb. 15, 2205).
[15] National Imagery and Mapping Agency, *Program Summary Document* (July 6, 2001).
[16] National Imagery and Mapping Agency, *Fact Sheet — NJVC* (Mar. 17, 2005).
[17] National Imagery and Mapping Agency, *Award Fee Evaluation for Option Year 1 Period 3* (Sept. 11, 2003).

Chairman TOM DAVIS. Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

The Federal Government has grown to become the biggest buyer of goods and services in the world. In the last year alone, Federal purchasing power increased by 3 percent to $295 billion.

In order to achieve a vibrant and open Federal marketplace, it is essential for small firms to be included in the procurement equation. Small businesses have always played a key role in ensuring our Government is able to effectively operate and continue in this role. These businesses are capable of providing quality services at the best value for the American taxpayer's dollars.

There are many Federal Government programs designed to encourage agencies to utilize small business owners in their Federal buying strategies. These are valuable programs that serve an important purpose and have provided the Government with the highest quality products for the taxpayer's dollar. However, it is all too often that many of these programs are unfairly singled out, not because they are ineffective but due to the current administration's failure to properly modernize, fund, and administer these initiatives.

The 8(a) program, our Nation's only remaining Federal initiative focused solely on the development of minority entrepreneurs, is one such initiative. It has been responsible for the development of more than 20,000 companies that have received almost $100 billion in Federal contracts. Yet, for all the good the 8(a) program has done, the Small Business Administration has allowed it to deteriorate significantly. Without sufficient funding, manpower, and oversight, the 8(a) program has faltered in its ability to serve low income communities and aid in the development of minority entrepreneurs.

Today, we have the opportunity to discuss the findings of a recent Government Accountability Office report which takes an in-depth look at the current state of affairs with the 8(a) program, in particular, the dramatic increase in 8(a) contracts awarded to Alaska Native Corporations and the impact this might have on the future of the program.

In fiscal year 2004, ANCs were awarded $1.1 billion or 13 percent of the total 8(a) dollars. This should be contrasted with the fact that between fiscal year 2003 and fiscal year 2004, the 8(a) program as a whole, minus ANCs, declined by $2 billion. The reality is that the ANC participation is increasing while 8(a) contracts are declining. The reason for this decline is in large part due to SBA sheer lack of attention to the program.

The GAO has outlined 10 recommendations for the SBA to increase its oversight. Without this, the GAO has pointed out that there is clearly the potential for unintended consequences or abuse. This situation not only takes away valuable contracting opportunities for small business owners but also diminishes the ability of the 8(a) program to fulfill its role of aiding economic and community development.

The important issue we are facing today with this hearing is to attempt to strike a balance between the need to provide economic development to Alaska Natives while ensuring small and minority business owners do not see further contract dollar declines. As we continue to look for ways to foster economic development in minor-

ity and under-served communities, it is essential that we do not lose sight of the capabilities of the 8(a) program. This initiative has always been and should continue to be a key element in building strong communities and local economics.

I am hopeful that the two of our committees can find common ground to refocus the 8(a) program and reengage the SBA in seeing that this initiative is truly able to accomplish its intended mission.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

We have our lead witness, the Honorable Don Young, our Representative for Alaska and great friend. Don, thank you for being with us.

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA, CHAIRMAN, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. YOUNG. Thank you, Mr. Chairman and ranking members and committee members for having this hearing.

You will have a panel before you from Alaska that is a broad representation of the ANC program. Mr. Chairman, with your permission, I would ask at this time to allow those individuals who will testify to be able to rely upon the people who accompany them to answer some technical questions if there are any technical questions.

Chairman TOM DAVIS. Without objection.

Mr. YOUNG. The ANC contracting, Mr. Chairman, to get a fair hearing and a fair review, this committee and Congress must look at the broad picture of Federal Government contracting as a whole, so that the ANCs' contracting can be put in the proper context.

Mr. Chairman, I am hear to say these folks are doing right by the Federal Government; they are doing right by the American taxpayer; and, most importantly, they are doing right by the impoverished communities back home in Alaska.

A razor focus on just Alaska Native Corporations [ANCs], contracting would be a disservice to the Federal agencies who have given the ANCs very high performance ratings generally and to ANCs who have done a good job executing the contracts they have been awarded.

The issues of the hearing we will be looking at are not just small business policies or general Government procurement policies but rather are the important part of the National Indian policy emanating from Congress' constitutional mandate to set Indian policy.

I am here to tell you that the efforts to find fault and criticize Alaska Native Corporations participating in Small Business Administration SBA Section 8(a) programs, frankly, I think is a thinly disguised attack on Native Alaskan people and the corporations precisely because a few of them enjoy great success.

As the senior member of the House Committee on Resources, I intend to work with Chairman Pombo and Ranking Member Rahall on the National Indian policy ramifications of the GAO report and any proposed regulatory or statutory changes that may be developed.

Mr. Chairman, I request your committee put on the record the following: The total amount of Federal contracting and the percent

of that total that has been awarded to ANCs, it is my understanding that according to the Government's own data base, total Federal contracting was $300 billion in 2004; the total ANC contracting for all sources, both 8(a) and non–8(a), was $2.2 billion in 2004, about 7 cents of 1 percent, 7 cents for every $100 the Fed spent on contracting. If you look at the percentage of total Federal contracting that went into ANC 8(a) contracts alone, the percent follows to a little over one-half of 1 percent. In other words, every $100 the Government spends on procurement, all the ANCs combined are getting a little over 50 cents through the 8(a) program.

In addition, your two committees should also examine the percent of Federal contracting that goes to the 8(a) program. Regarding the percent of the 8(a) program that goes to ANCs over the period of years, the GAO report said 17 percent of the 8(a) contracts went to ANCs in 2004. Regarding the total amount of sole-source contracts for all Federal contracts, the percent of total sole-source contracts that have been awarded to non-ANC and non–8(a) companies compared to the percent of sole-source contracts that go to ANCs, looking only at ANCs regarding sole-source contracts is ignoring the larger issues.

When the Federal Government's own studies from the 10 largest defense contractors—and I believe Mr. Waxman has mentioned this—none of them were ANCs by the way. From 1999 to 2003, 6 years, only one of them had more than 50 percent of its contracts from competitive procurements. All the rest of what I call the big boys had more than 50 percent of their contracts through sole-source and non-competitive awards. I submit that the dollar amounts going to these large contracts are huge compared to what we have in the ANCs.

Finally, I want to point out ANC contracts have been and is a good thing for the Government. It is a good thing for the Alaskan Natives. The SBA 8(a) program, as it relates to businesses owned by Alaskan Natives and Native American tribes, has been one of the few Federal Native programs that is actually working. The ANCs should be proud that the GAO report made no recommendation for statutory changes and reported no wrongdoing on their part. In fact, the one wrongdoing that was reported was actually a competitive contract awarded to somebody outside of the ANCs.

This SBA program has benefited not only ANCs and the Alaska Native, but it has created job opportunities and developments of small businesses in 49 of the 50 States in virtually every one of the Congressional Districts represented by members of the two committees.

Now, you know I have a long involvement in Native American issues, such issues as the Alaskan Native Land Claims Settlement Act and the subsequent amendments. There is absolutely no question that the program you are looking at today is an integral part of the economic settlement of ANCSA. Alaska Natives ceded millions of acres of land claims in exchange for the ability to provide for economic self-sufficiency for their people. This is part of the National Indian Policy, something that has been reaffirmed by the U.S. District Court of Appeals as recently as June 2003. The Supreme Court declined to review that decision, letting stand the provision indeed called Indian Policy.

This was the promise of ANCSA, Alaskan Native Land Claim Settlement Act. It is clear to me, from all my experience, that the Federal Government record in dealing with Native Americans is a dismal one, one marked by the fact that too many times the Government sets out a policy only to go back on its word. The Government should not break its promises, and by the way, the Government being this Congress.

It seems to be the case that particularly Native Americans are actually succeeding and benefiting from the policy set forth. It is my strong belief that the Federal Government cannot go back on its word again. If we need to make proper adjustments to the program, if we have to have more oversight, let us do that, but let us allow the program to continue to help fulfill the responsibility that we have as a Nation to all the Native Americans.

Mr. Chairman, I suggest respectfully that the people you will hear from on the panel from Alaska will give you the more integral results of what this program has been able to do for their stockholders and the people in Alaska.

With that, Mr. Chairman, I will answer any questions.

Chairman TOM DAVIS. Don, thank you very much and thank you for putting that in a historical context.

I will just say my only concern, as you look at the 8(a) program and what it was designed to do, is this squeezes out, because it is not being done in a competitive way, other opportunities for other 8(a)'s. I think that is one of the concerns that has been expressed on that.

Mr. YOUNG. That is a legitimate concern. The thing I want to again bring out and my testimony said it also, is this is an attempt to try to rectify, I think, a lot of injustices over the history of America and the Congress to the American Natives. It is not just Alaska Natives. We have an exception; that is correct. Contrary to what you read in the paper, we have impoverished areas in Alaska that have really very little opportunity which have used this program now where they are building schools and they are doing things that, very frankly, are the Government's responsibility.

Chairman TOM DAVIS. I appreciate that.

Mr. YOUNG. I just want you to know that.

Chairman TOM DAVIS. Thank you.

Anyone else? Mr. Waxman.

Mr. WAXMAN. Thank you very much, Chairman Young for your testimony.

From my perspective, I think I made this clear in my opening comments, if we are talking about a contract where it is more than $100 million, it ought to be competed for. It ought not to be given any special weight with the ability to waive the rules that require competition, without limits that we put on for small businesses. From the taxpayer point of view, when there is not competition or where there aren't the market forces, we end up paying more money.

I would agree with you that maybe you turn the other way if it is going to benefit people who have been disadvantaged in the past. I am not sure that I agree with that. But we are talking about subcontractors who do the work, who are not even Native Alaskans

and they are not even doing it in Alaska. They are doing work in Virginia and Iraq and other places.

Mr. YOUNG. I understand that, Mr. Waxman. I understand, Mr. Congressman, but the point that I think you have to keep in mind is in the GAO report—and you have read it—there is no one who says the taxpayer is not getting a good deal out of this. If you want to have a $100 million contract that is not going to go to an Alaskan Native Corporation, it is going to go to you know who, the 10 big ones because they can outbid it.

Now, you don't need your staff to tell you the answer to that question right now. That always irritates me when that happens, sir. I mean I am the chairman, and I will not, very frankly, allow that to happen. If I can't do that on my own, you can ask me a question and I can answer it, but let you and I talk together, please. I think that is important.

But you understand what I am saying. This is an attempt. You say it is not bid on. If there is a report from the GAO that says the taxpayer didn't get the best bang for their buck, then let us see that.

Mr. WAXMAN. I think you and I read the report in a different way because it seems to me the GAO has reported a number of instances of excessive costs, and that is what bothers me.

Mr. YOUNG. Some of those instances were requirements of the agency which let the contract. Let us say for a defense contract for security, they let that contract and they required further training of the people in the guard positions, which costs more.

I am just saying, when you study this, make sure that the agency that requested the contract, make sure that they are not the ones that caused the higher cost. They created the higher cost, and I think you will hear that testimony.

Mr. WAXMAN. Well, I want to see competition, and I want to see costs held down.

Mr. YOUNG. I understand.

Mr. WAXMAN. That is the objective, and I think it is an important one.

Mr. YOUNG. Yes.

Chairman TOM DAVIS. Chairman Manzullo.

Chairman MANZULLO. I guess my concern is it is not just 8(a) versus 8(a); it is Alaska and the ANC 8(a) versus other small businesses. I mean 1 of the 154 ANCs is Chenega Technology Services.

Mr. YOUNG. Chenega.

Chairman MANZULLO. Chenega, of the 2,300 employees who work there, only 33 are Alaskan Natives.

Mr. YOUNG. That is true, and those are 33 more Alaskans who wouldn't be working. Remember, Chenega is a very small, small community. The one thing is it does bring money back into the community. Like I said, I think you will hear testimony later on about the benefit of this.

One of the things that has always concerned me about this is every time there is an act of Congress and it seems as if we are successful in doing what we attempted to do and it becomes a greater success, there seems to be a notion of, well, we didn't mean it to be that successful.

Now, under this act, and they were given this specifically and purposely, they could go above $5 million, so they could in fact be non-competitive if they want to, but they are offering a service. If the agencies come back and say, we are not getting the services, then let us look at it. All due respect to every gentleman who has read that report, there is no one who says they haven't done the services.

You can't expect a village of 300——

Chairman MANZULLO. Let me ask the question.

Mr. YOUNG. OK.

Chairman MANZULLO. The issue is not the quality of the service because if the issue was the quality of the service, then that company would not be getting another contract unless the contracting agent came before this committee or my committee and tried to justify that. The issue is the fairness to the other small businesses. I have an area that I represent, chairman, that in 1980 led the Nation in unemployment at over 25 percent. There are serious issues of unemployment throughout the Continental 48 States in addition to what is going on in Alaska.

As we have been approached to take a look at the ANCs, it is the question of whether or not there is overemphasis upon helping out Alaska as opposed to the rest of the States. In fact, Madeleine Bordallo who represents Guam, natives of her island in Guam tried to get a contract to repair ships, and they were bumped by an ANC. This is Guam.

And so, these issues are coming up all over, literally all over the world as to not the quality of the services nor the fact that the services help out the people that you so ably represent but as to the fairness to the other small businesses and to the other 8(a)'s across the Nation. That is the reason for the hearing.

Mr. YOUNG. I understand that. I will just leave you guys alone. I am just suggesting respectfully that if the other small businesses could do this, it might be all right, but these contracts are let to get the best result. I thought we were here to save the taxpayers some money, and they are doing the job.

No one can show me, and your staff has read that report. They have not been charged with not fulfilling the obligation with which they were charged by the agency which contracted with them. You will hear from the agencies, I hope. If there is one person per agency who says they haven't done the job, I would like to hear because I have asked each one of them. Have they or have they not done the job? They have always said they have done a great job. They have a good rapport. I thought that was also part of the hearing.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you for the historical context of this. I think sometimes as we get caught up in this, we need to understand historically how this came to be and what it was trying to do. We appreciate it, and anything else you would like in the record, we would be happy to submit.

Mr. YOUNG. Thank you.

Chairman TOM DAVIS. Thank you.

The Health Centers Renewal Act is a 15 minute vote, followed by a 5 minute vote on the Children's Hospital GME Support Reauthorization Act.

So we have an hour. Let us get our first panel up here. Thank you very much.

So, we have votes at 2:30, and I think we can get through this. Let us start with the first panel: Mr. David Cooper, Director of Acquisition and Sourcing Management at the GAO; Mr. Calvin Jenkins, the Deputy Associate Deputy Administration of the Office of Government Contracting and Business Development, Small Business Administration; Mr. Frank Ramos who is the Director of the SBA Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense; and Ms. Melodee Stith, the Associate Director of Acquisition and Financial Assistance in the Office of Acquisition and Property Management, U.S. Department of the Interior.

It is our policy that we swear you in before you testify, if you would just rise and raise your hands and if there is anyone with you who may be advising you on anything.

[Witnesses sworn.]

Chairman TOM DAVIS. Mr. Jenkins, we will start with you. Your entire written statement is in the record. You will have a light in front of you that turns green when you start, orange after 4 minutes, red after 5 minutes. If we can keep to that, I think we can get through this panel before the first votes and maybe swear in the second panel. If you need longer, we don't mind, if you think it is important. Thank you for your work on this.

STATEMENTS OF CALVIN JENKINS, DEPUTY ASSOCIATE DEPUTY ADMINISTRATOR, OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, SMALL BUSINESS ADMINISTRATION; DAVID COOPER, DIRECTOR, ACQUISITION AND MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE; FRANK RAMOS, DIRECTOR, SMALL BUSINESS PROGRAMS, OFFICE OF THE UNDER SECRETARY OF DEFENSE, ACQUISITION, TECHNOLOGY, AND LOGISTICS, DEPARTMENT OF DEFENSE; AND MELODEE STITH, ASSOCIATE DIRECTOR, ACQUISITION AND FINANCIAL ASSISTANCE, OFFICE OF ACQUISITION AND PROPERTY MANAGEMENT, DEPARTMENT OF INTERIOR

STATEMENT OF CALVIN JENKINS

Mr. JENKINS. Chairman Manzullo, Chairman Davis, and Ranking Member Velazquez, Ranking Member Waxman, and members of the Small Business and Government Reform Committees, thank you for inviting me here today to discuss the participation of the Alaska Native Corporations [ANCs], in the 8(a) business development program.

The 8(a) program was enacted during the 1960's to assist eligible small businesses' concerns to compete in the American economy through business development. The Small Business Act authorized SBA to develop business ownership among groups that own and control little productive capital.

Individual applicants must demonstrate social and economic disadvantage. Although some groups are presumed to be socially disadvantaged, they as well as other applicants must demonstrate economic disadvantage. ANC-owned firms are deemed by statute to be

socially and economically disadvantaged. All U.S. citizens who can demonstrate social and economic disadvantage as well as comply with other eligibility requirements are welcome to apply for participation in the 8(a) program.

In addition to management and technical assistance provided under the program, certified 8(a) firms may be eligible to receive contracts that Federal agencies offer for the 8(a) program. Furthermore, under 8(a) program, the Government is able to award contracts to participating firms without competition below a certain dollar threshold. Also, the government can restrict competition for Federal contracts above stated dollar thresholds to 8(a) certified firms.

In 1986, a significant change was made to the 8(a) program when Congress enacted legislation that allowed agencies, Native Hawaiian organizations, community development corporations, and tribally owned firms to participate in the 8(a) program to force the economic development to respective communities. Since 1986, Congress has extended special procurement advantages 8(a) ANC firms.

The 8(a) program design anticipates that organizational-owned firms including ANCs will utilize the program to provide economic development to their respective communities. All other 8(a) participating firms utilize the program to receive individual business development assistance.

I must emphasize that, as the law is currently written, the 8(a) program is simultaneously providing business development to disadvantaged individuals while also providing regional or community economic development to organizational-owned firms including ANCs.

The GAO report addressed some of the differences I have mentioned. The report also states that ANCs have utilized the 8(a) program to improve local economic conditions and provide increased social services to Alaskan Natives. The report notes that Federal contract dollars obligated to firms owned by ANCs grew from $265 million in fiscal year 2000 to $1.1 billion in fiscal year 2004. Importantly, there is no indication within this report of wrongdoing by any participants in this program. In fact, the issues addressed in the report come from activities that are part of the program as Congress designed it.

The GAO report failed to note the significant increase in Federal contract dollars to other groups during the same period of time. In fiscal year 2004, women-owned small businesses grew from $5.5 billion to $9.1 billion; service-disabled veteran small businesses grew from $554 million to $1.2 billion; HUBZone firms grew from $1.6 billion to $4.8 billion; and overall, small businesses grew from $50.1 billion to $69.2 billion.

The Federal Government achieved its goal during fiscal year 2003 and 2004 that 23 percent of its prime contracting dollars were awarded to businesses that certified as small businesses including ANCs. Though there is a small disadvantaged business goal which includes 8(a), there is no small goal for 8(a). However, in fiscal year 2004, 8(a) were awarded $8.4 billion of the SDB achievement of $18.5 billion.

Information recently released by SBA indicates that the 8(a) program has increased from Fiscal year 2004 to fiscal year 2005 by $2.1 billion.

Frankly, I would like to talk about oversight. The SBA takes its oversight responsibility very seriously. Prior to the release of the GAO report, the SBA had taken a number of steps to improve the oversight of the 8(a) program, including taking into consideration special provisions afforded to 8(a) concerns owned and controlled by ANCs, Native Hawaiian organizations, CDCs, and Indian tribes.

For instance, the agency is revising its partnership agreement, delegating 8(a) authority from SBA to various Federal procuring agencies to clarify their role and responsibility for monitoring contract compliance of and performance by 8(a) firms. SBA has also increased training to field staff responsible for working on the 8(a) issues. In addition, the agency is exploring possible regulatory changes that will strengthen the program and increase SBA's oversight capabilities. SBA also recently installed a new management, a new experienced management team to oversee the 8(a) program.

In closing, let me emphasize SBA's responsibilities to implement the existing law.

Thank you for allowing me to share SBA's reviews with you today, and I will be happy to answer any questions you have.

[The prepared statement of Mr. Jenkins follows:]

Statement of
Calvin Jenkins
Deputy Associate Deputy Administrator,
Office of Government Contracting and Business Development
U.S. Small Business Administration
ANC Participation in the 8(a) Business Development Program

Chairman Manzullo, Chairman Davis, Ranking Member Velazquez, Ranking Member Waxman, and members of the Small Business and Government Reform Committees, thank you for inviting me here today to discuss the participation of Alaska Native Corporations (ANC) in the 8(a) Business Development Program.

I will begin with a quick overview of SBA's 8(a) Business Development Program or the 8(a) program as it is commonly referred. The 8(a) program was enacted during the 1960s to assist eligible small disadvantaged business concerns to compete in the American economy through business development. The Small Business Act authorizes SBA to develop business ownership among groups that own and control little productive capital. Individual applicants must demonstrate social and economic disadvantage. Although some groups are presumed to be socially disadvantaged, they, as well as all other applicants, must also demonstrate economic disadvantage. ANCs, Native Hawaiian Organizations (NHOs), Community Development Corporations (CDCs) and Tribally-owned 8(a) firms are deemed by statute to be socially and economically disadvantaged. In addition, all U.S. citizens who can demonstrate social and economic disadvantage as well as compliance with the other eligibility requirements are welcome to apply for participation in the 8(a) program. Besides the management and technical assistance provided under the program, firms that are certified for 8(a) program participation may be

eligible to receive contracts that Federal agencies offer to SBA for the 8(a) program. Furthermore, an important component of the 8(a) program is the government's ability to award contracts to participating firms without competition below a certain dollar threshold. By statute, the government is also authorized to restrict competition for Federal contracts above stated dollar thresholds to 8(a)-certified firms.

In 1986 a significant change was made to the 8(a) program when Congress enacted legislation that allowed ANCs, NHOs, CDCs and Tribally-owned firms to participate in the 8(a) program. Congress intended this legislation to foster economic development to respective communities.

Since enactment of the law, Congress has extended special procurement advantages to 8(a) ANC firms, such as the ability to win sole-source contracts for any dollar amount. In comparison, non ANC-owned 8(a) firms can receive sole-source contracts for up to $5 million for manufacturing or $3 million for all other contracts. Additionally, for non-ANC 8(a) firms, procurements must be competed whenever possible before being accepted on a sole-source basis while for ANC-owned 8(a) firms, procurements need not be competed before being accepted on a sole-source basis. Another way ANC-owned firms differ from non-ANC 8(a) firms: there is no limit on the number of firms an ANC 8(a) participant may own as long as each business is in a different primary industry. Moreover, the president or CEO of a non-ANC 8(a) must be a disadvantaged individual, whereas the management of an ANC-owned 8(a) firm need not be a disadvantaged individual.

The primary difference between ANC-owned 8(a) firms and non ANC-owned firms lies in the intent of their participation in the 8(a) program. The 8(a) program design anticipates that organization owned firms, including ANC's will utilize the program to provide economic development to their respective communities. All other 8(a) participant firms utilize the program to receive individual business development, as was the initial intent of Congress. Again, I must emphasize that as the law is currently written, the 8(a) program is simultaneously providing a business development program to disadvantaged individuals while also providing regional or community economic development to organization owned firms including ANCs.

The GAO Report published in April of this year entitled "Increased Use of Alaska Native Corporations' Special 8(a) Provisions Call for Tailored Oversight" addresses some of the differences I just mentioned. The report also states that ANCs have utilized the 8(a) program to improve local economic conditions and provide increased social services to Alaskan Natives. The report notes that Federal contract dollars obligated to firms owned by ANCs grew from $265 million in FY 2001 to $1.1 billion in FY 2004. Importantly, there is no indication within this report of wrongdoing by any participant in this program. In fact, the issues addressed in the report come from activities that are part of the program as Congress designed it.

Also, significant increases in Federal contract dollars went to other groups during the same period of time. In FY 2004 women-owned small businesses grew from $5.5 billion to $9.1 billion, service-disabled veteran-small businesses grew from $554 million to $1.2 billion, HUBZone firms grew from $1.6 billion to $4.8 billion, and overall small business grew from $50.1 billion to $69.2 billion. The Federal Government achieved its goal during FY 2003 and FY 2004 that 23 percent of its prime contracting dollars were awarded to businesses that qualified as small businesses, including ANC's. Though there is a small disadvantaged business goal which includes the 8(a) program, there is no separate goal for 8(a). However, in FY 2004, 8(a) firms were awarded $8.4 billion of the SDB achievement of $18.5 billion.

Finally, I'd like to talk about oversight. The SBA takes its oversight responsibility over Federal procurement programs very seriously. Prior to the release of the GAO Report, the Agency had taken a number of steps to improve the oversight of the 8(a) program, including taking into consideration special provisions afforded to 8(a) concerns owned and controlled by ANC's, NHO's, and Indian tribes. For instance, the Agency is revising its Partnership Agreements, which delegate 8(a) contracting authority from SBA to various Federal procuring agencies, to clarify their roles and responsibilities for monitoring contract compliance of and performance by 8(a) firms. SBA has also increased training to field staff responsible for working on 8(a) issues. In addition, the Agency is exploring possible regulatory changes that will strengthen the program and increase SBA's oversight capabilities. SBA also recently installed a new, experienced management team to oversee the 8(a) program.

SBA is committed to continue implementing the laws governing the 8(a) program as Congress intended them. We would also like to ensure that through our oversight and administration of the program, all 8(a) participants receive the assistance that Congress intended.

Thank you for allowing me to share SBA's views with you today and I am happy to answer your questions.

Chairman TOM DAVIS. Thank you.
Mr. Cooper.

STATEMENT OF DAVID COOPER

Mr. COOPER. Chairman Davis, Chairman Manzullo, Ranking Member Waxman, and Ranking Member Velazquez, and members of both committees, it is a pleasure to be here this afternoon to share with you and discuss the results of the GAO review on Alaska Native Corporations' participation in the 8(a) program.

In response to your request, we issued a report in April that shows that Federal agencies are turning increasingly to ANC 8(a) firms to meet their requirements and to do their contracts. Although representing a small portion of the total Federal procurement spending obligations, obligations to ANC firms increased from $265 million in 2000 to $1.1 billion 2004. During that 5-year period, Federal agencies obligated a total of $4.6 billion to ANC 8(a) firms, of which $2.9 billion of that went through the 8(a) program. In 2004, the amount of obligations to 8(a) ANC firms represented about 13 percent of total 8(a) business.

The ANCs are using the 8(a) program as one of many tools to generate revenue with the goal of benefiting or providing benefits to Alaskan Natives, their shareholders. Benefits take many forms including dividend payments, scholarships, elder support, and cultural preservation, and there is no doubt, because I visited some of the villages, that the revenues from the 8(a) program have benefited the communities in Alaska. Appendix 10 in our April report contains a detailed description of the kinds of benefits that have been provided.

Since 1986, when ANC firms were permitted to participate in the 8(a) program, Congress has extended procurement advantages to those firms beyond those afforded to other 8(a) businesses. For example, ANC firms are permitted to receive non-competitive contracts without any limits, whereas other 8(a) businesses are subject to a competitive threshold of $3 million or $5 million if it is a manufacturing contract. ANCs can also own multiple firms participating in the 8(a) program, and as Chairman Manzullo pointed out, there has been a significant growth in the number of firms doing that.

While these advantages have been controversial, I want to be clear that GAO is not challenging them. Congress passed those provisions to allow the ANCs to provide economic development and benefits to their shareholders.

However, our work shows that Federal agency contracting officials need to do a better job of complying with certain requirements that are intended to preclude abuses of the 8(a) program. Specifically, I am referring to the need for procuring agencies to inform SBA when work under an 8(a) contract is expanded or modified and to monitor the performance of the contract to ensure subcontract limitations are not exceeded. Our work also shows that SBA needs to tailor its oversight to account for ANC's unique status and growth in the program.

For example, we believe SBA needs to track the business industries in which ANC firms have 8(a) contracts to ensure that more than one firm of the same ANC is not generating the majority of

its revenue in the same industry. SBA regulations do not allow an ANC to have more than one firm operating in the same primary industry.

We also believe SBA needs to more consistently determine whether other small businesses are losing contract opportunities and to collect better information about the 8(a) program.

During our review, SBA officials recognized that ANC firms enter into more complex business relationships than other 8(a) companies and told us they faced a challenge in overseeing the increased activity. The officials agreed that improvements are needed in their oversight and said they are considering various actions in that regard.

We have made several recommendations in our April report to both the procuring agencies and to SBA to improve oversight and ensure that firms are operating in the 8(a) program as it was intended.

That concludes my statement. I will be glad to answer any questions you might have.

[The prepared statement of Mr. Cooper follows:]

United States Government Accountability Office

GAO

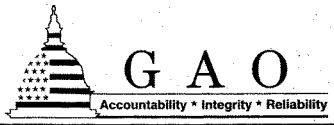
Testimony before the Committees on Government Reform and Small Business, House of Representatives

For Release on Delivery
Expected at 1:00 p.m. EDT
Wednesday, June 21, 2006

ALASKA NATIVE CORPORATIONS

Increased Use of Special 8(a) Provisions Calls for Tailored Oversight

Statement of David E. Cooper, Director
Acquisition and Sourcing Management



GAO-06-874T

GAO
Accountability·Integrity·Reliability
Highlights

Highlights of GAO-06-874T, a testimony before the Committees on Government Reform and Small Business, House of Representatives

Why GAO Did This Study

Alaska Native corporations (ANC) were created to settle land claims with Alaska Natives and foster economic development. In 1986, legislation passed that allowed ANCs to participate in the Small Business Administration's (SBA) 8(a) program. Since then, Congress has extended special procurement advantages to 8(a) ANC firms, such as the ability to receive sole-source contracts for any dollar amount and to own multiple subsidiaries in the 8(a) program. We were asked to testify on an earlier report where we identified (1) trends in the government's 8(a) contracting with ANC firms, (2) the reasons agencies have awarded 8(a) sole-source contracts to ANC firms and the facts and circumstances behind some of these contracts, and (3) how ANCs are using the 8(a) program. GAO also evaluated SBA's oversight of 8(a) ANC firms.

GAO made recommendations aimed at improving SBA's oversight of 8(a) ANC contracting activity and ensuring that procuring agencies properly oversee 8(a) contracts they award to ANC firms. The procuring agencies generally agreed with our recommendation. SBA expressed concern with aspects of the report and disagreed with several of our recommendations.

We believe implementation of our recommendations would provide better oversight of 8(a) ANC contracting activity and provide decision makers with information to know whether the program is operating as intended.

www.gao.gov/cgi-bin/getrpt?GAO-06-874T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact David Cooper at (202) 512-4841 or cooperd@gao.gov.

June 21, 2006

ALASKA NATIVE CORPORATIONS

Increased Use of Special 8(a) Provisions Calls for Tailored Oversight

What GAO Found

While representing a small amount of total federal procurement spending, obligations for 8(a) contracts to ANC firms increased from $265 million in fiscal year 2000 to $1.1 billion in 2004. Over the 5-year period, agencies obligated $4.6 billion to ANC firms, of which $2.9 billion, or 63 percent, went through the 8(a) program. During this period, six federal agencies—the departments of Defense, Energy, the Interior, State, and Transportation and the National Aeronautics and Space Administration—accounted for over 85 percent of 8(a) contracting activity. Obligations for 8(a) sole source contracts by these agencies to ANC firms increased from about $180 million in fiscal year 2000 to about $876 million in fiscal year 2004.

ANCs use the 8(a) program as one of many tools to generate revenue with the goal of providing benefits to their shareholders. Some ANCs are heavily reliant on the 8(a) program for revenues, while others approach the program as one of many revenue-generating opportunities. GAO found that some ANCs have increasingly made use of the congressionally authorized advantages afforded to them. One of the key practices is the creation of multiple 8(a) subsidiaries, sometimes in highly diversified lines of business. From fiscal year 1988 to 2005, ANC 8(a) subsidiaries increased from one subsidiary owned by one ANC to 154 subsidiaries owned by 49 ANCs.

In general, acquisition officials at the agencies reviewed told GAO that the option of using ANC firms under the 8(a) program allows them to quickly, easily, and legally award contracts for any value. They also noted that these contracts help them meet small business goals. In reviewing selected large sole-source 8(a) contracts awarded to ANC firms, GAO found that contracting officials had not always complied with certain requirements, such as notifying SBA of contract modifications and monitoring the percentage of work that is subcontracted.

SBA, which is primarily responsible for implementing the 8(a) program, has not tailored its policies and practices to account for ANCs' unique status and growth in the 8(a) program, even though SBA officials recognize that ANCs enter into more complex business relationships than other 8(a) participants. Areas where SBA's oversight has fallen short include determining whether more than one subsidiary of the same ANC is generating a majority of its revenue in the same primary industry, consistently determining whether awards to 8(a) ANC firms have resulted in other small businesses losing contract opportunities, and ensuring that the partnerships between 8(a) ANC firms and large firms are functioning in the way they were intended.

Mr. Chairmen and Members of the Committees:

I am pleased to be here today to discuss our work on Alaska Native Corporation (ANC) 8(a) firms. In December 1971, Congress enacted the Alaska Native Claims Settlement Act to resolve long-standing aboriginal land claims and to foster economic development for Alaska Natives. This legislation created ANCs, which would become the vehicle for distributing land and monetary benefits to Alaska Natives in lieu of a reservation system. As of December 2005, there were 13 regional ANCs and 182 village, urban, and group corporations.

In 1986, legislation was enacted that allowed ANC-owned firms to participate in the Small Business Administration's (SBA) 8(a) program—one of the federal government's primary means for developing small businesses owned by socially and economically disadvantaged individuals. Since then, Congress has extended special procurement advantages to ANC firms. For example, ANC firms are permitted to receive noncompetitive contracts for any amount, whereas other 8(a) companies are subject to competitive thresholds of $3 million or $5 million for manufacturing contracts. ANCs can also own multiple subsidiaries participating in the 8(a) program,[1] unlike other 8(a) firms that may own only one and no more than 20 percent of another 8(a) firm.

I want to make it clear up front that we are not challenging the policies or legislation that provided ANCs with their special advantages. Congress made the advantages available, and it will be a congressional decision about what, if any, changes should be made.

Our recent report on 8(a) ANC contracting identified (1) trends in contracting with ANC firms, (2) the reasons agencies have awarded 8(a) sole-source contracts to ANC firms and the facts and circumstances behind some of these contracts, and (3) how ANCs are using the 8(a) program.[2] We also evaluated SBA's oversight of 8(a) ANC firms. Today I will discuss some of the information in our report and needed improvements in SBA's oversight of ANC 8(a) contracting activity.

[1]Each 8(a) ANC firm must be in a different primary industry.

[2]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).

To address the objectives of our recent report, we obtained data on federal 8(a) contracting with ANCs from the Federal Procurement Data System and agencies. We also analyzed 16 sole-source 8(a) contracts awarded to ANC firms from the departments of Defense, Energy, the Interior, State, Transportation, Homeland Security and National Aeronautics and Space Administration (NASA). We met with executives of 13 regional ANCs and 17 village or urban corporations. Our April 2006 report, on which this testimony is based, was prepared in accordance with generally accepted government auditing standards.

ANC Trends in and Use of 8(a) Contracting

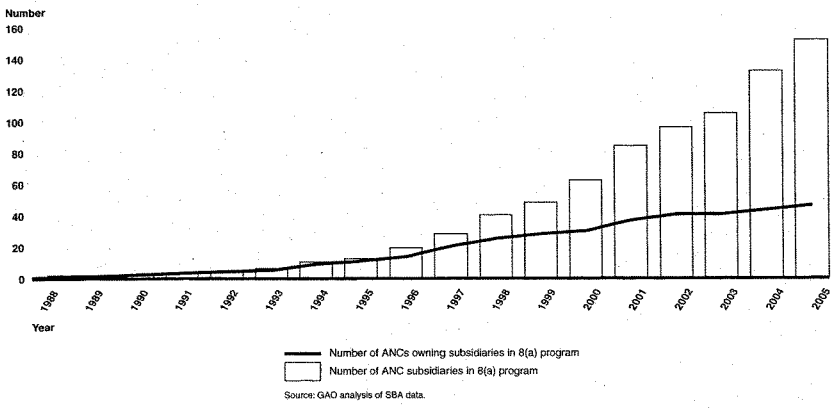
While 8(a) ANC contracting represents a small amount of total federal procurement spending—which totaled more than $341 billion in fiscal year 2004—dollars obligated for ANC firms' contracts through the 8(a) program grew from $265 million in fiscal year 2000 to $1.1 billion in 2004. Overall, during the 5-year period, the government obligated $4.6 billion for ANC firms' contracts, of which $2.9 billion, or 63 percent, went through the 8(a) program.

During this period, six federal agencies—the departments of Defense, Energy, the Interior, State, and Transportation and the National Aeronautics and Space Administration—accounted for over 85 percent of 8(a) ANC contracting activity. Obligations for 8(a) sole source contracts by these agencies to ANC firms increased from about $180 million in fiscal year 2000 to about $876 million in fiscal year 2004.

ANCs use the 8(a) program as one of many tools to generate revenue with the goal of benefiting their shareholders. Some ANCs are heavily reliant on the 8(a) program for revenues, while others approach the program as one of many revenue-generating opportunities, such as investments in stocks or real estate. ANCs are using the congressionally authorized advantages afforded to them, such as ownership of multiple 8(a) subsidiaries[3], sometimes in diversified lines of business. From fiscal year 1988 to 2005, numbers increased from one 8(a) subsidiary owned by one ANC to 154 subsidiaries owned by 49 ANCs. Figure 1 shows the recent growth in ANCs' 8(a) subsidiaries.

[3] In this testimony, "ANC" refers to the parent corporation. The term "ANC firm" denotes a business owned by an ANC. We use the term "ANC firm" and "subsidiary" interchangeably.

Figure 1: Number of ANC Parent Corporations and Subsidiaries Active in the 8(a) Program, 1988 to 2005



Source: GAO analysis of SBA data.

ANCs use their ability to own multiple businesses in the 8(a) program, as allowed by law, in different ways. For example, some ANCs

- have created a second subsidiary to win follow-on work from a graduating subsidiary;[4]
- wholly own their 8(a) subsidiaries, while others invest in partially-owned subsidiaries; and

[4] There is a 9-year limit to participation in the 8(a) program; firms could graduate earlier if they outgrow the industry size standards.

- diversify their subsidiaries' capabilities to increase opportunities to win government contracts in various industries.

Contract Execution Issues

Our review of 16 large sole-source contracts awarded by 7 agencies found that agency officials view contracting with 8(a) ANC firms as a quick, easy, and legal way to award contracts while at the same time helping their agencies meet small business goals.[5]

SBA delegates the contract execution function to federal agencies, although SBA remains primarily responsible for implementing the 8(a) program. We found that contracting officials had not always complied with requirements to notify SBA when modifying contracts, such as increasing the scope of work or the dollar value, and to monitor the percentage of the work performed by 8(a) firms versus their subcontractors. For example:

- Federal regulation requires that when 8(a) firms subcontract under an 8(a) service contract, they incur at least 50 percent of the personnel costs with their own employees.[6] The purpose of this provision, which limits the amount of work that can be performed by the subcontractor, is to insure that small businesses do not pass along the benefits of their contracts to their subcontractors. For the 16 files we reviewed, we found almost no evidence that the agencies are effectively monitoring compliance with this requirement. In general, the contracting officers we spoke with were confused about whose responsibility it is.

- Agencies are also required to notify SBA of all 8(a) contract awards, modifications, and exercised options. We found that not all contracting officers were doing so. In one case, the Department of Energy contracting officer had broadened the scope of a contract a year after award, adding 10 additional lines of business that almost tripled the value of the contract. These changes were not coordinated with SBA.

Two reports we recently issued further illustrate the need for diligence on the part of contracting officers when considering 8(a) awards to ANC firms. One report addressed the Army's three-phased approach for hiring

[5]ANC firms in the 8(a) program are deemed by law or statute as socially and economically disadvantaged. Awards to these firms are credited to agencies' small business goals.

[6]For general construction, the 8(a) firm is required to incur at least 15 percent of the personnel costs.

contract security guards. In the first phase, the Army awarded noncompetitive 8(a) contracts to two ANC firms; these firms in turn subcontracted with large security guard companies.[7] In the second phase, the Army obtained guards under full and open competition, but turned again to the 8(a) noncompetitive contracts for the third phase, despite knowing that it was paying about 25 percent more for these contracts than for the competitively awarded ones. The total value of the contracts with the ANC firms is almost $495 million, accounting for about two-thirds of the Army's total procurement activity for security guards.

In response to a tip we received on our fraud hotline about potentially inflated prices for temporary Mississippi school classrooms after Hurricane Katrina, we looked into the facts and circumstances of the contract award.[8] We found that the Army Corps of Engineers (the Corps), faced with a compressed time frame for acquiring classrooms and no prior knowledge about the acquisition, had turned to an 8(a) ANC firm. The Corps accepted the firm's proposed price of $39.5 million, even though it had information that the cost for the classrooms was significantly less than what the firm was charging.

SBA Lacks Oversight of 8(a) ANC Activity

SBA has not tailored its policies and practices to account for ANCs' unique status and growth in the 8(a) program, even though officials recognize that ANC firms enter into more complex business relationships than other 8(a) participants. SBA officials told us that they have faced a challenge in overseeing the activity of the 8(a) ANC firms because ANCs' charter under the Alaska Native Claims Settlement Act is not always consistent with the business development intent of the 8(a) program. The officials noted that the goal of ANCs—economic development for Alaska Natives from a community standpoint—can be in conflict with the primary purpose of the 8(a) program, which is business development for individual small, disadvantaged businesses.

SBA's oversight has fallen short in that it does not:

[7]GAO, *Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach*, GAO-06-284, (Washington, D.C.: Apr. 3, 2006).

[8]GAO, *Hurricane Katrina: Army Corps of Engineers Contract for Mississippi Classrooms*, GAO-06-454,(Washington, D.C.: May 1, 2006).

- track the business industries in which ANC subsidiaries have 8(a) contracts to ensure that more than one subsidiary of the same ANC is not generating the majority of its revenue under the same primary industry code;
- consistently determine whether other small businesses are losing contracting opportunities when large sole-source contracts are awarded to 8(a) ANC firms;
- adhere to a statutory and regulatory requirement to ascertain whether 8(a) ANC firms, when entering the 8(a) program or for each contract award, have, or are likely to obtain, a substantial unfair competitive advantage within an industry;[9]
- ensure that partnerships between 8(a) ANC firms and large firms are functioning in the way they were intended under the 8(a) program; and
- maintain information on ANC 8(a) activity.

SBA officials from the Alaska district office reported to headquarters in the most recent quality service review that the makeup of their 8(a) portfolio is challenging and requires more contracting knowledge and business savvy than usual because the majority of the firms they oversee are owned by ANCs and tribal entities. The officials commented that these firms tend to pursue complex business relationships and tend to be awarded large and often complex contracts. We found that the district office officials were having difficulty managing their large volume and the unique type of work in their 8(a) portfolio. When we began our review, SBA headquarters officials responsible for overseeing the 8(a) program did not seem aware of the growth in the ANC 8(a) portfolio and had not taken steps to address the increased volume of work in their Alaska office.

Conclusion and Recommendations

ANCs are increasingly using the contracting advantages Congress has provided them. Our work shows that procuring agencies' contracting officers are in need of guidance on how to use these flexible contracting methods while exercising diligence to ensure that taxpayer dollars are spent effectively. Equally important, significant improvements are needed in SBA's oversight of the program. Without stronger oversight, there is the potential for abuse and unintended consequences.

[9] This requirement is set forth in the Small Business Act (15 U.S.C. § 636(j)(10)(J)(ii)(II)).

We made recommendations to SBA on actions that can be taken in revising its regulations and policies as well as ways to improve practices pertaining to its oversight of ANC 8(a) procurements. We also recommended that procuring agencies provide guidance to contracting officers to ensure proper oversight of ANC contracts. The procuring agencies generally agreed with the recommendation. SBA took issue with some aspects of the report and disagreed with several of our recommendations. We believe implementation of our recommendations would provide better oversight of ANC 8(a) activity and provide information that would allow decision makers to know whether the program is operating as intended.

This concludes my testimony. I would be happy to answer any questions you may have.

Contacts and Staff Acknowledgements

For further information regarding this testimony, please contact David E. Cooper at (202) 512-4841 or cooperd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors were Michele Mackin, Sylvia Schatz, and Tatiana Winger.

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "Subscribe to Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are $2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Gloria Jarmon, Managing Director, JarmonG@gao.gov (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, D.C. 20548

Public Affairs

Paul Anderson, Managing Director, AndersonP1@gao.gov (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, D.C. 20548

PRINTED ON RECYCLED PAPER

Chairman TOM DAVIS. Thank you very much.
Mr. Ramos.

STATEMENT OF FRANK RAMOS

Mr. RAMOS. Chairman Davis, Ms. Velazquez, Chairman Manzullo, Mr. Waxman, and distinguished members of both committees, it is an honor to speak before you about the Department of Defense's interactions with Alaska Native Corporations [ANCs].

ANCs are a part of a talented pool of entrepreneurs and business people and, by law, are considered part of the small business community. The important contributions made by small businesses have firmly established them as an integral part of the Department of Defense warfighting mission and the American economy. The Department of Defense is committed to providing our men and women in uniform with the best technology, products, and services that are available to us. The Department looks to dependable small businesses, including ANC-owned firms participating in the Small Business Administration's 8(a) business development program, as suppliers of the innovation needed to deliver technology into the hands of the warfighters.

Congress has enacted legislation over the years enabling the Department to offer greater procurement opportunities to small business, and I thank you for this.

Through the authority you have granted and the guidance you have provided, we have been able to successfully leverage the capabilities of small business in a number of technological areas such as composite materials, modeling and simulation, unmanned aerial vehicles, and robotics. This has served to strengthen the defense industrial base.

I am also pleased to note that the small business program has a record-breaking performance for fiscal year 2005. The information just released today from the Department of Defense prime contracted awards was recorded at 24.5 which is a historical record. Our prime contracting dollars is $52.9 billion, and this is information as released by the SBA and OMB, and I checked with OMB before I released this information.

Now, let me focus on the areas of interest relative to 8(a) ANC firms participating in the SBA 8(a) program. There are three key pieces of legislation that set forth parameters for doing business with the 8(a) ANCs by the Federal Government including DOD. They are the Small Business Act, the Alaskan Native Claim Settlement Act, and the Business Opportunity Development Reform Act. I will not go into the details of each of the acts as they have been clearly addressed by GAO in your letter of invitation.

However, I would like to reference the basis of that statute that permits all Federal agencies, including DOD, to transact business with Native Americans, specifically ANCs, and that is Section 602 of the Business Opportunity Development Act, which states that "These dollar thresholds shall not apply to programs participants that are owned and controlled by economically disadvantaged Indian tribes."

The Business Opportunity Reform Act of 1988 limits sole-source authority for traditional 8(a) program participants to $5 million for manufacturing, $3 million for other goods and services. The act

permits concerns that are owned by either tribes or Alaska Native Corporations to receive 8(a) sole-source contracts beyond those dollar thresholds.

I would like clarify why I did not answer the questions in the letter of invitation. I viewed, in general, that the questions posed are best responded to by those Federal agencies that may such program assessments for the Federal Government. However, if you have specific questions pertaining to the Department of Defense, I will be glad, I will be happy to answer those questions.

I view my role as a chief small business advocate for the Secretary of Defense is to ensure that our Department's acquisitions system affords every small business seeking DOD contracts every privilege that they are entitled to under the law as passed by Congress. I believe that the Department of Defense has diligently attempted to meet that requirement to the best of our ability.

I look forward to your questions. Thank you.

[The prepared statement of Mr. Ramos follows:]

Testimony of

Frank M. Ramos
Director, Small Business Programs

Office of the Under Secretary of Defense
Acquisition, Technology & Logistics
Department of Defense

Joint Hearing of the

U.S. House of Representatives Committee on Government Reform
and
U.S. House of Representatives Committee on Small Business

on
"Alaska Native Corporations (ANCs) – Federal Contract Awards"

June 21, 2006

FOR OFFICIAL USE ONLY
UNTIL RELEASED JOINTLY
BY THE COMMITTEES

Chairman Davis and Chairman Manzullo and distinguished Members of both Committees.

It is an honor to speak before you about Department of Defense (DoD) interactions with Alaska Native Corporations (ANCs). ANCs are a part of a talented pool of entrepreneurs and business people and by law are considered part of the small business community. The important contributions made by small business have firmly established them as an integral part of DoD's warfighting mission and the American economy.

The Department of Defense is committed to providing our men and women in uniform with the best technology, products and services available. The Department looks to dependable small businesses, including ANC-owned firms participating in the Small Business Administration's (SBA) 8(a) Business Development Program, as suppliers of the innovation needed to deliver technology into the hands of our warfighters.

Congress has enacted legislation over the years enabling the Department to offer greater procurement opportunities for small business. I thank you for this.

Through the authority you have granted and the guidance you have provided, we have been able to leverage the capabilities of small business in a number of technological areas such as composite materials, modeling and simulation, unmanned aerial vehicles, and robotics. This has served to strengthen the defense industrial base. I am also pleased to note that the DoD small business program has had a record-breaking performance for Fiscal Year 2005. In Fiscal Year 2005, 24.445% of DoD's awards or $52.9B were made to small business.

Legislative Influences on DoD's Administration of 8(a) ANC Awards

Now let me address your specific area of interest relative to 8(a) ANC firms participating in the Small Business Administration's (SBA) 8(a) Business Development Program.

The following three key pieces of legislation set forth the parameters for doing business with 8(a) ANCs:

- The Small Business Act
- The Alaska Native Claims Settlement Act
- The Business Opportunity Development Reform Act

I will address each of these individually.

The Small Business Act

Section 8(a) of the Small Business Act, enacted in 1968, created the 8(a) Program. This program is a resource used by DoD and other Federal Agencies to assist in developing small businesses that are owned by socially and economically disadvantaged individuals. The goal of the 8(a) Program is to help eligible small disadvantaged firms become independently competitive in the American economy through business development.

The Alaska Native Claims Settlement Act

In 1971, Congress enacted the Alaska Native Claims Settlement Act to resolve long-standing aboriginal land claims and to foster economic growth for Alaska Natives. This legislation created Alaska Native Corporations, which became the means for distributing land and monetary compensation to Alaska Natives in lieu

of a reservation system. As of December 2005, there are 13 regional corporations and 182 village, urban, and group corporations.

The Business Opportunity Development Reform Act

Section 303 of the Business Opportunity Development Reform Act of 1988 amended the Small Business Act as follows:

"A contract opportunity offered for award pursuant to this subsection shall be awarded on the basis of competition restricted to eligible program participants if...

(I) there is a reasonable expectation that at least two eligible Program participants will submit offers and that award can be made at a fair market price, and

(II) the anticipated award price of the contract (including options) will exceed $5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities..."

Section 602 of the Business Opportunity Development Act states these dollar thresholds "...shall not apply to Program participants that are owned and controlled by economically disadvantaged Indian tribes..."

In other words, the Business Opportunity Development Reform Act of 1988 limits sole source authority for traditional 8(a) Program participants to $5M for manufacturing and to $3M for other good and services. Importantly, for the purposes of this hearing, the

Act permits concerns that are owned by either tribes of Alaskan Native Corporations to receive 8(a) sole source contracts beyond these dollar thresholds.

Conclusion

I recognize that Congress has an interest in the legal privileges available to and the part they play in the DoD small business program. I have described the special procurement advantages that Congress has extended to 8(a) ANCs. These legislative advantages are part of the mosaic of opportunities afforded to various disadvantaged suppliers seeking Government contracts. My office's mission is to ensure that our Department's acquisition system affords every small business seeking DoD contracts every privilege they are entitled to under the law.

I look forward to your questions.

Chairman TOM DAVIS. Thank you.
Ms. Stith.

STATEMENT OF MELODEE STITH

Ms. STITH. Messrs. Chairmen, thank you for providing me with the opportunity to present the views of the Department of the Interior on the award of contracts by Federal agencies to Alaska Native Corporations participating in the Small Business Administration 8(a) program.

In December 1971, Congress enacted the Alaskan Native Claims Settlement Act to resolve land claims and to foster economic development for Alaskan Natives. The statute created Alaska Native Corporations as a means for distributing land and monetary benefits to Alaskan Natives in lieu of a reservation system. Since 1986, ANCs have been permitted to participate in the SBA's 8(a) program, a program developed to foster the growth and development of small businesses owned by socially and economically disadvantaged individuals.

By law and regulation, certain limitations that apply to other 8(a)-certified small businesses are not applicable to ANCs. In one example, for most 8(a) firms, sole-source awards are limited to $5 million for manufacturing and to $3 million for other goods and services. Acquisition requirements above these thresholds must be competed among eligible 8(a)-certified small businesses. However, Section 124.506(b) of Title 13 of the Code of Federal Regulations provides an exemption from the sole-source threshold limitation that a procurement be competed before it is awarded on a sole-source basis for tribally owned concerns including ANCs.

Have ANCs been successful in attracting Federal contract awards under the 8(a) program? The answer appears to be a strong affirmative. According to the Government Accountability Office's April 2006 report, "Contract Management Increased Use of Alaska Native Corporations' Special 8(a) Provisions Call for Tailored Oversight," 8(a) obligations to firms owned by ANCs increased from $265 million to $1.1 billion in 2004.

The Department of the Interior has a significant presence in Alaska and considerable interaction with the Alaska Native people. From the standpoint of our responsibilities to Alaskan Natives, we definitely have an interest in providing continuing economic opportunities through Federal contracts.

The GAO identified the need for the Federal contracting community to better understand the nature of ANCs and to mitigate any risk of their misuse under the program.

We concurred with the draft and final GAO report's recommendation made to the Departments of Defense, Energy, Homeland Security, the Interior, State, and Transportation, and the National Aeronautics and Space Administration to work with SBA to develop guidance to agency contracting officers on how to comply with the requirements of 8(a) programs such as limitations on subcontracting and notifying SBA of contract modifications, particularly when contracting with 8(a) ANC firms. In fact, we proposed that an interagency work group be established and headed by SBA to develop this important and much needed guidance for our contracting and small and disadvantaged business utilization and de-

velopment communities. We look forward to partnering with our colleagues in developing the guidance.

Messrs. Chairmen, this concludes my prepared remarks. I will be happy to answer any questions you or other members of the committees might have.

[The prepared statement of Ms. Stith follows:]

STATEMENT OF E. MELODEE STITH, ASSOCIATE DIRECTOR, ACQUISITION AND FINANCIAL ASSISTANCE, OFFICE OF ACQUISITION AND PROPERTY MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BEFORE A JOINT HEARING OF THE COMMITTEE ON GOVERNMENT REFORT AND THE COMMITTEE ON SMALL BUSINESS ON THE AWARD OF CONTRACTS TO ALASKA NATIVE CORPORATIONS (ANCs) PARTICIPATING IN THE SMALL BUSINESS ADMINISTRATION'S 8(a) PROGRAM BY FEDERAL AGENCIES.

JUNE 21, 2006

Messrs. Chairman, thank you for providing me with the opportunity to present the views of the Department of the Interior on the award of contracts by Federal agencies to Alaska Native Corporations (ANCs) participating in the Small Business Administration's (SBA) 8(a) Program.

In December 1971, Congress enacted the Alaska Native Claims Settlement Act to resolve land claims and to foster economic development for Alaska Natives. The statute created Alaska Native Corporations as a means for distributing land and monetary benefits to Alaska Natives in lieu of a reservation system. Since 1986, ANCs have been permitted to participate in the SBA's 8(a) program; a program developed to foster the growth and development of small businesses owned by socially and economically disadvantaged individuals.

By law and regulation, certain limitations that apply to other 8(a) certified small businesses, are not applicable to ANCs. In one example, for most 8(a) firms, sole-source awards are limited to $5 million for manufacturing and to $3 million for other goods and services. Acquisition requirements above these thresholds must be competed among eligible 8(a) certified small businesses. However, section 124.506(b) of Title 13 of the Code of Federal Regulations (13 CFR 125.506(b)) provides that an exemption from the sole-source threshold limitation that a

procurement be competed before it is awarded on a sole source basis for tribally-owned concerns, including ANCs.

Have ANCs been successful in attracting Federal contract awards under the 8(a) Program? The answer appears to be a strong affirmative. According to the Government Accountability Office's (GAO) April 2006 report, "Contract Management- Increased Use of Alaska Native Corporations' Special 8(a) Provisions Call for Tailored Oversight," "8(a) obligations to firms owned by ANCs increased from $265 million in fiscal year 2000 to $1.1 billion in 2004."

The U.S. Department of the Interior has a significant presence in Alaska and considerable interaction with the Alaska Native people. From the standpoint of our responsibilities to Alaskan Natives we definitely have an interest in providing continuing economic opportunities through federal contracts.

The GAO identified the need for the Federal contracting community to better understand the nature of ANCs and mitigate any risk of their misuse under the 8(a) program.

We concurred with the draft and final GAO reports' recommendation made to the Departments of Defense, Energy, Homeland Security, the Interior, State, and Transportation, and the National Aeronautics and Space Administration, to work with the SBA to "develop guidance to agency contracting officers on how to comply with requirements of the 8(a) program such as limitations on subcontracting and notifying SBA of contract modifications, particularly when contracting with 8(a) ANC firms." In fact, we proposed that an inter-agency work group be established and

headed by the SBA to develop this important and much needed guidance for our contracting and Small and Disadvantaged Business Utilization and Development communities. We look forward to partnering with our colleagues in developing the guidance.

Messrs. Chairman, this concludes my prepared remarks. I will be happy to answer any questions you or other members of the committees might have.

Chairman TOM DAVIS. Thank you all.

Let me start, Mr. Ramos and Ms. Stith, with you. When the Department enters into sole-source negotiations with an ANC, how does it determine if the Government is getting a fair and reasonable price?

Mr. RAMOS. You are asking about the Department of Defense, right?

Chairman TOM DAVIS. I am.

Mr. RAMOS. One thing about the sole-source at the Department of Defense, there is a lot more scrutiny than people realize. First of all, the contracting officer, given the circumstance and environment that they make decisions on, has to negotiate a reasonable price with the firm. What is unknown to most people is that the defense contracting agency may scrutinize that contract, so it has more scrutiny in terms of a sole-source as compared to a competitive contract. From our view with respect to the GAO report, and we worked very closely——

Chairman TOM DAVIS. DCAA gets a lot of that on the back end.

Mr. RAMOS. Pardon me?

Chairman TOM DAVIS. DCAA gets a lot of that on the back end. Do they do it on the front end as well?

Mr. RAMOS. Yes, it can be done at the front end. Now that is a part of the oversight that the Department of Defense has up front. There is always that opportunity for them to come back at the back end.

My point with respect to the Government Accountability Office report, we didn't see or hear of any specific major concern outside of doing things to inform our people how to manage those contracts a little better.

Chairman TOM DAVIS. Nobody is saying anybody has broken the law or anything. What we are looking at here is everybody has applied the law as it reads.

The question is for other 8(a)s, they have a threshold of $3 million or $5 million for sole-source. Everything else is competed. For ANCs, there is no such ceiling. So you have a lot of large contracts going out for which they get 8(a) credit, but it is not being competed and sometimes when you are competing against another company, prices come down. When you are competing against a Government negotiator, they are not likely to. Is there something wrong with my reasoning there as someone who sits there in DOD?

Mr. RAMOS. Here again, I think you have to look at the circumstance and the environment that contracting officer is making that decision.

Chairman TOM DAVIS. Isn't it a fact that if you do an ANC, you get good 8(a) credit, your numbers go up, everything looks great, and it is a lot easier to negotiate one no-bid sole-source contract with an ANC than it is going out and maybe finding 10 that you have to compete with other 8(a) companies to get the same amount, just to put it bluntly?

Mr. RAMOS. I would say that we probably get the best value in any case. We are doing a lot of hypotheticals here, Congressman.

Let me make a point here, if I may. We are focusing on ANCs, but the Native American tribes also have the same opportunity, and they are getting more contracts in the Department of Defense

than ANCs. So, in answer to your question, there is a form of competition on best price when that contract officer deals with that.

Chairman TOM DAVIS. I know there is. I am just saying don't you get more when you are out there competing and asking two or three or four companies to come in instead of just one?

Mr. RAMOS. That is a subjective question.

Chairman TOM DAVIS. It is a subjective question. You are sitting there, and I am asking you from your experience. Doesn't that make sense to you?

Mr. RAMOS. I am saying that——

Chairman TOM DAVIS. You are trying hard not to offend anybody.

Mr. RAMOS. No. I am saying, I am saying that it all depends on that set of circumstances. Most of the time, we get a fair value, and I think——

Chairman TOM DAVIS. Could you get a fairer value if it were competed? Could you get a better price, do you think, if you were competing, if you had three companies up there instead of one?

Mr. RAMOS. My sense is that it would be an almost close price depending on circumstances, Congressman.

Chairman TOM DAVIS. OK. Ms. Stith, what about you? How do you feel on that? Do you have any comments?

Mr. SUTFIN. Mr. Chairman Davis, I would be happy to respond on the part of the Interior Department. Generally, a contracting officer relies on technical experts to advise on matters of the products and services that are being bought. So you have experts that can give you advice on whether or not you are making good decisions. Also——

Chairman TOM DAVIS. Mr. Sutfin, I was a general counsel to a billion dollar defense contractor. I have seen how the system works.

What I am asking is a very simple question. If you are a Government negotiator, and you are trying to get your 8(a) numbers up, it is a lot easier to go out if you could do a sole-source with a large company than it is having to do maybe 10 competitive contracts with smaller companies. I guess my question ultimately is: Don't you think, as a general proposition, that if you have more competition, you are likely to drive price down than if you are negotiating sole-source?

Mr. SUTFIN. I think if price, low price is the ultimate objective, you are right. Most nowadays are under a best value.

Chairman TOM DAVIS. Even better value, even better value because price is a component of value. If you have three people competing or four companies competing versus one, aren't you more likely to have people come down on price?

Mr. SUTFIN. I think that is a fair statement.

Chairman TOM DAVIS. OK, thank you. I am glad. I feel better about the Interior Department than I do about DOD on this. My time is up.

Mr. Manzullo.

Chairman MANZULLO. I guess I have more of a comment than a question, especially with regard to DOD. I spend most of my time in this place, working on manufacturing issues, and I find it just absolutely ironic that DOD does everything possible to buy stuff from China, to eviscerate the Barry amendment, to enter into

memorandums of agreement that essentially nullify our defense industrial base, all on the use of the words, best value. Every time I hear those words, best value, from DOD, it is almost like that song: There goes another American job.

The question here is I think there is laziness going on at DOD. When you take a look at the article that appeared in the Washington Post on Thursday, November 25th, we have these bureaucrats in agencies all across the Government that are being enticed by ANCs because there is no required cross comparison, the sole-source awards cannot be protested, and the ANCs come in and say, hey, we are going to make this real easy for you. Then no one is talking about best value.

I mean, surely, Mr. Ramos, in the discussions we have had for numerous years, every time one of my companies gets unfairly treated by DOD giving a Government contract overseas and thereby helping to eviscerate the defense industrial base, someone yells, best value. I don't even hear that term being used here. Why not?

How can you say that when these sole-source agreements or sole-source contracts are given, and the rules specifically say no required cross comparison? How could you possibly know that you are getting the best value?

Mr. RAMOS. I think that the best value is the objective that the contracting officer, I am trying to allude to the circumstance here. There may be circumstances where the decision of that contracting officer may be where the best value is not the outcome because of the circumstances you are drawing it in.

Chairman MANZULLO. No one has ever given me that answer in 14 years of trying to get business to the dwindling industrial base that I have in my District. No one has ever said that, that there is something besides price. Now the first time I hear that is in defense of what ANC is doing.

Mr. RAMOS. Congressman, I think it is in the GAO report, and it has to do with the decision made during the startup of the Iraqi War where they had to get the fuel and the water. That was an example of a decision that was made to support the warfighter at that time.

Chairman MANZULLO. I am not talking about those exigent circumstances. I am just saying, for example, do you know how many contracts DOD has with ANCs?

Mr. RAMOS. I can get it to you in a minute.

Chairman MANZULLO. Ms. Stith, have you seen the advertising proposals from ANCs? For example, the one that appeared in this Washington Post article says: Fast, efficient, streamlined acquisitions where ANCs will come to a contracting officers and say, let me make your job a lot easier for you. There are no contract ceilings, no required cost comparisons. Sole-source awards cannot be protested, even if it costs more.

There is something wrong with that, isn't there?

Mr. Ramos, do you have the answer there?

Mr. RAMOS. No, I don't have the answer. I have the dollars for the contracts for the ANCs.

Chairman MANZULLO. Give us what you have.

Mr. RAMOS. The set aside dollars for the ANCs is $1.1 billion, and we ran the DOD's numbers from GAO to come up with this

for 2005. This is what I was trying to allude to Congressman Davis earlier. As a comparison, we had—these are setaside dollars—Native Americans is $1.7 billion; Hispanics, $1.4; African-American, $1.2; and then the fourth location we would have is the ANCs at $1.1. So, from the DOD perspective, it appears from the data, that there is a balance in terms of the contracting dollars to these different competing entities.

So, if the concern of Congress is for the Department of Defense to level the playing field, the legislation has to change that, so that all these different entities that are competing against one another have the same opportunity to compete on that level playing field because they are disparate.

Chairman MANZULLO. Thank you.

Chairman TOM DAVIS. Mr. Waxman is going to have questions. I just would add, at the end of the day, I think what we want to do is get competition with all these different entities and make sure everybody gets the same piece. I think we are comparing apples to oranges.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

I just insist that full and open competition is the gold standard in Federal contracting or should be. One reason why competition is so important is that it disciplines costs. It is much easier for the Government to get a reasonable price for goods or services if multiple companies submit competing bids. I think that is obvious. I would dispute anybody who would say if they are trying to contract out for some work on their home, they will have one contractor only and just pay that contractor whatever he asks for. You want to see what the competition is going to charge.

When the Government awards large no-bid contracts to Alaska Native Corporations, it leaves the taxpayers vulnerable to inflated costs. Congressman Young testified that GAO hasn't found that no big contracts for ANCs are a bad deal for taxpayers. That is not my understanding of the GAO report.

Mr. Cooper, I would like to ask you about this issue. In the aftermath of Hurricane Katrina, an ANC named Akima received a contract to supply portable classrooms in Mississippi. When GAO assessed the reasonable of Akima's prices, what did it find?

Mr. COOPER. We found those prices were inflated.

Mr. WAXMAN. In fact, those prices——

Mr. COOPER. Mr. Waxman, can I just clarify? I think what Congressman Young was talking about is the report that we did at the request of the committees. What you are talking about with the classrooms for Mississippi, that was a separate report. So I just want to clarify that.

Mr. WAXMAN. Well, they are still part of the same issue because the ANCs get a contract. The Corps accepted Akima's proposed price of $39.5 million, although it had information that the cost of the classrooms was significantly less than what Akima was changed. I am reading now from the GAO report. It may have been a GAO report, but it is still the same thing. The prices for similar units from GSA's scheduled contracts would have been a lot lower.

Now, GAO also examined the Army's use of ANCs to provide security guards at Army facilities in the United States. In this case,

the two ANCs that received no-bid contracts actually lost a subsequent Army competition for security guard services. Nevertheless, the Army continued to give the ANCs additional work.

Mr. Cooper, could the Army have saved money by awarding the work to the companies that actually won the competition?

Mr. COOPER. Let me explain what we found in that report. The Army had a three-phase acquisition strategy. The first phase was to——

Mr. WAXMAN. Just answer my question because I have a limited time. Could they have saved money?

Mr. COOPER. Yes, we believe they could have, and we recommended that they take action to compete those, the third phase.

Mr. WAXMAN. How much money are we talking about?

Mr. COOPER. Well, the Army did a study, and when they competed the contracts for guard services, they paid 27 percent less than what they did when they didn't use competition.

Mr. WAXMAN. On the classrooms, the prices were double what they should have been, isn't that right?

Mr. COOPER. They were really too high.

Mr. WAXMAN. I would like to look at an example from GAO's most recent report on ANCs. In 2002, the State Department was looking for a contractor to renovate U.S. Government office buildings in Sao Paulo, Brazil. According to documents the committee obtained from the State Department, the Department developed an independent price estimate of $46.8 million for the work. In January 2002, Alutiiq and ANC formed a joint venture with Fluor, a large non-Native contractor. Rather than conduct a competition, a request for proposals was sent to just one contractor in March 2002, the Alutiiq-Fluor joint venture. Two months later in May 2002, the joint venture submitted a price proposal of $81.8 million. This was $35 million higher than the Government's estimate. The agency rightly noted that there was a great disparity and that the proposal was significantly high.

Mr. Cooper, does that match what GAO found, an initial proposed price that was almost double the Government's cost estimate?

Mr. COOPER. In that case, yes, but the State Department contracting officer actually did his job in that case because they got subsequent proposals and negotiated a much lower price before awarding the contract.

Mr. WAXMAN. Well, they had a second proposal that was received in June 2002, that was still too high. In fact, the Department considered seeking competitive bids at that time, but it didn't shift to competition. Instead, in July, the Department accepted the contractor's bottom line offer of $54.5 million even though this was $20 million above the Government's original cost estimate and millions higher than its revised estimates.

In other words, it took the State Department 4 months to award a no-bid contract to this ANC joint venture for an amount that was substantially higher than its own cost estimate. Do you think that was a good deal for the taxpayers, Mr. Cooper?

Mr. COOPER. The ultimate deal turned out to be only $2 million different than the State Department's revised estimate. So it wasn't that bad of a deal.

Mr. WAXMAN. So it wasn't that bad of a deal.

Mr. COOPER. Right.

Mr. WAXMAN. OK. If it was going to take 4 months to award a no-bid contract, why didn't the State Department hold a competition? Wouldn't open competition produce even a better buy?

Mr. COOPER. They probably, they realize now that they probably should have gone competitive to start with, yes.

Mr. WAXMAN. I know my time is up. The obvious point of all of this is if you don't have competition, the taxpayers pay more money, and the ANCs are often being used to circumvent the opportunity for real competition. Thank you.

Mr. COOPER. Can I respond to that? I agree with you fully. Competition is the gold standard for Federal contracting, and when you don't have competition, you better have the safeguards in place to make sure you are not paying too much. Going back to what Chairman Manzullo said, sometimes contracting officials, I don't know that they are lazy, but they are certainly not doing the job that they should be doing for whatever reasons.

I think if you look at Federal procurement in general today, we have work force problems. The work force is being asked to do things that they either don't think they have time to do or they don't think is necessary to do, and when they don't do those kind of things, like some of the things we identified in our report, you put yourself at risk.

Mr. WAXMAN. You put the taxpayers at risk.

Mr. COOPER. That is what I mean. You put the taxpayers at risk, no question.

Chairman TOM DAVIS. A couple of up-front dollars in training and giving that to people would probably save you a lot of money downstream.

Mr. WAXMAN. I would agree, yes.

Chairman TOM DAVIS. This is the last question.

Mr. WAXMAN. Can I just ask a followup?

Chairman TOM DAVIS. Yes.

Mr. WAXMAN. So, up-front training for the procurement officers, but you don't want to contract private companies to do that job, would you?

Mr. COOPER. No, I don't. I don't. I want the Government people to do it.

Mr. WAXMAN. You want the best value. [Laughter.]

Chairman TOM DAVIS. Thank you.

Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Jenkins, of the agencies involved in this report, six of them agreed with the Government Accountability Office's recommendations. SBA appears to be the only one that has taken issue with the report. On a similar proof of ANCs and security guard contracts, the Department of Defense agreed with all seven recommendations and even rebid the contracts at all 54 locations. Don't you find it at all interesting that the SBA, the agency charged with ANC oversight, is the only one that has a problem with the report?

Mr. JENKINS. I think SBA's concerns with the GAO report was that it was sort of, it wasn't consistent with all of the data that we

saw, relating to all of the other categories of small businesses that increased at the same time. We certainly, as I mentioned in our testimony, take our oversight responsibility very seriously, and we have been working with the various agencies through our PCRs, through our local district offices. We have considered the GAO recommendations, and we will look at every opportunity to improve our oversight.

Ms. VELAZQUEZ. Mr. Jenkins, you might take it seriously, but the facts of the matter are that you are doing a very poor job. You know that your own Office of Advocacy stated in their report that $2 billion were miscoded as going to small businesses when in fact they were given to large businesses. So if there is one thing that SBA should have taken seriously, it is that no one is tracking that large businesses are performing the majority of the work on ANC contracts.

I will ask Mr. Cooper. In your review, did you find that ANCs are not performing work with their own work force and passing through contracts to large corporations?

Mr. COOPER. We did not find that specifically, but what we did find is that no one knew whether the subcontracting limitations were being complied with, and that was a recommendation that we had made in the report for the Federal agencies to assume responsibility. I think it is really a shared responsibility between the agencies awarding the contract and SBA with the 8(a) program.

Ms. VELAZQUEZ. Mr. Cooper, what are some of the ways that ANCs have competitive advantages over other 8(a) companies?

Mr. COOPER. Our report points out, we include a chart in there that shows the way that ANCs have used the 8(a) program. I mentioned two examples in my oral statement about being able to have contracts awarded to them without any limitations on the amount, non-competitive contracts. They have been very successful in hiring talented people who know the 8(a) program and know how to use the 8(a) program, and they have just been very successful in doing it.

Ms. VELAZQUEZ. Can ANCs afford to hire professional marketers?

Mr. COOPER. Professional?

Ms. VELAZQUEZ. Marketers.

Mr. COOPER. Some ANCs did use firms to help identify contracting opportunities.

Ms. VELAZQUEZ. Can they afford to pay as much as $1 million in annual salary?

Mr. COOPER. And they did that as our report points out.

Ms. VELAZQUEZ. Do they have advantages of size with their subsidiary being able to access funds from the parent corporation?

Mr. COOPER. They do have those benefits.

Ms. VELAZQUEZ. No minority executive of ANCs are able to get as much as 49 percent of the profits. For the program that the primary purpose is economic development, does that seem to be in keeping with the mission?

Mr. COOPER. I think the difference between the 8(a) program as it was initially designed and as it has evolved over the years, it has changed in character to serve two purposes: One, the individual business development that you talk about, but at the same time, and that is why we, as a matter of policy, are not challenging what

Congress has put in place, is it is also intended to serve a different purpose, and that is to help Alaska Native Corporations develop the capability to benefit their shareholders.

Ms. VELAZQUEZ. Mr. Cooper, how would you characterize SBA's comment letter to the Government Accountability Office's report?

Mr. COOPER. I am sorry, would you say that again?

Ms. VELAZQUEZ. How would you characterize SBA's comment letter to the GAO report?

Mr. COOPER. I would characterize it as disappointing.

Ms. VELAZQUEZ. Dismissive?

Mr. COOPER. We thought we would get a different kind of response from SBA? And I would add that, listening to the statement today, I think that is a different tone than the letter that we got in response to our report. It sounds like SBA is considering some actions and is probably going to work with agencies like Interior to make things better.

Ms. VELAZQUEZ. OK, so let me ask you this question. In terms of all the recommendations that you have made to SBA on the reports and investigations that you have made before, how would you qualify the track record of SBA complying with the recommendations?

Mr. COOPER. I think in several cases, SBA has been slow to respond to our recommendations.

Ms. VELAZQUEZ. Thank you very much, Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. I want to thank the chairman and ranking members of both committees for holding this hearing. Thank you to the witnesses.

As I see it, there are really two separate issues before us. One is the overall policy issue and the framework that Congress put in place with respect to special treatment for ANCs, and the second issue is the extent to which SBA and other agencies are complying with the existing regulations, implementing the program, and whether they are doing it effectively.

Let me just start with the first one, and I do want to jump ahead to some of the testimony we are going to hear from the next panel. Just to quote from the representatives testifying on behalf of Women Impacting Public Policy, they state in their testimony that WIPP members have lost opportunities to ANCs both at the prime contract level and at the subcontract level. That is because they are not subject to the same affiliation rules and competitive thresholds to what other businesses participating in the 8(a) program adhere. They conclude in this section by saying, "It seems to us Congress should consider treating all participants in the 8(a) program equally and they should all adhere to the same rules."

The testimony from that National Black Chamber of Commerce is along the same lines. They say that ANCs reap the 8(a) benefits such as receiving awards without competition but also get the enormous benefit of waiving contract dollar maximums and exceeding the size standard for small businesses, and they go on to point out several other things.

Now I know that the GAO in its report looked at the extent to which there was compliance with the existing framework and the

laws set out by Congress, but let me just ask all of you whether you would take issue from a policy standpoint with the recommendation raised, which really goes to the fundamental issue of no-bid contracts and the ceilings, by Women Impacting Public Policy, where they conclude that treating all participants in the 8(a) program equally is the right way to go, and that they should all adhere to the same rules.

Does anybody think, as a matter of public policy, that equal treatment of all these entities would be the best way to go in terms of protecting the taxpayers' interests? Does anybody dispute that recommendation and conclusion from the perspective of protecting taxpayer's interests?

I take that no one thinks that. Everyone agrees that this recommendation would better protect the taxpayers' interest.

Let me just go on to ask with respect to the issue of subcontracts and pass through contracts. As I understand it, when you do a subcontract, when Alaska Native Corporations receives a no-bid contract under the 8(a) program and they subcontract it out, they are limited to requiring that 50 percent of costs, the contract's personnel costs, must be from the ANC's own employees, is that correct?

Mr. COOPER. That is correct unless it is a construction contract, and in that case, the subtracting would be 85 percent.

Mr. VAN HOLLEN. As I understand it, when you looked at this issue and you said just a moment ago, no one knows whether subcontracting limitations were being complied with. You looked at about 16 contracts to see if agencies were monitoring these subcontracting requirements, is that right?

Mr. COOPER. That is correct. Of the 16 we looked at, 14 of them had subcontracts at work and almost every one, the contracting officer and the agency were not doing any kind of surveillance to make sure the subcontract limitation was not exceeded.

Mr. VAN HOLLEN. Right. Based on that assessment, as we are assembled here in the room today and as you are testifying, you have absolutely no basis and it is your understanding these contracting officers have absolutely no basis for knowing whether or not that 50 percent limitation is being complied with, is that correct?

Mr. COOPER. That is correct.

Mr. VAN HOLLEN. Whose responsibility is it to enforce that Federal acquisition regulation requirement?

Mr. COOPER. I would respond to say in this case, it is a shared responsibility between SBA and the agency who is getting the contract. There are, they are called partnership agreements, where SBA has delegated authority to directly award 8(a) contracts to Federal agencies. When we went out and talked to the contracting community, there was just a lot of confusion about who was responsible for what, and I think this is an excellent example of that confusion.

Mr. VAN HOLLEN. I understand in actually looking at your testimony, you found a case where an agency wanted a contract with a particular non-Native company but couldn't award a no-bid contract directly to that company, and so the agency solved the problem by awarding a pass through contract to an ANC and requiring it to subcontract with the desired non-Native company. Could you

talk a little bit about that and why that is an example of how this system is being effectively circumvented?

Mr. COOPER. That is exactly what can happen, and it is not limited to 8(a) ANC contracts. We have, over the years, issued a number of reports expressing concern about, again as Mr. Waxman pointed out, the lack of competition. What we see is, and primarily in the Department of Defense, is that instead of the contracting people making the decisions about what the best solution is in terms of getting a contract, program people are directing the contracting people to award a contract to a firm and instruct them to pass it on to the firm they really want.

It has happened over at GSA. The Get It Right Program, I think was put in place to stop, cut that kind of contracting out. It is not good contracting because you end up paying layered costs, multiple fees, multiple profits, multiple overhead. It is just not a good business decision on the part of Federal agencies to do that kind of contracting.

Mr. VAN HOLLEN. Thank you.

Mr. Chairman, I would just say Congress may have set up a system where these different kind of shenanigans are encouraged or, at the very least, allowed to happen, but it seems to me we should, as joint committees, get to that fundamental issue.

Mr. COOPER. Can I respond? I think one of the problems is we now have a lot of interagency contracting where an agency get fees for doing contracting work for another agency, and there is an incentive to generate revenue and do business because the contract, the agency awarding the contract for another agency makes money on it and can do things, operations and that kind of thing. So, while interagency contracting might be a great contracting vehicle, the incentives are driving it in the wrong direction.

Mr. VAN HOLLEN. The incentive there is for the agencies themselves to take a cut, rather than have the savings passed on to the taxpayer.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Mr. Barrow.

Mr. BARROW. No, thank you.

Chairman TOM DAVIS. OK.

Ms. Watson.

Ms. Watson. I would like to make some comments on competition. I think what the GAO is reporting is that there has been some abuse, we think, of using the ANC formula and applying it across the board. Maybe, Mr. Cooper, you can help our thinking on this issue. As I understand, the original purpose of that legislation created a preference to encourage economic opportunities for Alaskan Natives. The report that we got from the GAO suggests that the preference is used by contracting officials primarily as a way to circumvent just exactly what we are trying to get to, to circumvent competition requirements on contracts—they are worth hundreds of millions of dollars—and often passing the work to large non-Native corporations or to help meet small business goals.

Maybe you can shed some light on why the use of ANC preferences seems to be increasing so rapidly. Also, while you are doing that, it appears that the report references that no-bid ANC con-

tracts are like an open checkbook. Can you explain this to me how this formula has been misused?

Mr. COOPER. What we found when we went and talked to contracting officials who awarded those 16 contracts is that they felt the use of a non-competitive vehicle with no limits on dollar, thresholds, or anything was a fast, quick, easy way for them to meet a requirement. Again, I think this is a situation where the intent of the Congress is probably being diluted because the contracting people are not using due diligence in using the flexibilities and the authorities.

In my initial oral statement, I said I wanted to make it clear that we do not take issue with the flexibilities that the ANCs have been provided, and we take that position because we believe that if contracting officials exercise due diligence and fulfill their responsibilities and comply with the requirements that they are required to do in awarding these contracts, the potential for abuse would be minimized.

I will give the example that we have talked about a little, subcontracting. Alaska Native Corporations can subcontract up to 49–50 percent of the work that they get. That was provided by the Congress. That authority was provided by the Congress. We don't take issue with that, but at the same time, we want to make sure that the controls that have been put in place, and that is monitoring the subcontract limitation clause, is followed and is not just done frivolously without taking it very serious and complying with requirements.

Ms. Watson. OK, you never know what these bells are implying.

Chairman TOM DAVIS. We are about ready to have a vote, but you still have a couple of minutes left.

Ms. Watson. I have to go back to the Akima contract as it relates to the classroom issue, and I don't know of the ANC contract was used for buying those mobile units that are stuck in the mud in Arkansas and some other places. Let me not get into that. Akima raised its price for the classrooms from about $23 million on last September the 16, to close to $31 million 1 day later, and the unit price of some classrooms rose almost 50 percent in a single day. How does that happen?

We are going to run out, so if you can't finish, I can't take my answer in writing, but go ahead.

Mr. COOPER. I was very much in the review of that contract. This is a clear cut case where the contracting officer blew it. I mean I don't know any other way to say it. They had information provided by Akima, as a matter of fact, that indicated the classroom prices should be lower than what was negotiated in that contract. I sat across the table from the contracting officer and asked her, why didn't she use the information to negotiate a lower price? And she told me, I wasn't involved in the details; I just signed the contract.

That may be lazy, as Chairman Manzullo pointed out, but it is not giving the Government a good deal, and contracting officers need to use due diligence and protect the taxpayers' interests, whether it is a competitive, non-competitive, or any other kind of contract.

Ms. Watson. We are not utilizing the people's money and the trust that is put in us when we do deals like that. I think the origi-

nal purpose of ANC was the right way to go, but just the people, to whom these programs were directed, miss out.

I want to thank you for that information. I am glad you recognized that there were some mismanagement and some insensitivity. We appreciate it. That is what we are trying to get to the bottom of here with this hearing.

I want to thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Ms. Bordallo.

Ms. BORDALLO. Thank you very much, Chairman Davis and Chairman Manzullo. For calling this meeting, and I do want to thank Chairman Manzullo for mentioning the difficulties we are having with our shipyard in Guam. So, thank you, Mr. Chairman for that.

Mr. Jenkins, I have a question for you. Increased contracts awards for the ANCs are of great concern to the business community in my District, the District of Guam. While there is a public good in having preferences for Native Alaskans, the same can be said for the indigenous people of Guam, the Chamorros. Chamorros on Guam experience many of the same social and economic disadvantages as Alaskan Natives and other disadvantaged groups recognized by Federal law. Yet, the Chamorros have no set aside or preference program that benefits them specifically. When Federal contracts for work on Guam are unbundled, the ANCs swoop in, use their set aside preferences to win the no-bid contracts, and Chamorro businesses are relegated to being hired as subcontractors at best.

If the Federal Government is going to support social policy through Government contracting that is trying to improve economic opportunity for the disadvantaged communities through the awarding of Federal contracts, then I would hope that these contracting policies could be implementing fairly across the board in order to benefit all of the disadvantaged indigenous groups. Oversight is key to ensure that this happened.

In your testimony, you mentioned that the SBA takes its oversight responsibilities seriously. You mentioned that the SBA, even before the GAO report's release, began to improve its oversight of the 8(a) program. Your testimony is short on detail regarding the progress that the SBA has made toward improving its oversight of this program.

Can you describe for me today the progress the SBA has made of late toward improving its oversight of the 8(a) program, and also can you describe how the April GAO report on the increased use of ANCs in Government contracting has impacted the SBA's efforts toward increasing oversight of the 8(a) program?

Mr. JENKINS. OK, thank you. First of all, as I mentioned, one of the things that we felt was very important and we had started this discussion prior to the GAO report is to look at our partnership agreements with the various agencies. SBA, in order to ensure that the 8(a) program was properly being administered, placed responsibilities on the procuring agencies, and that is to follow the requirements in the Federal acquisition regulation. The issues regarding the limitation on subcontracting is no difference than the issues with small business set asides. That is the responsibility of

Federal contracting officials as described in the Federal acquisition regulation.

SBA felt, however, the need to increase our relationships with the agencies. And so, with the partnership agreements, we have already begun to revise those agreements to make it very clear what we expect the agencies to be responsible for. We are also increasing our training—training not only to our own staff, SBA staff, but also training with the various Federal agencies through our procurement center representatives as well as through our district offices.

So I think there are a number of things that we are trying to do to improve, and we certainly will consider the GAO recommendations as well as other recommendations that we have.

Ms. BORDALLO. Thank you very much.

I don't vote, Mr. Chairman, so I could continue.

Chairman TOM DAVIS. I am not stopping you now. We can go. We have about 5 more minutes before I have to leave.

Ms. BORDALLO. Very good, all right.

I am just curious. One real quick question before I get to my second question: Are Native Hawaiians participating in these programs?

Mr. JENKINS. Yes, the Native Hawaiian-owned firms that are owned by Native Hawaiian organizations——

Ms. BORDALLO. The ANCs?

Mr. JENKINS. Excuse me?

Ms. BORDALLO. The 8(a) program?

Mr. JENKINS. Yes, the 8(a) program.

Chairman TOM DAVIS. Are they treated as ANCs or as 8(a)'s? I think that is her question.

Mr. JENKINS. They are treated as 8(a)'s, but not ANCs. ANCs has a special designation.

Ms. BORDALLO. I see. I don't quite understand that. Why wouldn't they qualify?

Chairman TOM DAVIS. The thresholds are different.

Mr. JENKINS. Yes, the statute allows for Hawaiian Native organizations, small businesses owned by Hawaiian Native organizations, to be considered as 8(a) firms. They can apply for the program, and we will look at them and certify them. It is different, however, in terms of the tools that they can use are different than what they have for the Alaska Native Corporations in terms of the sole-source requirements.

Ms. BORDALLO. I see.

The other question I have is for Mr. Frank Ramos. I am concerned by the testimony provided by Mr. Cooper from GAO to the committees today, regarding the findings in the April GAO report. Mr. Cooper stated in his prepared remarks that the contracting officers interviewed during the GAO investigation claimed that contracting with 8(a) ANC firm is a quick, easy, and legal way to award contracts while at the same time helping their agencies meet small business goals. Policies are in place to ensure that Federal contracting supports disadvantaged groups. These policies are not in place to make it easier for agencies to avoid the hard work of supporting small businesses.

Would you agree that supporting small businesses should be the priority, not the relative ease of workload for the contracting offi-

cers? Also, what roles do your offices and that of your peers in other agencies play in overseeing or monitoring your respective agencies' contracting behavior?

Mr. RAMOS. In my oral testimony, I said that the statutes that the contracting officers use allow them to make certain decisions with respect to ease of contracting, if you want to use that term. It is not an ease of contracting that is used in a negative term, but it facilitates them to use that contracting authority to make decisions that best fit the interests of the Department of Defense at that particular time.

With respect, as I understood your second question as to what we are trying to do bring conformance to this behavior that the Government Accountability Office alluded to, we have provided, as a result of the Government Accountability Office report, in our small business conference, a panel to discuss those things that we must do to bring conformance to our behavior within the Department of Defense. Mr. Assad who is the Director of Defense Procurement is going to be meeting with Mr. Crowther, I believe tomorrow to talk about some of those concerns that you have raised. He is the Director of and has oversight of the contracting officers, and I believe he is going to address that issue. We have discussions, and I feel comfortable that we are going to be in conformance in that respect.

Ms. BORDALLO. Thank you very much.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Before I dismiss the panel, let me just note and, Mr. Ramos, I will address to you. I think it is clear that if you can meet your 8(a) goals by going to a larger vehicle and not have to compete, it makes it a lot easier for the contracting officer to do so. We try to do so many things with our procurement system. We try to make sure that we buy American. We try to make sure that we have domestic content. We have a whole myriad of views up here in this committee over how that ought to be done. We try to make sure that small businesses and 8(a) minority groups get opportunities.

The more bells and whistles we attach to the system, the less efficient we become. In passing the ANC, we recognize in doing so, that there may be some inefficiencies to the system by allowing them some leg-up in contracting. All we are trying to do here is have an honest discussion over what that cost is. I think that is what we are trying to get out of here. Then we will try, as policymakers, to try to see if there is anything we can or should do about it or appropriate oversight of the executive branch as a way.

I appreciate everybody being here for this hearing. I will dismiss this panel. We will take a 15 minute recess while we go over to vote, and we will come back with our next panel. Thank you.

[Recess.]

Chairman MANZULLO. It is the policy of the committee that all witnesses be sworn before they testify. Please rise and raise your right hands.

[Witnesses sworn.]

Chairman MANZULLO. We will now recognize our third panel: Mr. Harry Alford, president and CEO of the National Black Chamber of Commerce; Ms. Ann Sullivan, president of Madison Services Group, Inc., on behalf of Women Impacting Public Policy [WIPP];

Mr. Chris E. McNeil, Jr., chairman, Native American Contractors Association and president and CEO of Sealaska Corp.; Ms. Helvi Sandvik, president, NANA Development Corp.; Mr. Bart Garber, Tyonek Native Corp.; Mr. Charles Totemoff, president and CEO of Chenega Corp.; Ms. Julie Kitka, president of Alaska Federation of Natives.

In order to allow time for discussion, please limit your testimony to 5 minutes. When you see the yellow light, you are at 4. When you see the red, you are at 5. Your entire statement will be made part of the record.

The first witness is Mr. Harry Alford. Mr. Alford.

STATEMENTS OF HARRY ALFORD, PRESIDENT AND CEO, NATIONAL BLACK CHAMBER OF COMMERCE; ANN SULLIVAN, PRESIDENT, MADISON SERVICES GROUP, INC. ON BEHALF OF WOMEN IMPACTING PUBLIC POLICY; CHRIS E. MCNEIL, JR., CHAIRMAN, NATIVE AMERICAN CONTRACTORS ASSOCIATION AND PRESIDENT AND CEO, SEALASKA CORP.; HELVI SANDVIK, PRESIDENT, NANA DEVELOPMENT CORP.; BART GARBER, TYONEK NATIVE CORP.; JULIE KITKA, PRESIDENT, ALASKA FEDERATION OF NATIVES; AND CHARLES TOTEMOFF, PRESIDENT AND CEO, CHENEGA CORP.

STATEMENT OF HARRY ALFORD

Mr. ALFORD. Honorable Chairmen Davis and Manzullo and distinguished members of both committees, thank you for allowing the National Black Chamber of Commerce, Inc. to provide input and comments on the Alaskan Native Corporations.

This is a very serious and sensitive subject to my constituents. We hope and pray that this hearing will become a catalyst for change and progress. Let me also make it clear that the NBCC believes in the importance of economic development for Alaskan Natives and will defend their right to such.

The Honorables Parren J. Mitchell and Adam Clayton Powell insisted on inclusion of African-American business owners in the Federal procurement arenas. They rightly believed that African-Americans had been and were being severely discriminated by the very institutions, National and local, that were supposed to protect the freedom and equal opportunity of all Americans. The programs that evolved from the implementation of the Civil Rights Act of 1964 were to correct the economic ills created from decades of a Jim Crow economy. This economy directly affected African-Americans.

These programs, as they developed, included all minority groups including Native Americans, where there was some sort of discriminatory evidence. It is without a doubt that the most prolific and successful program to evolve is the SBA 8(a) program. I estimate that at least 80 percent of the larger businesses within the NBCC network are graduates of the 8(a) program. This program has produced more Black millionaires than all other Federal programs combined.

On average, 8(a) firms employ 20 people each, while small businesses in general employ an average of 2 people. That is a significant difference.

With the above in mind, the members sitting on both the House Small Business Committee and the House Government Reform Committee represent a total of 1,780 8(a) companies which equate to nearly 20 percent of all 8(a) participants. These 1,780 businesses employ an estimated 35,600 people. I believe each and every one of you considers that appreciable. In sum, the 8(a) program is a source of employment in all States as well as the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

For some very peculiar rationale, Alaskan Native Corporations, as they are called, have been permitted since 1986 to participate in the SBA 8(a) program. For the most part, ANCs are not minority, not even Native American. ANCs are not small businesses. ANCs repeat the 8(a) benefits such as receiving awards without competition but also get the enormous benefit of waiving contract dollar maximums and exceeding the size standard for small businesses, size standards.

What we have today are billion dollar corporations, waiver on the affiliation rule, located in places like North Carolina, Virginia, Maryland, etc.—corporations located in places that are totally remote to Alaska and void of minority management or control. These ANC components, often LLCs, are supposed to benefit Alaska Natives. I strongly suggest that very little of the revenue obtained through Federal contracting finds its way to Alaska Natives. Avarice has no end and what we have here is a tool for avaristic manipulators.

Federal procurement is booming. However, if you take away ANC volume from the 8(a) contract awards, you will find that the 8(a) program has been decreasing steadily. Two things have negatively affected the program. One, the practice of bundling contracts, tantamount to sole-sourcing for the Fortune 200, and the emergence of the ANC game manipulating the 8(a) program. Certain lobbyists and a few slick law firms have mastered this game. Major corporations are getting into the ANC program and are drawing 8(a) contracts by the billions. Quick thinking procurement agents have identified this as an attractive tool to quickly boost 8(a) and SDB volume. Some SBA officials rush to take advantage of this also.

The ugliness of this came together when the Katrina and Rita disasters hit the Gulf Region last summer and fall. Billion dollar sole-source contracts were immediately let to a few companies that would eventually flip the scope to various smaller companies at reduced rates and would then pocket the difference. Ashbritt, a Florida company, received a significant prime contract for debris removal, and the company does not own one truck.

Likewise, ANC companies were sought out for contracts that had no relation to their NAICs or expertise. The first Minority Participation Report I received from the Army Corps of Engineers for the Gulf rebuilding activity was 98.2 percent ANC, 1.8 percent legitimate SDB.

Building, excuse me, bundling and a runaway freight train, known as the ANCs, is wreaking havoc on 8(a) firms in the African-American, Hispanic, Asia, and yes, the Native America communities. We are losing jobs, destroying businesses, negatively communities who need progress the most. ANCs, in effect, have become

predators on the minority business community. Shame on all of us for letting it get this far.

The only rational thing to do now is to bring it to a close. The NBCC suggests the following.

Chairman MANZULLO. Is your testimony coming to a close like the freight train?

Mr. ALFORD. Yes, I have about 20 seconds.

Chairman MANZULLO. All right.

Mr. ALFORD. One, conduct thorough audits on how much revenue is actually being received by Alaska Natives. What are the amounts of dollars, programs, end results?

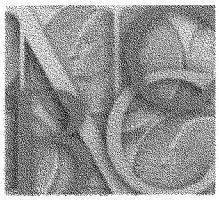
Two, are most of the agencies run by Caucasians? How many minorities actually work ANCs? We need EEO surveys to be performed by the Department of Labor.

Three, is there a strong correlation with certain lobbying firms, law firms, and political contributions?

Four, and last, let us separate the ANCs from the 8(a) program. It is an abomination as it is currently structured with all of the oddities. ANC numbers should not be counted toward small business and/or minority business goals.

Thank you for the extra 20 seconds, Mr. Chairman.

[The prepared statement of Mr. Alford follows:]



National Black Chamber of Commerce
1350 Connecticut Avenue NW Suite 405, Washington DC 20036
202-466-6888 202-466-4918fax www.nationalbcc.org info@nationalbcc.org

ALASKA NATIVE CORPORATIONS

CONGRESSIONAL TESTIMONY

JUNE 21, 2006

Presented to:

United States House of Representatives

Committee on Government Reform and Committee on Small Business

Honorable Tom Davis and Honorable Donald A. Manzullo, respective Chairs

Presented by:

Harry C. Alford
President/CEO

Harry C. Alford
President/CEO
National Black Chamber of Commerce, Inc.

Honorable Chairmen Davis and Manzullo and distinguished members of both committees thank you all for allowing the National Black Chamber of Commerce, Inc. to provide input and comments on the Alaska Native Corporations. This is a very serious and sensitive subject to my constituents. We hope and pray that this hearing will become a catalyst for change and progress. Let me also make it clear that the NBCC believes in the importance of economic development for Alaska Natives and will defend their right to such.

The Honorables Parren J. Mitchell and Adam Clayton Powell insisted on inclusion of African American business owners in the federal procurement arenas. They rightly believed that African Americans had been and were being severely discriminated by the very institutions, national and local, that were supposed to protect the freedom and equal opportunity of all Americans. The programs that evolved from the implementation of the Civil Rights Act of 1964 were to correct the economic ills created from decades of a Jim Crow economy. This economy directly affected African Americans.

These programs, as they developed, included all minority groups (including Native Americans) where there was some sort of discriminatory evidence. It is without a doubt that the most prolific and successful program to evolve is the SBA 8(a) program. I estimate that at least 80% of the larger businesses within the NBCC network are graduates of the 8a program. This program has produced more Black millionaires than all other federal programs combined. On average, 8(a) firms employ 20 people each, while small businesses in general employ an average of 2 people. That is a significant difference.

With the above in mind, the Members sitting on both the House Small Business Committee and the House Government Reform Committee represent a total of 1,780 8(a) companies which equates to nearly 20% of all 8(a) participants. These 1,780 businesses employ an estimated 35,600 people (20 each). I believe each and every one of you does consider that appreciable. In sum, the 8(a) program is a source of employment in all states, including the District of Columbia, Guam, Puerto Rico and the Virgin Islands.

For some very peculiar rationale, Alaska Native Corporations (as they are called) have been permitted since 1986 to participate in the SBA 8(a) program. For the most part ANC's are not minority – not even Native American. ANC's are not small businesses. ANC's reap the 8(a) benefits such as receiving awards without competition but also get the enormous benefit of waiving contract dollar maximums and exceeding the size standards for small businesses. What we have today are billion dollar corporations (waiver on the "affiliation rule") located in places like North Carolina, Virginia, Maryland, etc. Corporations located in places that are totally remote to Alaska and void

of minority management or control. These ANC components, often LLC's, are supposed to benefit Alaska Natives. I strongly suggest that very little of the revenue obtained through federal contracting finds its way to Alaska Natives. Avarice has no end and what we have here is a tool for avaristic manipulators.

Federal procurement is booming! However, if you take away ANC volume from the 8(a) contract awards you will find that the 8(a) program has been decreasing steadily. Two things have negatively affected the program. 1. The practice of bundling contracts (tantamount to sole sourcing for the Fortune 200) and 2. The emergence of the ANC "game" manipulating the 8(a) program. Certain lobbyists and a few slick law firms have mastered this "game". Major corporations are getting into the ANC program and are drawing 8(a) contracts by the billions. Quick thinking procurement agents have identified this as an attractive tool to quickly boost 8(a) and SDB volume. Some SBA officials rush to take advantage of this also.

The ugliness of it all came together when the Katrina and Rita disasters hit the Gulf Region last summer/fall. Billion dollar sole source contracts were immediately let to a few companies that would eventually "flip" the scope to various smaller companies at reduced rates and would then pocket the difference. Ashbritt, a Florida company, received a significant prime contract for debris removal and the company does not own one truck. Likewise, ANC companies were sought out for contracts that had no relation to their NAIC's or expertise. The first Minority Participation report I received from the Army Corps of Engineers for the Gulf Rebuilding activity was 98.2% ANC and 1.8% legitimate SDB.

Bundling and a "run away freight train" known as the ANC's is reeking havoc on 8(a) firms and the African American, Hispanic, Asian and, yes, the Native American communities. We are losing jobs, destroying businesses and negatively affecting communities who need progress the most. ANC's, in effect, have become predators on the minority business community. Shame on all of us for letting it get this far. The only rational thing to do now is bring it to a close. The NBCC suggests the following:

1. Conduct thorough audits on how much revenue is actually being received by Alaska Natives. What are the amount of dollars, programs, end results?
2. Are most of these ANC's run by Caucasians? How many minorities actually work for ANC's? We need EEO Surveys performed by the Dept. of Labor.
3. Is there a strong correlation with certain lobbying firms, law firms and political contributions?
4. Let's separate the ANC's from the 8(a) program. It is an abomination as it is currently structured with all of the oddities. ANC numbers should not be counted towards Small Business and/or Minority Business goals.

In sum, we don't know what was actually Congress's intent in regards to the ANC program. It certainly wasn't to benefit the 8(a) program or minority businesses per se. Thank you for your time and concern by meeting this disgusting problem head on.

Chairman MANZULLO. You sound like the trailer on all those credit card advertisements, Harry. [Laughter.]

Our next witness is Ann Sullivan on behalf of Women Impacting Public Policy.

Now, remember, your complete statements are in the record, and you can take as much time within the 5-minutes as you want. What we are really interested in is the impact because we all know that there are different rules that apply to the ANCs, and we don't have to repeat those in all the testimony. If you could center your testimony on the impact, thank you.

STATEMENT OF ANN SULLIVAN

Ms. SULLIVAN. Thank you, Mr. Chairman Davis, Chairman Manzullo.

Good afternoon, my name is Ann Sullivan. I am representing Women Impacting Public Policy. I represent them in Washington. WIPP is a bipartisan women's business organization representing over 550,000 women and minorities nationwide. Our umbrella includes 42 business organizations as well as individual members. Thank you for inviting us today.

As background, 10.6 million women-owned firms in the United States employ 1 out of 7 employees in this country and generate $2.5 trillion in sales. Yet, the Federal Government has awarded only 3 percent of its contracts to women-owned companies as of 2004. Although the Congress set a 5 percent women-owned goal for the agencies, they have never met that goal. In addition, Public Law 106–554 which would allow contracting officers to restrict competition to women-owned firms has yet to be implemented. That law was enacted in the year 2000.

For the past several years, WIPP members have felt the competitive pinch of increased Federal programs for non-women-owned businesses. WIPP members have lost opportunities to ANCs, both at the prime contract level and the subcontract level.

We have also felt the effects of contract bundling. Despite the president's unbundling initiative in 2002, the trend has proven otherwise. In 2002, the OMB reported that for every $100 awarded on a bundled contract, there is a $33 decrease to small business. Despite strong evidence that bundling is not good for small business or the Government, a 2004 GAO report shows that the Federal agencies are confused over what constitutes contract bundling and it results in poor accountability and disparity in reporting.

According to a 2005 SBA Office of Inspector General audit, the SBA reviewed only 13 percent of bundled contracts reported to the agencies. Those 192 bundled contracts not reviewed amounted to $384 million. SBA has cited that their lack of resources is why they did not review more contracts.

The agencies have a challenge meeting their small business requirements with larger contracts. It seems to us that Congress should consider treating all businesses in the 8(a) program equally and they should all adhere to the same rules. Perhaps this is not the right program for the ANCs since the 8(a) program is a business development program, but the ANC program is an economic development program for communities. While the economic goals

for the ANCs seem appropriate, trying to fit them into the 8(a) program is like trying to fit a square peg in a round hole.

In the absence of congressional changes in the 8(a) program, we give you the following recommendations which we think would strengthen all of the programs. One, establish a subcontracting requirement for very large sole-source contracts awarded to ANCs. Two, strengthen the 8(a) program for all participants by increasing the competitive thresholds and the personal net worth level that has not changed since 1989. Three, provide SBA with the tools necessary to review solicitations being placed into the 8(a) program to determine adverse impact on other 8(a) companies or small business programs.

We understand that although ANCs benefit from contract bundling and procurement work force staffing issues, they are, ANCs are not the source of these problems, nor do they dominate the small business market. In fact, their contract dollars is only a fraction of the $69.2 billion awarded to all small businesses. The GAO report sheds light on contracting problems affecting all small businesses and SBA's lack of resources and staff to implement good oversight of the 8(a) program.

The goal should be for all groups to work together to increase the amount of awards to small businesses, regardless of race, ethnicity, or gender, and to implement a meaningful women's business program. If the small business community moves forward collectively to increase the source of supply to the Federal Government, the result will be a stronger America.

Thank you.

[The prepared statement of Ms. Sullivan follows:]

Statement of Ms. Ann Sullivan

On Behalf Of
Women Impacting Public Policy

Submitted to
House Government Reform Committee
House Small Business Committee

"Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement and Alaska Native Corporations"

June 21, 2006

Good afternoon, my name is Ann Sullivan. I represent Women Impacting Public Policy in Washington DC. Women Impacting Public Policy (WIPP) is a bipartisan women's business organization representing over 550,000 women and minorities nationwide. WIPP's umbrella includes 42 business organizations as well as individual members. Thank you for inviting WIPP to testify today.

As background, 10.6 million women-owned firms in the United States employ one out of seven employees in this country and generate $2.5 trillion in sales. Yet, the federal government has awarded only 3% of its contracts to women-owned companies as of 2004. Although the Congress set a 5% women-owned goal for the agencies, they have never met that goal. In addition, Public Law 106-554, which would allow contracting officers to restrict competition to women-owned firms, has yet to be implemented. That law was enacted in the year 2000.

For the past several years, WIPP members have felt the competitive pinch of increased federal programs for non-women-owned businesses. We have also felt the effects of contract bundling. Despite the President's initiative in 2002 which clearly stated that unbundling of contracts was a priority of this Administration, the trend has proven otherwise. In 2002, the Office of Management and Budget (OMB) reported that for every $100 awarded on a bundled contract, there is a $33 decrease to small businesses. They went on to say, that because these types of contracts "run longer and encompass a greater scope, competition is reduced in terms of frequency and number of opportunities" for small businesses.

Despite strong evidence that bundling is not good for small business or the government, a 2004 Government Accounting Office (GAO) Report No. 04-454 "Impact of Strategy to Mitigate Effect of Contract Bundling on Small Business is Uncertain" shows that federal agencies are confused over what constitutes "contract bundling" which results in poor accountability and disparity in reporting. While 928 bundled contracts were captured in the Federal Procurement Data System (FPDS), only 24 of those contracts were reported to the GAO.

According to a 2005 SBA Office of Inspector General Audit, the SBA reviewed only 13% of bundled contracts reported by the agencies (28 out of 2002). The 192 bundled contracts not reviewed amounted to $384 million. SBA cited a lack of resources in reviewing the bundled contracts. With the retiring workforce and the decrease in the number of procurement officials, contracts have generally become larger and less accessible to small businesses.

The agencies have a challenge—meeting their small business requirements with larger contracts. One solution, according to the GAO report which is the subject of this hearing, is for procuring agencies to set aside the procurements under the 8(a) program for tribally owned enterprises, including Alaska Native Corporations (ANC s).

However, WIPP's members have lost opportunities to ANCs, both at the prime contract level and at the subcontract level. That is because they are not subject to the same affiliation rules and competitive thresholds to which other businesses participating in the 8(a) program adhere. Specifically, 8(a) businesses can receive sole source contracts for up to $5 million for manufacturing or $3 million for other contracts. In contrast, the ANCs have no threshold. For other 8(a) companies, procurements must be

competed whenever possible before being accepted on a sole-source basis, but procurements can be sole sourced to ANCs without the need to be competed. Neither are ANCs subject to the same small business affiliation standards as other small businesses.

It seems to us that Congress should consider treating all participants in the 8(a) program equally, and they should all adhere to the same rules Perhaps this is not the right program for the ANCs and similar organizations, since the 8(a) program is a business development program but the ANC program is an economic development program for communities. While the economic goals for the ANCs seem appropriate, trying to fit them into the 8(a) program is like trying to fit a square peg in a round hole.

In the absence of Congressional changes in the 8(a) program, WIPP believes that the challenge is to find a way whereby the ANCs and tribes can coexist with the other women and minority owned small businesses. We believe that the following recommendations, which strengthen all programs, would be a helpful step forward:

1. Establish a subcontracting requirement for very large contracts -- such as $20 million awarded sole source to ANCs or tribes -- able to receive a sole source contract under a small business programs;
2. Strengthen the 8(a) program for all participants by increasing the competitive thresholds and the personal net worth level which has not been changed since 1989.
3. Provide SBA with the tools necessary to review solicitations being placed into the 8(a) program to determine adverse impact on other 8(a) companies or other small

business programs. SBA is currently doing such analysis, but lacks the resources to do it in all instances.

WIPP members understand that although ANCs benefit from contract bundling and procurement workforce staffing issues, ANCs are not the source of these problems. Nor do ANCs dominate the overall small business market. In fact, their $1.1 billion in 8(a) contract dollars during 2004 is a fraction of the $69.2 billion awarded to all small business. The GAO report sheds light on contracting problems affecting all small businesses and SBA's lack of resources and staff to implement good oversight of the 8(a) program.

The goal should be for all groups to work together to increase the amount of awards to small businesses, regardless of race, ethnicity or gender, and to implement a meaningful women's business program. If the small business community moves forward collectively to increase the source of supply to the federal government, the result will be a stronger America.

Chairman MANZULLO. Thank you. Our next witness is Chris McNeil, Jr. of the Native American Contractors Association.

Mr. McNeil.

STATEMENT OF CHRIS E. MCNEIL, JR.

Mr. MCNEIL. Chairman Manzullo and Chairman Davis, members of the committee, we really appreciate the opportunity here to testify today.

My name is Chris McNeil. I am a member of the Tlingit and Nisga Nations. I am the chairman of the Native American Contractors Association and also the president of Sealaska. I am here to testify on behalf of the Native American Contractors Association. Our organization represents, has 27 members, including 19 Native corporations and 7 tribally owned enterprises and Native Hawaiian organizations. We have over 100,000 tribal member shareholders who own our ANCSA corporations from all over the United States. Congress meant to benefit Alaska Natives no matter where they live.

We are here to discuss the SBA 8(a) program as it applies to ANCSA corporations and tribes, and this is a rare program because it is a program that actually does work. That is in the context of really decades of failed Federal programs to promote Indian economic development. It promotes self-determination, self-sufficiency, and it points toward sustainable economies which is inherent in Alaska, the goal of the Alaska Native Claims Settlement Act, and it provides a mechanism upon which Alaska Natives have offered increased professional opportunities.

The GAO study itself listed five single-spaced pages of benefits, the various benefits that are provided by the 8(a) contracting that the corporations provide to its shareholders. Our Federal contracting and participation in it has permitted the Native corporations and tribes to participate in a greater way in the commercial marketplace, and the majority of Native corporations and federally recognized tribes have just begun to participate in it.

The GAO report is the subject of this hearing. I think it is important to note that it did not find any evidence of abuse by the Native corporations. It did not recommend legislative changes, and it doesn't suggest any dissatisfaction on the part of the agencies in the performance by the Native corporations. It was critical in some respects, and it indicates some flaws in the administration of the program.

There is a key difference between the Alaska Native and tribal 8(a) programs and the individually owned 8(a) enterprises. We, each Native corporation represents hundreds and, in some cases, thousands of tribal member shareholders that benefit from them. In the case of the individually owned enterprises, it benefits only a few people who are the owners of the corporations and the significant differences.

All of this arises from the Federal trust responsibility for tribes and for Alaska Native people. Any Federal program that benefits Alaska Natives or federally recognized Indian tribes arises from our Constitution. It is embedded in the power to regulate commerce with Indian tribes which is called the Indian Commerce Clause and arises from many U.S. Supreme Court decisions. This also is evi-

denced in the Indian Treaties which are the supreme law of the land.

Our Alaska Native Claims Settlement Act of 1971 was a modern day statutory Indian Treaty. This was a large congressional experiment with Native people. This land that we received back would normally have been held in trust in the United States, and the concept was to provide new economic vehicles to develop sustainable economies for Native people and to benefit our tribal member shareholders. That is our goal, and that has been Congress' commitment. In effect, the Native Claims Settlement Act arose from a negotiation in which we relinquished claims of 300 million acres. In exchange, we received back 44.5 million acres and about $962 million to benefit over 100,000 tribal shareholders.

Now, the 8(a) program is an amendment to the Alaska Native Claims Settlement Act, and it was intended to provide benefits under the Claims Settlement Act for Alaska Native people. So, everything in ANCSA, we, in effect, have paid for by providing and relinquishing the claims to all the land to which we had claims, and that is our statutory treaty. The Alaska Native Claims benefit——

Chairman MANZULLO. How are you doing on time? We are running out of time here.

Mr. MCNEIL. Yes, I understand that. Mr. Chairman, I would conclude then by saying that this program does work to the benefit of Alaska Native people. I think there is significant evidence of that in order to provide the sustainable economies for Native people.

Thank you very much.

[The prepared statement of Mr. McNeil follows:]

888 16th Street N.W., Suite 800
Washington, D.C. 20006
Ph: 202-349-9845
Fax: 202-355-1399
www.nativeamericancontractors.org

Testimony of
Chris McNeil, Jr.
Native American Contractors Association

Joint Hearing
Committee on Government Reform
Congressman Tom Davis, Chairman
Rep. Henry Waxman, Ranking Member

and

Committee on Small Business
Congressman Donald A. Manzullo, Chairman
Rep. Nydia Velazquez, Ranking Member

Review of
Alaska Native Corporations' Participation in the Small Business Administration's 8(a) program

Wednesday, June 21, 2006

Room 2154
1:00 pm
Rayburn House Office Building
Washington, D.C.

Chairmen Davis and Manzullo, Ranking members Waxman and Velazquez and distinguished members of both committees, thank you for the opportunity to appear before you today to talk about the success of the Small Business Act's Section 8(a) program in advancing the economic self-sufficiency of Native Americans. My name is Chris McNeil, Jr. I am a member of the Tlingit and Nisga'a Nation and I am the Chairman of the Native American Contractors Association and President and CEO of the Sealaska Corporation. My testimony today is on behalf of the Native American Contractors Association ("NACA").

NACA was formed to increase the awareness of the benefits of using firms owned by Indian Tribes, Alaska Native Corporations, and Native Hawaiian Organizations (collectively "Native Entities") to provide goods and services to the federal government. The mission of NACA is to enhance self-determination through preservation of government contracting participation based on the government-to-government relationship between Native Americans and the federal government. We have 27 community-owned corporation members (19 Alaska Native Corporations, 7 Indian tribe-owned enterprises, 1 Native Hawaiian Organization).

I. Introduction

The GAO report shows the success of the federal policy of promoting Native American government-to-government participation in the federal marketplace. Federal contracting promotes economic self-sufficiency and provides economic and employment benefits for Native Americans, who are among the poorest populations in the nation. The Native 8(a) program is a rare example of federal policy successfully fulfilling government procurement policies and fostering economic development for Native communities.

It is important to note that the GAO did not find evidence of abuse by ANSCA corporation 8(a) companies. Nor did the report call for legislative changes to the program. Rather, the GAO found that some government agencies do not always follow the rules, and absent improved oversight, there might be potential for abuse. GAO also found that government acquisition processes are flawed in some respects. NACA will work with government officials to improve these processes and urges lawmakers to focus on improving oversight and not to make substantial changes to the Native provisions of the 8(a) program.

Although the Native provisions of the 8(a) program have been in place for almost twenty years, most Native Entities are just now beginning to enter the federal marketplace as a way to generate long-term revenue streams, create jobs for their members and in the communities in which they work, and provide cultural and social benefits to member communities. Participation in the 8(a) program has also enabled Native Entities to develop the experience, skill, and expertise necessary to succeed in the competitive federal marketplace.

II. Indian Law and Policy: Why Native Entities Have Unique Contracting Rights

SBA 8(a) Program Regulations

The GAO report recognizes that Congress provided unique contracting provisions in the 8(a) Program to help spur economic development for Native Americans. These provisions include:

- Program eligibility rules for Native Entities that allow parent companies to own multiple 8(a) firms without violating limitations on affiliation.
- Exclusion from the competitive thresholds limiting the size of sole-source contracts in order to help these firms develop a sustainable revenue base—rather than mandating their employment practices or limiting their activities to a single geographical area.

The 8(a) Program rules applicable to a Native Entity are intentionally different from the rules governing 8(a) firms owned by individuals.[1] Unlike an 8(a) firm owned by an individual, a Native Entity has an organizational obligation to provide for the significant social and economic needs of all of its community members—who can number anywhere from hundreds to tens of thousands—not just one entrepreneur on whom 8(a) eligibility is based. Native Entities share a moral imperative to create permanent, self-sustained business operations to provide for current and future generations of their communities' members.

Federal Trust Responsibility to Foster Economic Development

The federal government's unique relationship with Native Americans derives from the U.S. Constitution's grant of power to Congress "to regulate Commerce... with the Indian Tribes."[2] This Constitutional provision, often referred to as the Indian Commerce Clause, and its interpretation in landmark Supreme Court decisions, gave rise to the federal government's special political relationship and trust responsibilities to Native Americans. As the Court stated, "the relation of the Indians to the United States is marked by peculiar and cardinal distinctions which exist nowhere else...."[3] No other group of U.S. citizens has a comparable relationship with the federal government.

In exchange for ceding over 500 million acres of land by the Native people of America, the United States entered into a trust relationship with Native Americans. Treaties, the supreme law of our land, were originally the primary way that this trust relationship was expressed. Today, the trust relationship is carried on through many statutes enacted by Congress, including the Alaska Native Claims Settlement Act (ANCSA) and the Native 8(a) provisions.

---

[1] Including Small Businesses, Small Disadvantaged Businesses, Women-Owned Businesses, HUB Zone firms or Service-Disabled Veteran-Owned concerns, as defined by the Small Business Act.

[2] See Article I, § 8, ¶ 3.

[3] See Cherokee Nation v. Georgia, 30 U.S. 1 , 15 (1831); *see also* Worcester v. Georgia, 31 U.S. 515, 519 (1832) (recognizing "[t]he Indian nations had always been considered as distinct, independent political communities... and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence—its right to self government, by associating with a stronger, and taking its protection.")

Congress was even more specific when articulating, in ANCSA, the federal government's relationship with Alaska Natives.[4] This law required compensation to settle land claims and mandated the use of for-profit corporations be used to implement the settlement. In ANCSA, Congress declared:

> (a) there is an immediate need for a fair and just settlement of all claims... based on aboriginal land claims; and (b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property...[5]

ANSCA represented a new and experimental approach to fulfilling federal obligations to Native Americans: providing Alaska Natives with village and regional corporate structures, rather than a reservation system (as was done in the lower 48 states). Under ANSCA, shareholders may not sell their shares to non-Natives. In fact, Congress explicitly intended the use of corporate structures to give Alaska Natives greater control of their economic destiny—to achieve self-sufficiency as well as self-governance. Congress has repeatedly emphasized that the most effective way to promote economic self-sufficiency and to minimize the dependence of Alaska Natives on federal assistance is through ANSCA corporations.[6] In fact, in furtherance of this economic settlement, eligibility for the 8(a) program was imbedded in ANCSA by amendments passed by Congress making it clear that ANCSA corporations' participation in the 8(a) program would be an integral part of the ANSCA settlement.[7]

In furtherance of the federal government's constitutional trust responsibility, Congress has enacted no more effective law to foster self-sufficiency and economic development in Native communities than the Native 8(a) provisions. As Senator Inouye has noted

> The Congress has long been concerned with the ravaging extent of poverty, homelessness, and the high rates of unemployment in Native America. The Congress has consistently recognized that the economic devastation that has been wrought on Native communities can be directly attributed to Federal policies of the forced removal of Native people from their traditional homelands, their forced relocation, and later the termination of the reservations to which the government forcibly relocated them. In 1970, President Nixon established the Federal policy of self-determination, and that policy has been supported and strengthened by each succeeding administration.[8]

---

4 See 43 U.S.C §1601, *et seq.*

5 See *Id.* at § 1601.

6 See *Alaska Native Commission Final Report, Vol. 1.* (1994).

7 In 1987, Congress passed amendments to the Alaska Native Claims Settlement Act, Public Law 100-241, which granted presumptive minority status to ANCs, as defined in 43 U.S.C. § 1626(e)(2). The sponsor of the bill was Don Young (R-AK). The intent behind these laws was to grant any qualifying ANCSA corporation or ANCSA corporation-owned firm the status of "a minority owned and controlled corporation for purposes of federal law." S. Rep. No. 100-201, reprinted in 1987 U.S.S.C.A.N. 3269, 3290. In 1992, the Alaska Land Status Technical Corrections Act, Public Law 102-415, amended §§ 1626(e)(1) and (2) by granting ANCSA corporation or ANCSA corporation-owned firms "economically disadvantaged" status, Rep. Don Young (R-AK) was the primary sponsor in the House and Senator Frank Murkowski (R-AK) in the Senate. The purpose of the amendment was to clarify further that ANCSA corporation or ANCSA corporation-owned firms are "minority and economically disadvantaged business enterprises for the purposes of qualifying for participation in federal contracting and subcontracting programs," including the SBA's 8(a) program. H.R. Rep. No. 102-673, reprinted in 1992 U.S.C.C.A.N. 1450, 1456.

8 Congressional Record, S5019 (June 13, 2000).

The Native 8(a) program provisions have helped Native Entities overcome economic barriers, create and expand competitive businesses in the private and federal markets, create new business opportunities in remote rural areas far removed from major markets, and return profits to their communities.

Native Entities represent a separate type of contracting that makes sense when one considers they have a responsibility to provide benefits to entire communities. All 8(a) firms, including Native Entities, have a maximum 9-year participation term in the 8(a) Program. Likewise, all 8(a) firms, including Native Entities, must be small to receive an 8(a) contract. When an ANSCA corporation 8(a) firm grows out of its applicable size standard, it graduates out of the program, just like any other 8(a) firm. Native Entities are permitted to form a new 8(a) firm in a different industry code in recognition of the fact that Native Entities are responsible for improving the livelihood of hundreds or thousands and have a greater need to generate continuing income for their shareholders and members. Accordingly, Native Entities can operate multiple 8(a) firms and do not have a limit on the size of contract that can be awarded to them on a sole source basis. These provisions were intended to prepare Native Entities to compete with others in their industry, particularly large contractors that have established relationships with government customers and possess capital and proposal capability sufficient to dominate the federal procurement market.

Fostering the development of successful small business contractors furthers the federal government's interests in broadening and diversifying its industrial base of service and supply providers. More competition can result by combating the consolidation of the government contracting industry into a few dominant large businesses. By providing different contracting provisions to qualified Native Entities, Congress increased the likelihood of sustaining business opportunities, ownership, and revenues for Native Americans. These provisions are fulfilling the federal government's special legal obligations to Native Americans.

III. ANSCA Corporation 8(a) Successes in Historical Context

The GAO report is remarkable for what it does not contain. While the report focuses extensively on recent increases in the level of 8(a) contracting across ANSCA corporations, there is no mention of dissatisfaction with the quality or timeliness of goods and services delivered by the ANSCA corporations or the efficiency and effectiveness with which they perform the contracts and deploy their people, assets, and capabilities. The fact that ANSCA corporation contract performance is a non-issue is a resounding testament to the success of the 8(a) program as an effective tool to both meet the federal government's procurement needs and to enhance economic development in Native communities.

Despite ANCSA's distribution of slightly more than 40 million acres of land and an aggregate cash distribution of roughly $440 million in 1971,[9] the ANSCA corporations' extremely limited base of business skills and experience made progress very difficult. Unfortunately, by 1993, the 12 regional corporations as a group had lost roughly 80% of the equity value of their initial cash distributions through loss-making business operations. While economic performance was not uniformly poor across all ANSCA corporations from 1976-1993, the average annual return on equity was negative 3.37%[10] for the three most active 8(a) regional corporations–Arctic Slope Regional Corporation, Chugach Alaska Regional Corporation, and NANA Regional Corporation.

Impacts of 8(a) Development Success on the ANSCA Corporations and Regional Economies

While economic success proved elusive for the majority of Alaska Native Corporations prior to participation in the 8(a) program, during the 1990s the improvements began to be seen in many social and economic indicators. These improvements correlate with the regions most active in the 8(a) program, suggesting that the Native 8(a) program is working exactly as intended to promote economic development.

As demonstrated in Table A, ANCSA regions demonstrated dramatic across-the-board improvements in the number of individuals with high school degrees, college and graduate degrees; higher employment rates; and higher income levels. Notably, the differences in tertiary education and in job creation have been most marked in the ANSCA regions represented by the five most active participants in the 8(a) program: namely, Alutiiq (Koniag region), Arctic Slope Regional Corporation, Chenega (Chugach region), Chugach Alaska Corporation, and NANA Corporation. As shown in Table 2, the number of individuals with a bachelor's degree or higher increased 565% between 1990 and 2000 in the ANSCA regions represented by these five ANSCA corporations compared with an increase of 440% in the other ANCSA regions. While both findings are extremely impressive, these five ANCSA regions added college graduates at a rate nearly 30% greater than the remaining regions. As referenced in the GAO report, ANSCA corporations have used the 8(a) program to create high-skill, higher paying job opportunities, and to increase incentives for obtaining higher education by offering numerous training programs and advancement opportunities. As noted in NACA's success stories, Native shareholders like Derik Frederiksen benefited from Sealaska Corporation's scholarship program and is now the general Manager of Sealaska's 8(a) firm—Sealaska Environmental Services.

The employment findings are also encouraging. While the majority of ANCSA regions experienced significant declines in unemployment during the decade of the 1990s, these five ANSCA regions reduced unemployment at a rate 57% greater than the other ANCSA regions. Unemployment rates fell 30% in the other ANSCA regions, but these five ANSCA regions saw a 47% reduction in the rate of unemployment.

---

[9] Data regarding initial allocations and early business performance of ANC's is taken from Steven Colt's unpublished paper entitled "Alaska Natives and the "New Harpoon": Economic Performance of the ANCSA Regional Corporations", dated February 2001, and available on the web at www.iser.uaa.alaska.edu/iser/people/colt/colt_newharpoon2.pdf.

[10] *Ibid.* at page 7, Table 2, Column entitled Average Non-windfall Return on Equity, 1976-1993.

Although these five ANSCA regions have not yet experienced greater than average improvements in per capita income or greater than average reductions in the number of people below the poverty level, these measures would be expected to respond more slowly to focused economic development efforts like ANSCA corporation 8(a) program participation. It is therefore important that any suggested changes to a proven economic development tool like the 8(a) program should be approached with caution, lest we give away the dramatic gains that have been achieved by altering the program before its positive socioeconomic effects are felt throughout the populations represented by the ANSCA corporations.

Table A: Summary of Socioeconomic Changes in ANC Regions

10-Year Percent Change in:	*High School or Higher Graduation Rate*	*College or Higher Graduation Rate*	*Unemployment Rate*	*Per Capita Income*	*Population Below Poverty Level*
Ahtna Regional Co.	60	756	-69	81	-51
Aleut Regional Co.	42	237	107	56	26
Bering Straits Regional Co.	42	568	-33	143	-40
Bristol Bay Regional Co.	34	318	-34	80	-30
Calista Regional Co.	34	344	-24	104	-35
Cook Inlet Regional Co.	20	303	-62	125	-59
Doyon Regional Co.	41	507	-66	173	-68
Sealaska Regional Co.	28	489	-57	109	-41
Arctic Slope Regional Co.	42	530	-36	69	-17
Chugach Alaska Regional Co.	35	947	-44	52	-16
Koniag Regional Co.	35	307	-64	81	-39
NANA Regional Co.	30	477	-43	111	-16
Average of five most active participants	36	565	-47	79	-22
Average of all other participants	38	440	-30	109	-37

Source: 1990 Census of Population, Social and Economic Characteristics, American Indian and Alaska Native Areas. Tables from "Summary Social, Economic, and Housing Characteristics, and Social and Economic Characteristics". 2000 Census data from Tables DP1, DP2, DP3, & DP4 for each ANC.

IV. Benefits ANSCA Corporations Provide Their Shareholders

Many American Indian and Alaska Native community members have just begun to realize the positive impacts of the Native 8(a) Program. The Native 8(a) provisions have helped tribal communities diversify their economies and provide jobs, education, and services to a group of Americans historically far less able to access the American dream. The 8(a) program has been particularly helpful to those tribes and ANCSA corporations that are located far away from major markets or industrial centers, because federal contracting can occur anywhere in the U.S. and abroad.

Accordingly, we believe that the Native 8(a) provisions have resulted in just what the Congress intended – facilitation of Native communities' diversification, self-determination and economic self-sufficiency. We are proud of our increased business capabilities and the newfound hope of building sustainable operations for future generations. As discussed in "Appendix X" of the GAO Report, "shareholder preferences for benefits differed among corporations."[11] "For example, one corporation stated that its shareholders prioritized protection of their land and the subsistence lifestyle," while "shareholders of other corporations placed a greater value on dividends, scholarships, training, and job opportunities."[12] Like our peoples' diverse cultures, each community has unique needs. ANCSA permits the shareholders to determine what they believe are the most vital needs of their communities and, thus, what benefits their Native corporation will provide.

Clearly, ANCSA corporations have at least one common strategic goal and that is to understand and respond to their shareholders' needs and desires, for shared benefits of the corporation. This is why the 8(a) rules applicable to Tribes and ANSCA corporations are intentionally different from the rules that govern 8(a) companies owned by individuals. Native-owned 8(a) firms generate community-wide benefits, meeting economic, social and cultural needs of their economically and socially disadvantaged communities, and provide higher-skilled and higher paying jobs, scholarships, and professional training. In contrast, the benefits of an 8(a) company owned by an individual are retained by that individual owner or family.

Through contracting, Native Americans have been successful in adapting and prospering in an ever-changing economic climate. "Appendix A" to NACA's testimony provides success stories of Native communities due to the direct support and funding from their corporations, for example:

> The lives of American Indians and Alaska Natives (AIAN) are challenging and often riddled with sub-standard social and economic conditions with limited opportunities to change the situation. There are many stories of struggle, such as, the village of Chenega Bay that survived an earthquake and tsunami and rebuilt twenty years later only to be devastated by the Exxon Valdez oil spill.[13]

A village member, Donia Wilson-Abbott said that her generation "had even forgotten the word in their Native language for hope."[14] NACA believes that bringing "hope" to Native communities is the passion behind all Native 8(a) firms. Where there is no "hope," it should be restored.

To that end, ANCSA and Tribal community-owned firms are energetically working to provide a better way of life and opportunity for their citizens and the regions around them. As every Tribe and ANCSA corporation is different, it is important for observers to realize the large

---

[11] Government Accountability Office Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

[12] *Id.*

[13] "The SBA Native 8(a) Program Brings Hope To American Indian and Alaska Native Communities!" by the Native American Contractors Association.

[14] Chenega Bay celebrates comeback after devastation, *Channel 2 Broadcasting Inc., http://www.ktuu.com, by Rhonda McBride.*

variance in the number of shareholders. It is quite appropriate therefore, that GAO noted the growth in shareholder numbers since ANCSA's enactment. GAO wrote, "Overall, the corporations we reviewed saw a 31 percent increase in their number of shareholders since incorporation."[15]

The 2005 data related to cultural, social and economic benefits of government contracting and the 8(a) Program has been provided by self-disclosure of twelve (12) of the ANCSA Regional Corporations. In 2005, collectively these twelve Native corporations provided $31.8 million in dividends to their 86,516 shareholders. Dividends are absolutely vital for the economic health of our shareholders, particularly those who continue to live in very rural Alaska Native villages where a gallon of milk can cost over $12.00 and fuel can run $6.00 a gallon.

Empowering our Native communities through economic and cultural sustainability and developing the next generation of Alaska Natives through internships, youth programs and scholarships are essential for nurturing healthy communities. Tyan Selby, Executive Director of the Koniag Education Foundation, states:

> When people are educated within their own community that helps drive the economies of those communities, and helps strengthen them. Increased education and employment opportunities build stronger communities by decreasing unemployment, domestic violence, depression, suicide, child abuse, and dependency issues.[16]

Recognizing this need, twelve Native corporations provided $7.3 million in funding for additional shareholder programs such as school programs, Elder Trust Funds, potlatches, intern and youth programs in 2005. Additionally, these Native corporations donated $6.32 million in contributions to cultural and social program support for the Native and non-Native community, for programs such as cultural camps for youth and Elders and the United Way, and awarded over $9.5 million in scholarships to Alaska Natives pursuing a post-secondary education.

The following is a brief description of some of the benefits provided by Native corporations:

- *Dividends.* The GAO Report stated that 30 Native corporations provided $121.6 million in dividends to their shareholders in 2004.
- *Shareholder hire preference and job opportunities.* Under PL 93-638 shareholders, Alaska Natives and American Indians receive preference in employment and are encouraged to apply for positions within Native corporations for which they are qualified for. Many Native corporations also have staff dedicated to assisting shareholders find employment, both within the corporation, with their business partners, and other companies.
- *Management Training.* Native corporations are using 8(a) revenues to create management-training programs and to build sustainable businesses and Native economies. As cited in the GAO report, one-third of the 30 firms surveyed have instituted management-training programs.

---

[15] Government Accountability Office Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

[16] "Shareholder Success Stories – Tyan Selby, Executive Director, Koniag Education Foundation" by the Native American Contractors Association.

- *Internships and Youth Programs.* Most Native corporations provide internship programs and other youth programs, such as mentoring programs to develop future management for the corporation and leaders for the Native community.
- *Community infrastructure.* Some Native corporations invest in infrastructure projects within their villages. For example, one corporation built a laundry mat in a community where there was no running water so that community members could do laundry and take a shower. Still other Corporations subsidize cable and internet or assist with shipping costs for their remote villages.
- *Subsistence Programs.* Subsistence is the traditional way in which Native people have worked with the land and sea for thousands of years to gather food and other resources. The subsistence lifestyle is a main component of Alaska Native cultures. Many corporations support the subsistence lifestyle through subsistence advocacy programs, providing subsistence leave for their employees, and leasing its corporate lands to those who want to partake in subsistence activities (e.g. fish camps).
- *Burial Assistance.* Many Native corporations provide burial assistance programs for families of deceased shareholders. The cost of a funeral is high and many Alaska Native cultures partake in a traditional burial practices, such as the mortuary potlatch, which requires tremendous resources. Assistance from the Native corporation may be in the form of cash, life insurance, or in-kind donations.
- *Land Leasing & Gifting.* Most Native corporations have made their ANCSA land opening available for shareholders to use, either through leasing or gifting programs, for subsistence, recreational activities, primary residence and/or economic development opportunities.
- *Support of Non-Profits.* Almost all Native corporations provide support for non-profit organizations that provide cultural, social and advocacy programs for Alaska Native people. Such organizations include education foundations, statewide advocacy organizations (e.g. the Alaska Native Justice Center, Alaska Native Heritage Center, and Get Out the Native Vote).
- *Elder Benefits.* Many Native corporations provide benefits to their Elders. Benefits can include dividends, one-time financial payments, healthy meal programs or bus service.
- *Cultural preservation.* Most corporations invest in cultural preservation programs. Some provide donations to museums, archeological research, documenting the culture and history of their community, cultural camps, and traditional language preservation programs.
- *Support of other corporations.* Some Regional corporations help the village corporations in their area with economic development, resource management, records management, and community planning.

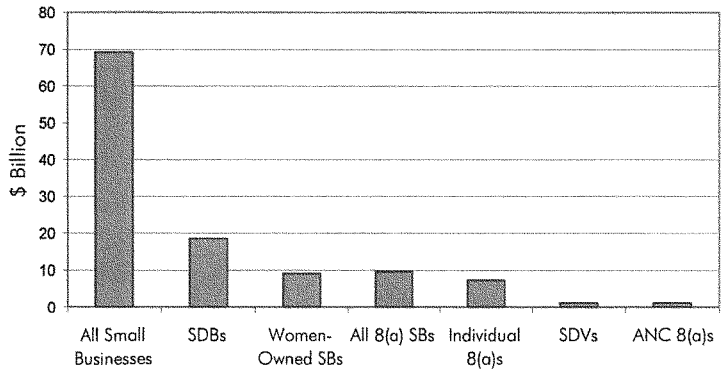
Because of the restrictions on alienation of stock in ANSCA corporations—shares cannot be sold—what is not paid in dividends, scholarships, social programs, still benefits Native people by virtue of reinvestment in the corporation to build a better base of dividends, scholarships, and opportunity for the future. ANSCA corporations have an obligation to provide benefits in perpetuity to their Native shareholders.

V. ANSCA Corporations—A Sliver of the Pie

As shown in Table B, the percentage of all government contracts held by ANSCA corporations is small relative to all federal procurement dollars. In 2004, about 13 percent or $1.1 billion of all 8(a) contract dollars were awarded to Alaska Native Corporations that represent 100,000 Alaska Native shareholders. The remaining 87 percent or $7.3 billion of the 8(a) contract dollars were awarded to roughly 9000 individually owned 8(a) companies. Furthermore, for 2004, the SBA reports that the federal government awarded more procurement

dollars to small firms than in the past. In 2004, small businesses were awarded $69.23 billion or 23% of all federal prime contract awards. In 2003, small businesses were awarded approximately $45.5 billion in subcontracts from prime contractors. The total procurement amount to small businesses in FY 2004 is estimated by the SBA at $119.2 billion.[17] In 2004, Women-Owned Small Businesses received $9.09 billion, Small Disadvantaged Businesses (SDBs) received $18.54 billion, and Service-Disabled Veterans-Owned Small Businesses received $1.15 billion in prime contract awards.[18]

Table B, Small Business Prime Contracts in Fiscal Year 2004



VI. Government-wide Procurement Challenges

Many of the principal criticisms presented in the GAO report are not specific to ANSCA corporation contracting, but rather are common to the entire procurement system. Still other issues address concerns that involve all small businesses, not just ANSCA corporations. While GAO's scope was limited to a review of the ANSCA corporation portion of the 8(a) Program, a fair treatment cannot be obtained by viewing ANSCA corporations in isolation from overarching procurement problems that GAO has diagnosed in other reports. In fact, GAO acknowledged these broader procurement issues that it has previously reported on.[19] By presenting these issues only in the context of the 8(a) Program, the GAO report obscures the wider public policy issues and minimizes their significance.

---

[17] SBA, Office of Advocacy, *The Small Business Economy: A Report to the President: Chapter 3—Federal Procurement to Small Firms*, page 41, 44 (2005).

[18] Id. at 55.

[19] *See* Fn 7, Page 8, GAO, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399)*; GAO, *Federal Procurement: Spending and Workforce Trends, (GAO-03-433)*; GAO, *Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business is Uncertain (GAO-04-454)*; GAO, *Small Business Contracting: Concerns About the Administration's Plan to Address Contract Bundling Issues, (GAO-03-559T)*; GAO, *Reporting of Small Business Contract Awards Does Not Reflect Current Business Size, (GAO-03-776R)*; and GAO, *Interagency Contracting: Problems with DoD's and Interiors Orders to Support Military Operations, (GAO-05-201)*.

ANSCA Corporations Are Not at the Root of Small Businesses Contracting Problems

Contract bundling and consolidation are a systemic concern for policymakers, procurement officers, SBA officials, and small businesses. ANSCA corporation 8(a) firms play a minimal role, yet the GAO report implies that ANSCA corporations antagonize small businesses. Contracts are bundled because "increased demands to make the acquisition process quicker and less complex coupled with reductions in the overall acquisition workforce have driven acquisition managers to bundle requirements."[20] The Office of Federal Procurement Policy (OFPP) has found that substantially fewer small businesses are receiving federal contracts and the federal government is suffering from a reduced supplier base. [21] It is not ANSCA corporations that inhibit the ability of small firms to win such awards, but rather the large number of tasks required by bundled contracts, their increasing dollar size, and their often broad geographic scope.

A report prepared for the SBA's Office of Advocacy found that, for every 100 "bundled" contracts, 106 contracts are no longer available to small businesses. Similarly, for every $100 awarded on a "bundled" contract, there is a $33 decrease in contracts awarded to small businesses.[22,23] Since bundled contracts typically run for a longer period of time and are broader in scope, the total number of new contract awards has declined. Consequently, although overall small business contracting dollars remained relatively constant, there has been a sharp decline in the number of new contract awards. The OFPP found that significantly fewer small businesses received federal contract awards: from a high of 26,506 in fiscal year 1991, to a low of 11,651 in fiscal year 2000.[24]

If these contracts were not awarded to ANSCA corporation 8(a) firms, the requirements would nonetheless be bundled and likely available only for large businesses. Moreover, there is no guarantee these contracts would be awarded competitively in the absence of rules for ANSCA corporations. A far more prevalent trend is the use of large Indefinite Delivery Indefinite Quantity (IDIQ) contracts to avoid competition and protests from disappointed bidders, as GAO's own Administrator, David Walker, recently pointed out to the Acquisition Advisory Panel.[25]

---

[20] *Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business*, Office of Federal Procurement Policy, (October 2002).

[21] *Id.*

[22] *The Impact of Contract Bundling on Small Business: FY 1992-FY 1999*, Eagle Eye Publishing for the SBA Office of Advocacy, (September 2000).

[23] We note that there has been some disagreement on how to interpret the statutory definition of contract bundling. For example, GAO in the past has questioned the value of the Eagle Eye data in an earlier report on contract bundling because the definition used for [continued] bundling was different than the statutory definition. Nevertheless the OFPP report relied on the Eagle Eye data cited above as anecdotal evidence of contract bundling.

[24] Fn. 11.

[25] Testimony of David Walker, March 29, 2006, before the Acquisition Advisory Panel, as reported in BNA's Federal Contracts Report, Vol. 85, No. 13, p. 357 (April 4, 2006).

The decline of small business contracting has also been exacerbated by the acquisition reforms of the 1990s. GAO found that the acquisition workforce was reduced approximately 22 percent from 1990 to 1998.[26] The GAO reported that, according to agency officials, contracting officials sought ways to streamline procurement practices partly as a result of workforce reductions. These practices include contracting vehicles such as blanket purchase agreements, IDIQ contracts, and GSA Federal Supply Schedules.[27] Pressure on agencies to do more with less results in the award of larger contracts, for which all small firms have difficulty competing. As a result, the list of the top 100 large federal contractors has changed very little despite reform efforts.[28]

Despite these well-documented systemic problems with the procurement system, a small but vocal few in the small business community have targeted ANSCA corporations as a convenient scapegoat. Unfortunately, the GAO's report may exacerbate such mistaken assumptions. In reality, federal prime contracting has ballooned to over $300 billion in recent years. No group of small businesses has actually "lost" dollar volume; the only change is to the perception that others might have gained a proportionally greater share. The unfortunate truth is that, as a whole, all lawful participants in SBA's contracting programs have seen their total share diminish well short of statutory goals (which, incidentally, are a floor—not a ceiling). Congress should respond to the advice GAO gave by urging the SBA and other contracting agencies to honor and enforce existing small business procurement goals and provide enough oversight to make these goals stick.

Non-competitive Practices Pervade the Procurement System.

To suggest that ANSCA corporations are the root of the Federal Government's anticompetitive practices also belies the facts. During fiscal years 1998 through 2003, the Department of Defense awarded $362 billion in contracts without full and open competition, more than one-third of the Department's procurement budget. The top five contractors alone received $145 billion in sole-source contracts from the Department of Defense.[29]

SBA and Agencies Fail to Track and Enforce Limitations on Subcontracting

ANSCA corporations have taken very seriously the limitations on subcontracting and will work with SBA and the agencies to develop a system to gather more data to demonstrate their compliance. That said, the limitations on subcontracting, which define the percentage of work prime contractors must perform, apply not only to ANSCA corporation 8(a) contracts, but also to all small business contracting programs.[30] The failure of SBA and other agencies to enforce these provisions is not limited to ANSCA corporations and cannot be properly viewed in isolation. In fact, in 2005 the U.S. Court of Federal Claims reported a decision involving the

---

[26] GAO-01-119, *Trends in Federal Procurement in the 1990's.*

[27] See Major Clark III, J.D. and Chad Moutray, Ph.D, *The Future of Small Businesses in the U.S. Federal Government Marketplace*, SBA Office of Advocacy (2004).

[28] *The Future of Small Businesses in the U.S. Federal Government Marketplace, p. 14.*

[29] *Outsourcing the Pentagon*, Center for Public Integrity, (November, 2004).

[30] See 13 C.F.R. § 125.6.

subcontracting limitation regulations and the offender was not an ANSCA corporation.[31] The GAO's report does not acknowledge that this is an SBA-wide requirement and a government-wide shortcoming.

The GAO report also has not acknowledged the fact that performance of work requirements provide a compelling advantage to all small business contractors, as well as taxpayers. As recently noted with respect to post-Katrina contracting, large prime contractors commonly use multiple layers of subcontracting to procure necessary goods and services.[32] At each level, primes and higher-tier subcontractors add administrative markups that, cumulatively, result in prices several times larger than the true cost of such goods and services. In small business contracting, the markup problem diminishes because small business prime contractors are required to self-perform most of their contracted work. The GAO report does not mention this important benefit of small business contracting.

SBA and Agency Procurement Staffs Must be Increased.

NACA supports any effort that brings relief to the long-suffering SBA workforce, especially the Alaska District Office. In addition, NACA welcomes efforts to increase agencies' acquisition workforces and other resources. We regret that GAO did not tie this report to the body of research about the critical decline of the procurement workforce.[33] This shortage is at the root of each issue in the GAO report on ANSCA corporations: failure to track and meet small business goals; avoidance of competitive processes whenever possible; failure to track and enforce small business performance of work requirements; and improper expansion of contract scope to avoid new contracting actions.

VII. 8(a) Sole-source Negotiated Procurement Process

NACA disagrees with impression that the GAO report gives regarding the 8(a) sole source acquisition process as a quick and easy method. A sole source contract awarded through the 8(a) program involves extensive negotiations between a contracting officer and a potential contractor. It is through this process that the government gets the benefit of the best value of goods and services that are available from the marketplace. This process is outlined below:

Steps in an 8(a) Contract Award

1. Under an 8(a) procurement, a contracting officer (CO) may meet with an 8(a) firm to discuss technical requirements, timing, and capabilities. This meeting establishes a firm's "bona-fides," and might include a discussion of the firm's capability relevant to the agency requirement, additional capabilities of the firm, past and current successful performance examples, financial capacity, innovative or non-traditional approach to developing cost effective/cost reducing performance, special certifications held by the firm, key personnel, history of the firm and any other information either deemed relevant or as requested by the agency.

---

[31] See *e.g.* Transatlantic Lines v. United States, 68 Fed.Cl. 48, (September 30, 2005).

[32] See *e.g. Multiple Layers of Contractors Drive Up Cost of Katrina Cleanup*, Washington Post, p. A1, (March 20, 2006).

[33] See *GAO High-Risk Series - An Update*, GAO-05-207 (January 2005).

2. If the CO is satisfied that the 8(a) firm can meet his requirements, he will ask for permission from the SBA to hold sole source negotiations with the 8(a) firm. SBA formally accepts the procurement into the 8(a) program, certifies that the chosen 8(a) is qualified, and delegates authority to the CO to negotiate with the 8(a) firm.
3. Often the CO will initiate an integrated process to develop a statement of work, clarify all elements of the work statement, identify efficiencies that may provide cost savings, and establish evaluation criteria.
4. This process establishes a positive working relationship between the parties and a means to resolve disputes. Most critically, both parties reach an understanding of the outcomes of a requirement and of how the contractor will achieve those outcomes. This virtually eliminates "downstream" claims and adjustments.
5. The CO then requests a technical and cost proposal, and negotiates cost and terms with the firm. Often, the cost volume for an 8(a) proposal is significantly more detailed than a competitive proposal. This ensures the Government has sufficient detail to determine cost reasonableness and that the American taxpayer is getting best value.
6. Most sole-source 8(a) proposals are then "audited" by the Defense Contract Audit Agency (DCAA) at the procuring agencies request. On a large procurement this audit can be extremely comprehensive including evaluation of labor rates and associated burdens, detailed examination of other direct cost elements including review of vendor quotes and estimates for everything from insurance to office supplies. Pricing for equipment items and comparison to the requirement are checked and an evaluation of General and Administrative (G&A) rates and overhead rates. Finally a review of the proposed fee structure is completed. This level of strict scrutiny is rare in a full and open competition.
7. The DCAA reports the findings of the audit to the agency. The agency will then establish their negotiating position and schedule negotiations with the firm. The government usually prepares its own estimate of the cost of the services and uses that estimate, along with the results of the DCAA audit as the basis for negotiations.
8. Negotiations are formal, arms-length discussions and all elements of the contractor's proposal are discussed, justified, modified and eventually agreed upon. Proposed staffing levels are discussed and compared to requirements. Materials, equipment, other direct costs and indirect costs are typically scrutinized and validated against the requirement. The government is generally well prepared for these negotiations as it is their responsibility to obtain the best value for the taxpayer. Often, a contractor winds up with a contract price that may be significantly less than expected as a result of not having solid, documented pricing justification in the form of vendor quotes or historical justification, or a poor analysis of the requirement.
9. Once all requirements and pricing is agreed to, the government, depending on the magnitude of the contract, forwards their recommendation for award through the proper review and approval chain of command. Once approved, the contract is then awarded and the contractor begins the process of transition and full performance.

Despite superficial claims that 8(a) sole-source contracting is merely a convenient method for the government, there is probably no other contract vehicle subject to more scrutiny. This process provides checks and balances to assure fair and reasonable pricing and to achieve the best value for the American people.

VIII. Conclusion

In closing, we echo the GAO's finding that the 8(a) program helps Native Entities to overcome economic barriers, create and expand businesses, participate in the federal marketplace, and provide cultural and social benefits to their communities. Fostering the development of successful small business contractors advances the government's interests by broadening and diversifying its industrial base of service providers and suppliers. Combating the consolidation of the government contracting industry into a few dominant large businesses results in more competition and lower prices for the government. By providing different contracting provisions to qualified Native Entities, Congress increases the likelihood of sustaining business opportunities, ownership, and revenues for Native Americans.

To continue this success and progress that has been made we make the following recommendations:

1. NACA will work with the Administration and others to improve the way the 8(a) program works for all 8(a) participants including advocating for sufficient staffing and resources for the SBA to implement the 8(a) program. Additionally, as noted, by GAO on page 45 of the report, some of the GAO recommendations to the SBA (limitations on subcontracting and notification of contract modifications) are not limited solely to ANSCA corporations but rather apply to all 8(a) contracting activity.
2. NACA will work with the Administration and others to improve data collection, monitoring and oversight to better reflect the unique nature of Native Entities that participate in the 8(a) program.
3. NACA will develop a "Best Practices Guide" that can be adopted by our members to improve record-keeping and reporting mechanisms to address issues raised by the GAO report such as tracking primary and secondary NAICS codes and tracking primary revenue generators, documenting compliance with the limitation on subcontracting requirements, compliance with ownership limitations and business mix requirements, and other issues.
4. NACA will work with other small business groups to make sure that all federal agencies meet their small business contracting goals and will seek out creative ways to increase small business participation in federal contracting opportunities. The federal contracting pie is enormous with over $300 billion worth of goods and services purchased last year—there is sufficient opportunities for all small businesses to participate. Indeed, as GAO noted the ANSCA corporation 8(a) share of this pie for 2004 was $1.1 billion and $7.3 billion to all other 8(a) firms. Furthermore, for 2004, the SBA reports that the federal government awarded more procurement dollars to small firms than in the past. In 2004, small businesses were awarded $69.23 billion or 23% of all federal prime contract awards. In 2003, small businesses were awarded approximately $45.5 billion in subcontracts from prime contractors. The total procurement amount to small businesses in FY 2004 is estimated by the SBA at $119.2 billion.[34]

Thank you for the opportunity to testify. I look forward to working with you and the Administration on ways to improve this critical 8(a) tool which is bringing much needed economic development to a group of Americans historically far less able to access the American dream.

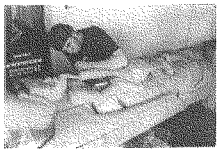
---

[34] SBA, Office of Advocacy, *The Small Business Economy: A Report to the President: Chapter 3—Federal Procurement to Small Firms*, page 41,44 (2005).

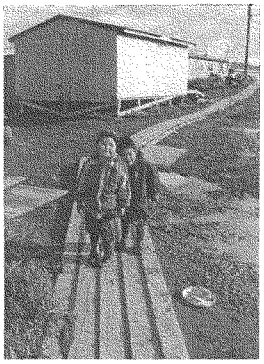
NACA
Native American Contractors Association

Native 8(a) Program Brings Hope to Indian and Alaska Native Communities!

By the Native American Contractors Association



American Indian and Alaska Native community members are realizing the positive impacts of the Small Business Administration's (SBA) Native 8(a) Program. In fact, recent testimony at the Senate Committee on Indian Affairs' (SCIA) oversight hearing on economic development highlighted the SBA Native 8(a) Program as one of the most successful laws Congress has enacted to foster self-sufficiency and economic development in Native communities. The Native American Contractors Association's (NACA) testimony at the SCIA hearing reported that these 8(a) provisions are rare examples of federal policy successfully fulfilling Congressional intent to advance federal procurement goals and simultaneously help build self-sustaining economic drivers and self-reliance in our Native communities.



The lives of American Indians and Alaska Natives are challenging and often riddled with sub-standard social and economic conditions with limited opportunities to change the situation. There are many stories of struggle, such as, the village of Chenega Bay that survived an earthquake and tsunami and rebuilt twenty years later only to be devastated by the Exxon Valdez oil spill. A village member, Donia Wilson-Abbott said that her generation "had even forgotten the word in their Native language for hope."*

The 8(a) rules applicable to Tribes and ANCs differ, purposely, from the rules that govern 8(a) companies owned by individuals. The core mission of ANCs includes generating community-wide benefits and meeting social and cultural needs of their economically and socially disadvantaged communities. ANC-owned 8(a) companies provide many benefits to shareholders, including higher-skilled and higher paying jobs, scholarships, and training. In contrast, the benefits of an 8(a) company owned by an individual are retained by that individual owner. The following provide insight into the diverse sharing of corporate opportunity and profits.

* Chenega Bay celebrates comeback after devastation, *Channel 2 Broadcasting Inc., http://www.ktuu.com, by Rhonda McBride.*

NACA
Native American Contractors Association

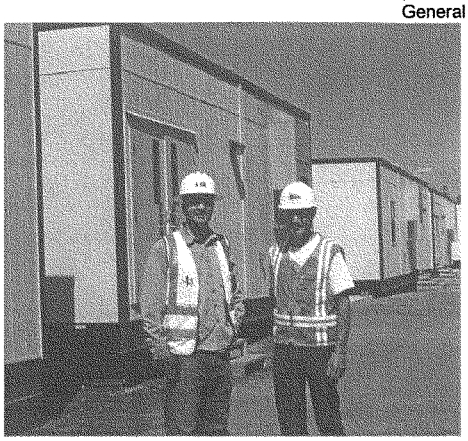
Exceptional Performance Leads to Benefits for Alaska Natives

Alutiiq, LLC, Kodiak, Alaska

The excellent performance and corporate citizenship of Alaska Native Corporations and tribes have resulted in outstanding award fees, future contract opportunities and strong relationships within the local communities where we work. All of this leads to benefits for over 120,000 disadvantaged Alaska Natives. Below is the success story of one Alaska Native Corporation which participates in 8(a) government contracting, Alutiiq, LLC, a wholly-owned subsidiary of Afognak Native Corporation.

The Chugach Management Services, JV (a joint venture between Chugach Alaska Corporation and Alutiiq, LLC) has consistently received above 97 percent award fees since it began the Kirtland Air Force Base operations and maintenance contract in July 2000. Their last award fee of 98 percent, awarded in March 2005, was based on the joint venture's "...unwavering support to team Kirtland customers [which] was continuous and consistent...you and your employees will take us to a higher level of excellence." *Henry L. Andrews, Jr., Colonel, USAF Commander.*

Alutiiq's exceptional award fees are a direct result of our hard working, high-caliber employees. On another contract two Alutiiq employees, Senior Officer Delaney Jefferson and Sergeant Steven Hill, were both presented with coins by Fort Carson's Commanding General Robert Wilson for their outstanding performance, attention to detail, and handling of an individual who attempted to gain access to Fort Carson under false pretenses. We are proud of our employees and their outstanding performance.



Alutiiq often hires retired law enforcement and military personnel on our contracts. In response to our efforts, Alutiiq earned the *Employer of the Year Award* from the Veterans of Foreign Wars (Department of North Carolina) in the "over 250 employees" category. Alutiiq was then nominated and awarded the *National Employer of Veterans Award*, which we will receive in August 2006.

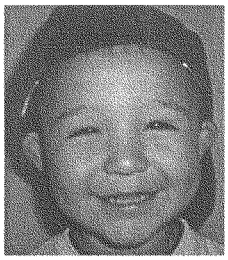
Alaska Native people have survived off our traditional land and sea for 10,000 years. Over the last 200 years of western occupation the Alutiiq people have faced epidemics, war,

NACA
Native American Contractors Association

and famine, all devastating our culture and leaving little for economic and social prosperity. To combat this, each year Afognak Native Corporation provides employment opportunities, donations and volunteer support to various organizations within the Alutiiq community to increase our people's quality of life and foster Alutiiq culture and education.

All Alaska Native Corporations are focused on providing employment opportunities for their shareholders. Many, if not all, have instituted some level of shareholder hire and training programs. Alutiiq (the wholly-owned government contracting subsidiary of Afognak Native Corporation), like most of the ANCs, has staff dedicated to assisting shareholders find employment within our family of companies, and with other organizations. The staff also helps shareholders obtain the training and educational opportunities necessary to improve their skills and job prospects.

As a wholly-owned subsidiary, the profits of Alutiiq flow up to Afognak Native Corporation. Afognak utilizes these profits to provide shareholder benefits in a number of forms, including individual scholarships. We are only now beginning to see the results of these vital programs as our youth begin graduating with vocational, undergraduate and graduate degrees in everything from mechanics to education and business management. Many are the first in their families to earn a vocational or college education. Today these young leaders help our Native community by teaching, serving in the social work field or leading our businesses.



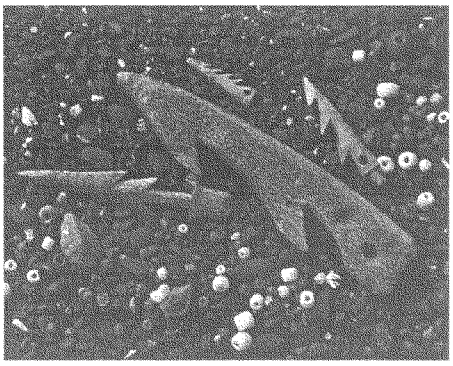
To increase the quality of life for our almost 700 shareholders, Afognak provides an annual dividend. In 2005, Afognak paid a record $10.8 million in dividends as a direct result of our participation and success in the 8(a) program. In addition, the Afognak Board designed its Shareholder Permanent Fund so that dollars from its business development operations could provide long-term economic benefits to the Shareholders. These dividends mean a tremendous amount to our shareholders - young families just starting out, Elders, and families who live a subsistence lifestyle in our traditional village.

Each year Afognak provides donations and in-kind contributions for programs that support cultural and social growth of our Native community. For example, Afognak initiated a series of Alutiiq cultural camps in the mid-1990's to save our traditional way of life. These camps, now run by the Native Village of Afognak, teach our Alutiiq children traditional dance, language, history, and subsistence from Native leaders and Elders.

Each year Afognak supports the Alutiiq Museum & Archeological Repository. Through financial and in-kind support from Afognak and other Native organizations the Museum travels to each of the rural communities in our region to teach our Native children traditional ways. In the spring of 2005, our children learned how to make Alutiiq bentwood boxes, a skill that has not been taught in more than 100 years.

Afognak has partnered with the Alutiiq Museum and other Native organizations to rescue our archeological sites in order to save 10,000

NACA
Native American Contractors Association



years of Alutiiq history from vandalism and erosion. To date we have gathered tens of thousands of artifacts, collected from our joint excavations on Afognak Island. These fragile irreplaceable treasures, gathered for our people by our people, are truly a library. They contain incredible information on our ancestor's lives. They hold the stories of our people that are available from no other source.

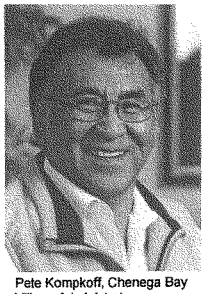
Each year Afognak supports these, and other, cultural programs through donations and in-kind contribution. We are proud of our history, of our ability to survive and the future opportunities we are able to provide to our children.

Contact: Sarah Lukin
Corporate Communications Manager
Alutiiq, LLC
Phone: (907) 222-9586
Email: slukin@alutiiq.com

NACA
Native American Contractors Association

Community Enrichment: From Survival to Success

Chenega Corporation, Chenega Bay, Alaska

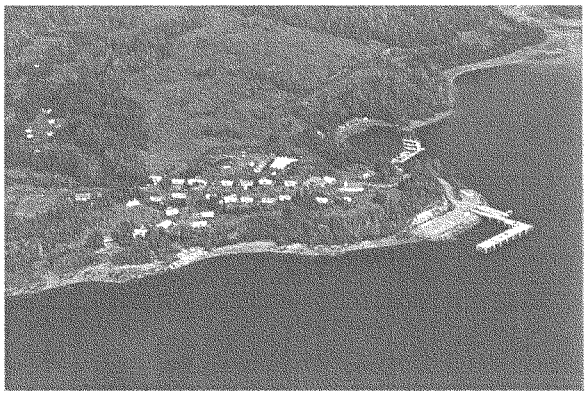


Pete Kompkoff, Chenega Bay Village Administrator

"The Chenega Corporation almost didn't happen. After the 1964 earthquake, the village fell apart and survivors had to fight to be included in the Alaska Native Claims Settlement Act. Today, the village is celebrating a unique success story." [†] According to a recent news report, the Chenega Corporation had a big hand in reviving the community, building a dock, funding three new buildings to include a health clinic, and establishing culturally enriching programs for the children like traditional dancing.

The corporation is also helping to bring a general store to the village, providing new hope and many successes. "I think the village itself would not have been reestablished without the help of the corporation," said Pete Kompkoff, Chenega Bay Village Administrator.[‡] Also reported was that in 2005, "Chenega's village corporation reported more than $18 million in profits, a lot of it was earned through oversight of government contracts. Chenega employs more than 3,000 people and about 2,500 subcontract employees in 38 states and nine foreign countries."[§]

Boat harbor, Chenega Bay Village.



Chenega Bay Village.

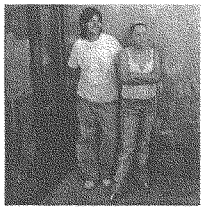
[†] Chenega Bay celebrates comeback after devastation, *Channel 2 Broadcasting Inc., http://www.ktuu.com, by Rhonda McBride.*
[‡] Chenega Bay celebrates comeback after devastation, *Channel 2 Broadcasting Inc., http://www.ktuu.com, by Rhonda McBride.*
[§] Chenega Bay celebrates comeback after devastation, *Channel 2 Broadcasting Inc., http://www.ktuu.com, by Rhonda McBride.*

NACA
Native American Contractors Association

S & K Technologies: A Vision of the Future

A Tribally Owned Enterprise of the Confederated Salish & Kootenai Tribes of Montana

"Luke Smiling"
by Francis Lozeau



"Hold that Pose"
by Brian Dupuis

"Self Portrait"
by Junior Grenier

"Untitled"
By Deanna Kenmille

(St. Ignatius, Mont.) – Inherent to S&K Technologies' (SKT) mission statement, the company continues to support important community projects that are critical to the tribal cultural value system of the Confederated Salish and Kootenai Tribes.

One project that SKT is particularly proud of sponsoring is Our Community Record, a program whose participants include students of the Two Eagle River School, located in Pablo, Montana.

Since 2001, middle and high school students at Two Eagle River School have been enthusiastic participants in this unique project that challenges them to express their personal vision and experience by documenting their community, culture, and history through photographic studies. Most recently in both 2004 and in 2005, SKT contributed a significant grant to Two Eagle River School to allow for the continued progress of Our Community Record.

This contribution helps the program with such costs as photographic equipment, educational field trips, photographic printing supplies, and most importantly, classroom instruction from critically acclaimed professional resources.

Through this project, SKT is helping to make a difference in the lives of young people on the Flathead Indian Reservation. Our Community Record empowers youth to learn about visual communication and technical production, in addition to fostering their work as effective artists and story tellers.

Two Eagle River School is a Bureau of Indian Affairs-contracted, educational institution of the Confederated Salish and Kootenai Tribes. The school serves Native American students in the 7th through 12th grades. Approximately 130 students attend Two Eagle River each year, with about 30 students graduating annually.

SKT is a tribally owned enterprise of the Confederated Salish and Kootenai Tribes of Montana, and recently graduated from the Small Business Administration's 8(a) Business Development Program in 2006.

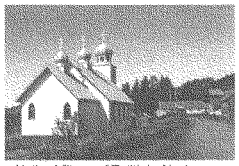
Photographs by students at Two Eagle River School.

NACA
Native American Contractors Association

Maintaining Our Traditional Way of Life

Gary Kompkoff, Native Village of Tatitlek, Alaska

Gary Kompkoff, Chief
Native Village of Tatitlek


Native Village of Tatitlek, Alaska

Village hunters teaching child how to harvest subsistence foods for community.

"My name is Gary Kompkoff, I'm a Chugach Alaska Corporation board member for the last six years, and also Chief of the Native Village of Tatitlek for the last 28 years. The most noticeable change to me [regarding opportunities since the success of ANC businesses] is the renewed sense of pride that the people in our community have. And being a Chugach Native, to me, it's reflected not just by individuals but by the communities and by their region as a whole.

The most noticeable impact of the dividends has been on the assistance that they provide in continuing the subsistence lifestyle that the people in my village live. The dividends have helped hunters and fishers buy the supplies – the gas, the ammunition – everything they need to continue the subsistence harvest. With the increased price of fuel and the increase price of supplies, these dividends have really helped the people of Tatitlek continue their subsistence lifestyle.

The Elders' dividends are – Tatitlek is a remote community accessible only by boat or by plane – so the dividends that they receive are really helpful in getting them to proper medical facilities for medical care and helps them with the purchase of the medicine that they need. And also, like with everyone else, not just Elders, helps with the purchase of stable goods such as groceries in the village.

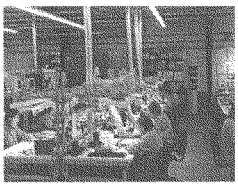
[If the 8(a) program was eliminated] there would be some differences - the noticeable difference would be the ability of our hunters and fishers, especially, to buy the things that they need for subsistence harvest. Another noticeable difference would be on single mothers; these dividends are really helpful in providing them with some kind of income. The cultural programs that Chugach and Chugach Heritage Foundation have started are one of the most important things that Chugach does at the present time, I think. The preservation of the Alutiiq culture is one of the top priorities of the Native community and to take away the funds that they contribute towards that goal would be really harmful."

Chugach shareholders harvesting subsistence salmon.

NACA
Native American Contractors Association

S & K Electronics: Over 20 Years of Providing Quality Products

A Tribally Owned Enterprise of the Confederated Salish & Kootenai Tribes of Montana



(Pablo, Mont.) -- For centuries, detailed handiwork and craftsmanship have been a way of life for Native American people. Today S&K Electronics (SKE) is guided by this same pride in workmanship and it shows in every product that they make.

As a leading manufacturer of cable assemblies, wiring harnesses, electronic and electro-mechanical products for both industry and government, SKE continues a 20-plus year tradition of building products that improve the lives of people around the world.

Started in 1984, the company began, with about five employees, as a manufacturing enterprise of the Confederated Salish and Kootenai Tribes of Montana.

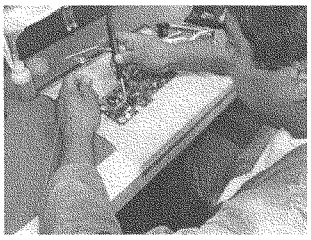
By 1990, the company was certified under the Small Business Administration's (SBA) 8(a) Business Development Program. Under this program, SKE grew and developed critical infrastructure until 1999 when the company successfully graduated out of 8(a) status.

Today the company boasts employing 108 personnel, with $10 million in annual sales in Fiscal Year (FY) 2005, and every year since graduation, the company has continued to progress. This year is no different with SKE projecting $12 million in sales for FY 2006.

The portfolio of SKE clients has grown to include about 50 percent in government related contracting, with the other 50 percent based in private industry.

SKE is housed in Pablo, Montana, on the Flathead Indian Reservation, in a spacious 40,000 square foot facility with an impressive array of new generation manufacturing and testing equipment that is maintained and operated by our highly skilled employees, of which the company is proud to have over 62 percent tribally affiliated personnel.

The quality of products manufactured by the tribal enterprise has firmly established SKE as the value priced producer of electronic goods and services in a highly competitive industry. In addition, SKE has also developed engineering services that now provide critical design support and development in addition to the production services that their clients need.



"Primarily, we provide a business of significant opportunity in a continually growing field of electronics manufacturing," Larry Hall, SKE General Manager and President said. "We provide steady, good-paying work, and we emphasize being good neighbors through our community outreach program which includes corporate sponsorships, and volunteering."

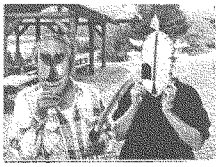
SKE has also become an important resource for electronics and engineering research based within Montana's university system, in addition to providing important internship and work study for many students who attend Montana State University's School of Engineering.

Contact: Larry Hall, SKE GM/President
406-883-6241 ph
Larry_Hall@skecorp.com

NACA
Native American Contractors Association

Chugach Development Corporation: A Graduated 8(a) Company with Sustainable Operations

An ANC 8(a) enterprise of the Chugach Alaska Corporation

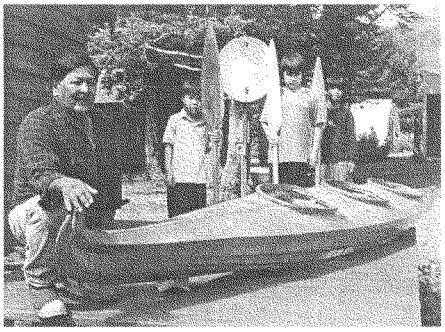


The first of now five graduated 8(a) companies of the Chugach Alaska Corporation, Chugach Development Corporation (CDC) may soon become the model for how other graduated 8(a) companies can succeed in the competitive federal marketplace. CDC's core competency is in facility maintenance. As an 8(a) company, CDC was instrumental in helping Chugach Alaska Corporation pay off its Chapter 11 bankruptcy debts and starting a new business course.

In 1991, the Regional Corporation was in dire straights and filed for bankruptcy. Its resource-based companies had struggled for years with limited success and no long-term hope of sustainable operations. Then, with the Exxon Valdez oil spill disaster, the Regional Corporation was nearly forced to liquidate all assets including their shareholder's land base. The gradual turn to success started when the Board of Directors made the decision to hire executives who had government contracting experience and entered the government contracting arena with CDC.

By 1994, CDC had two small contracts, 60 employees, and a long-term vision that included expanding outside of Alaska. That vision paid off in 1996 when CDC received their first major contract with the U.S. Navy. By 1997, CDC had developed significant capabilities in delivering the government quality, timely, and cost effective facility maintenance services. When CDC voluntarily graduated the 8(a) program in 1998 due to exceeding the program's size standards, Chugach Alaska Corporation was well on their way to paying off millions to bankruptcy creditors, diversified into four other subsidiaries, and shared a vision for long term success with their 1,950 originally enrolled shareholders.

CDC's even greater story is in their success outside of the 8(a) program. To fully appreciate any 8(a) company's ability to openly compete with giants, such as, Lockheed Martin, Raytheon, and Boeing, observers must consider size, product/service, and capital. The giants of the competitive government contracting market have had 60 plus years to create their competitive advantages which include the substantial capital needed to go after major contracts. Responding to a major contract takes expertise and months of manpower costing up to 3 percent of the contract award - a $100 million dollar contract may cost upwards of $3 million dollars in responding.

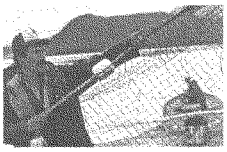


How does a government contractor like CDC, fresh out of the 8(a) program, succeed in a market dominated by powerful and capital rich companies? In CDC's case, the management team made the strategic decision to not go it alone. They networked with their competitors convincing government contracting giants that CDC can deliver quality, timely, and cost effective work in facility maintenance and logistics. Teaming with Bechtel and Lockheed Martin, CDC won their first major full and open competitive bid contract, and they have never looked back. As a prime or sub-contractor, CDC has $80 million in outstanding contracts and 1,400 total employees. CDC has the reputation of being "the little company that could!"

NACA
Native American Contractors Association

SpecPro, Inc: Teaming for Success

An ANC 8(a) Enterprise of the Bristol Bay Native Corporation



Photos of Shareholders provided by Bristol Bay Native Corporation.

"SpecPro, Inc., an ANC 8(a) specializing in engineering and technical, information management and environmental services; and TerraHealth Inc. (THI), an 8(a), State HUB, Small Disadvantaged, Veteran, and Minority-Owned Business specializing in medical staffing and consulting, information technology, mental health, and vocational resource services; were awarded the national Department of Defense Nunn-Perry Award for their achievements in the Mentor-Protégé (M-P) Program. The annual award recognizes accomplishments for both Mentor and Protégé companies that achieve cost efficiencies, enhance technical capabilities, and increase small business opportunities for DoD prime contracts and subcontracts.

SpecPro's strategic alliance with the University of Texas at San Antonio, an Historically Black College University/Minority Institution, has provided THI with the capabilities to meet and exceed all three year program goals within the first nine months. These goals include double annual revenues each year, increase revenue to $4.5 million by final year, increase number of employees to 250 by final year, increase profitability by 10 percent each year, increase cash reserves, and win at least three prime contracts.

Together, SpecPro and THI employ over 250 San Antonio residents. SpecPro continues to look for other opportunities to help companies further their growth, and THI will continue to develop and mature as a model for new small businesses to follow.*

Bristol Bay Native Corporation, SpecPro's parent company, was formed under the Alaska Native Claims Settlement Act and is made up of 7,300 shareholders who are Eskimo, Indian and Aleut. The Bristol Bay region is 150 miles southwest of Anchorage, Alaska, and is 40,000 square miles in size.

* Except from SpecPro Press Release, http://www.specpro-inc.com/awards.html, "SpecPro and TerraHealth Win National Department of Defense Award."

NACA
Native American Contractors Association

Mandaree Enterprise Corporation: A Tribal 8(a) Firm Helping Tribal Members

Excerpt from the National Center for American Indian Enterprise Development whitepaper, "SBA Certified Tribal 8(a) Programs Help Native Americans!"

The Three Affiliated Tribes' Mandaree Enterprise Corporation (MEC) is an SBA 8(a) certified business located on the Fort Berthold Indian Reservation in North Dakota. Established in 1990, MEC is owned and operated by the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nations. From a small community with a population of less than 400 people, MEC has grown its business from employing five people to employing over 90 employees today, and adding 30 more positions on the reservation in the next 60 days.

In 1994, the company's future looked very bleak, on the brink of bankruptcy, so the board of directors of the corporation decided to reorganize its business. In so doing, they hired a new chief executive officer. Today, when the economy is uncertain, especially for small businesses, Chief Executive Officer Clarence O'Berrry has taken the struggling firm to the status of a thriving SBA 8(a) certified business.

MEC achieved SBA 8(a) certification in 1997 and credits its phenomenal growth and success to participation in the 8(a) program, networking at the National Center for American Indian Enterprise Development's Reservation Economic Summit (RES) and other national conferences, and MEC's commitment to quality and on-time product and service delivery.

With 90 employees world wide – 60 percent Indians – MEC currently has four divisions that offer products and services globally and operates out of 10 offices. This year, MEC gross revenues will top over $33 million, from $4.3 million in 2002, $8 million in 2003, and $20 million in 2004.

MEC supports charitable community organizations that concentrate on youth activities, education, economic development, community sponsorships, and financial assistance. As a tribally owned 8(a) certified business, MEC leverages small business initiatives NOT to get rich, but to train, educate and improve the quality of lives – Native American and non-Native – for employment opportunities that otherwise would NOT be available. This directly reduces social hardships that many Native Americans face in Indian Country.

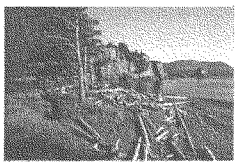
"The beauty of our SBA 8(a) business is, we've only scratched the surface, there are so many opportunities, the possibilities are endless," says O'Berry.[†]

[†] Clarence O'Berry in interview with NCAIED, Chief Executive Officer, Mandaree Enterprise Corporation.

NACA
Native American Contractors Association

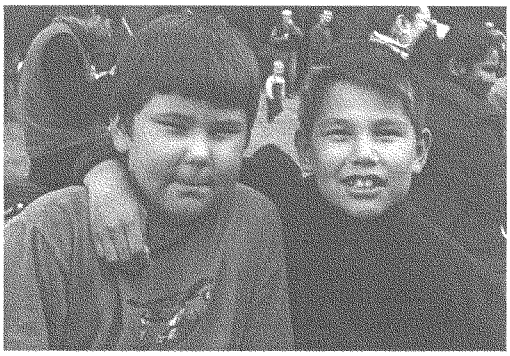
Integrated Concepts & Research Corporation (ICRC): Teaming for Success

An ANC 8(a) Enterprise of the Koniag, Inc.



ICRC, a diversified technical and management services company that serves the government market, is a subsidiary of Koniag Development Corporation, an Alaska Native Corporation. ICRC's strategic plan includes teaming with locally owned small businesses, such as, Qualis Corporation, a woman-owned small disadvantaged business located in Huntsville, AL.

An aerospace materials testing contract at Marshal Space Flight Center (MSFC) in Huntsville, AL, brought these two companies together. The procuring agency determined that there were Native American companies capable of doing the work and it was in line with NASA's small business strategy and goals. ICRC, having the required past performance, and Qualis, having complimentary qualifications, decided to team and present their joint qualifications to MSFC. After a very comprehensive evaluation of the ICRC/Qualis team, MSFC entered into negotiations with ICRC and awarded them the Materials Testing for Aerospace Environments (MTAE) contract on March 1, 2001. The $12.3 million five year contract value was divided 51 percent for ICRC and 49 percent for Qualis. For every completed year of the MTAE contract, the ICRC/Qualis team has been earned the maximum, 100 percent, of its performance and cost incentive fees.



Photos by Will Anderson, Koniag, Inc.

The companies also teamed on a NASA contract providing the agency superb technical support and lower costs. The ICRC/Qualis team has a reputation for consistently under running target incentive budgets by nearly 10 percent and through other initiatives has allowed NASA to avoid close to $1 million in contract costs.

NACA
Native American Contractors Association

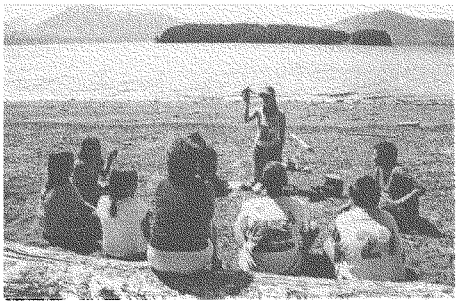
Preserving our Traditions: Language Preservation Programs for the Alutiiq People

Shauna Hegna, Kodiak Island, Alaska

"...preserving the wisdom of our Elders in the voices of our youth."
- Shauna Hegna

Children in Old Harbor, Alaska learning the Alutiiq language.

"In my own community, I have been very involved in the language revitalization movement and through its funding, by our Native corporations, we have been able to develop programs and projects that will not only save but revitalize our language. The Alutiiq language has less then 50 fluent speakers and so it's very important that we save that language before we lose it completely. We have 34 fluent speakers and the average age of fluent speakers is 72 years old. What's important is what we are doing to save it and not only saving it but revitalizing it and preserving the wisdom of our Elders in the voices of our young. We have now been able to pair five fluent Elders on Kodiak Island with a dozen adults that are willing to learn the language who spend up to 10 hours a week speaking *Alutiitstun,* nothing but Alutiiq. And really developing materials and volunteering in preschools and teaching the language to kindergarteners and first graders and high schoolers and anybody and everybody that would listen. It's because of that perseverance and that education, of not only our Native corporations, but our people and cultural revitalization that the next generation of Alutiiq people are not only going to know what is means to be Alutiiq, but be able to know what it means in our language to be Alutiiq."



April Laktonen-Counselor, Alutiiq Language Manager for the Alutiiq Museum, teaching the Alutiiq language to children at the Dig Afognak Cultural Camp.

NACA
Native American Contractors Association

Derik Frederiksen
General Manager
Sealaska Environmental Services (SES)
Seattle, Washington

"As a Tsimshian shareholder in the regional Alaska Native Corporation, Sealaska Corporation, I have personally gained from my and my family's involvement in Sealaska and the opportunities that the corporation has provided for me. Throughout my college education and early career, Sealaska has provided tremendous support. For both my undergraduate and graduate degrees, I received six total scholarships and interned twice for the corporation in the Natural Resource department. Working for the corporation provided tangible, real life skills that helped launch my early career. After the successful completion of my graduate studies, I was offered the chance to come back to Sealaska and help the corporation in business development.

Since my return, I have worked with Sealaska and successfully started and launched Sealaska Environmental Services (SES), an environmental services company that entered the U.S. SBA 8(a) business development program. Within three years, SES has organically grown from an idea within the Natural Resource Department, to a start-up company, to a viable small business with two environmental contracts from the U.S. Department of Navy valued up to $50 million. As a shareholder with the vested interest and long-term well being of the company as one of my core directives, I feel strongly in trying to give back to the corporation that made much of my career possible."

Tony Cange
Manager of Finance and Accounting
Frontier Systems Integrators
Anchorage, Alaska

"My name is Tony Cange, I am Alutiiq and a descendant of Koniag Incorporated. I work for Frontier Systems Integrators, which is a subsidiary owned in part by Koniag. I am originally from Anchorage, Alaska, I was born and raised here. I went to college in the states, University of Utah, and returned to Anchorage. The Native corporations have helped the people in that, my grandparents and great grandparents were cannery workers and commercial fishermen. They wouldn't have had the knowledge or the resources to do the things that Koniag family has been able to do for them. The investments, the health care -- all those benefits they get and receive as a result of Koniag.

I was a scholarship recipient from Koniag Education Foundation. I had scholarships through college and worked for one of the subsidiaries. I have my degree in finance from the University of Utah. I plan to go back on scholarship to get my master's degree."

NACA
Native American Contractors Association

Karl McLaughlin
Senior Vice President Information Technology
Afognak Native Corporation
Kodiak, Alaska

Karl McLaughlin, a shareholder of Afognak Native Corporation, began his career over 10 years ago as an intern at Afognak. Later he became a network technician. He climbed the ranks of the company while finishing his formal education, paid for through Native organization scholarships. Karl graduated with a Bachelors degree from the University of Alaska and later earned additional Information Technology related certifications. Today Karl is the Senior Vice President of Information Technology at Afognak and oversees all Information Technology related operations for over 4,300 employees nationwide, supervising 14 people and one intern in his department.

"I grew up as a commercial fisherman - my whole family did, my grandparents, my uncles. I grew up on the boats and it was prosperous for sometime, but as the markets continued to go down then it became apparent that was not something that I wanted to do. Then I was actually offered an opportunity to be an intern over at Afognak Native Corporation...I actually went straight from the boat, got off fishing and started working it the next day."

Tyan Selby
Executive Director
Koniag Education Foundation
Kodiak, Alaska

A Koniag shareholder, Tyan is a leader for Koniag Education Foundation, a non-profit region-wide scholarship foundation providing funding to college and vocational students for Koniag shareholders and descendants. "The Koniag Education Foundation gave out $180,000 to 163 Alaska Native scholarship recipients last year, so there's a very practical way the education foundation has affected the lives of Alaska Natives, their families, and their communities. When people are educated within their own community that helps drive the economies of those communities, and helps strengthen them. Increased education and employment opportunities build stronger communities by decreasing unemployment, domestic violence, depression, suicide, child abuse, and dependency issues."

NACA
Native American Contractors Association

Shauna Hegna
Deputy Director
Rural Cap
Port Lions, Alaska

Shauna kayaking in the waters surrounding Kodiak Island.

Shauna Hegna grew up in the remote Native Village of Port Lions on Kodiak Island, in the Gulf of Alaska. She worked as an intern at Afognak Native Corporation while attending high school. Upon graduating from high school she received scholarships from Native organizations, to attend college at the University of Alaska. She graduated with a bachelor's degree and later earned a master's degree. She united the Koniag Alutiiq people to begin the first ever region-wide Alutiiq language revitalization program and worked diligently to raise enough funds to sustain the long term program. Shauna is currently the Deputy Director of RurAL CAP, the largest statewide non-profit organization in the state of Alaska providing eligible citizens with programs for education, shelter, and food.

"I would say on a personal level, and personal meaning mine and my families; my Native corporations have had an enormous impact on my life and quality of my life. I can trace back the influence of my village corporation for example to my early years growing up. The dividends we got as a family from our Native Corporation greatly improved the income in our household. There were always limited opportunities for income and those dividends helped to supplement our income and helped to provide food for our table.

When I was about sixteen years old, the first job I ever had was from Afognak Native Corporation. They hired me to work with my father to develop the Dig Afognak archaeological dig site. We built the banya, or the steam bath, and a number of platforms. I think it was the next year they then again hired me as an intern in the Alutiiq Museum and their corporation and so I got to learn a lot about the history of Kodiak Island, not only from the Alutiiq perspective, but from all of the people that lived on Kodiak. I got to work extensively with tourists, shareholders and other members that were interested in Alutiiq culture and history. I learned a lot about, not only myself, but my family's history and the history of the Alutiiq Nation as a whole.

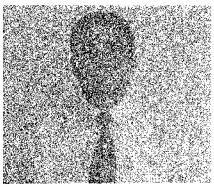
Afognak Native Corporation and Koniag gave me a number of scholarships every semester I was in college. Through their generous support, I was able to get a bachelor's degree in history with a minor in Alaska Native studies and eventually a master's degree in rural development with an emphasis on indigenous organizations management. In a nut shell, if I was to try to proclaim what effect my Native corporations have had on me - They are the reason why I have succeeded so far in my life. [They are] why I have committed to serving my people and other Alaska Native people and low income Alaskans. I am second in command in one of the largest non-profit and most diverse non-profit organizations in the state of Alaska, and I think that none of that would have been possible had it not been the support I received from my Native corporations."

NACA
Native American Contractors Association

Janet Mazzola
Director of Special Projects
ASRC Federal Holding Company
Point Hope, Alaska

"As an original shareholder (born before 1972), I had exposure to Alaska Native Corporations since their inception. I witnessed the financial ups and downs. My quality of life has been greatly improved by corporations through scholarships earned for both undergraduate and graduate degrees. In addition to educational scholarships from the Arctic Education Foundation, I was accepted into Arctic Slope Regional Corporation's Shareholder Development Program. This program allowed me to work in a location where an ASRC subsidiary existed while earning my graduate degree."

Clayton Morad
Network and Helpdesk Manager
ASRC Federal Holding Company
Anchorage, Alaska



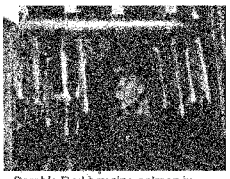
"I am Clayton Morad, a shareholder of Arctic Slope Regional Corporation (ASRC) and the village corporation, Tikigaq. I was raised in Anchorage, Alaska, and attended college at the State University of New York College in Fredonia, New York, receiving a Bachelor of Science degree in Computer Science. Throughout my college career, I worked for ASRC as a summer intern in the payroll department, onsite at Kuparuk oil field, and finally in the Information Technology department as a level 1 Helpdesk Technician. I am currently the Network and Helpdesk Manager with three direct reports for ASRC Federal Holding Company near Washington, DC."

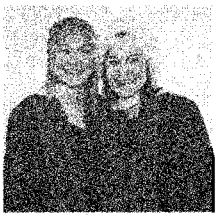
Clayton credits ANC benefits, such as scholarships for higher education from both ASRC and Tikigaq, medical support, and corporate dividends for helping him achieve his dreams.

NACA
Native American Contractors Association

Sarah Lukin
Corporate Communications Manager
Alutiiq, LLC
Port Lions, Alaska

Sarah and her son at the 2004 Afognak Native Corporation Shareholder Informational Meeting.


Sarah's Dad hanging salmon in our smoke house.


Sarah (left) and Shauna (right) graduating with master's degrees.

My fondest childhood memories are the days spent learning about the land and sea around our traditional village of Port Lions, as I searched for subsistence food with my family. Being immersed in our traditional Alutiiq ways – learning how to smoke salmon the way my family has for generations, learning the ins and outs of bays and where the animals migrate – these are some of the greatest things my father taught me growing up.

Life in rural Alaska is beautiful, but it is challenging. Our village is accessible only by boat, small airplane or intermittent ferry. Although we live a subsistence way of life, western currency is necessary to buy other food, pay the heating and electricity bills, cover transportation outside of the community and other expenses.

Adequate education for our youth, alcoholism, drug abuse and teen pregnancy are all issues our people face. I remember when I was in high school my dad talked about how our subsistence resources were depleting and that many of our people were dying of alcoholism and drugs. He told my two sisters and me that we had to go to college. He wanted us to get an education and serve our people, to give back to the Native community.

My twin sister, Shauna, and I went to college, following just two years behind our older sister, Tanya. We were the first generation in our family to go to college and graduate. Hopefully, we will not be the last. Each of us received scholarships from our Native corporations along with dividends to help with living expenses. Both Shauna and I were employed as interns throughout our college career with our Native corporations and tribes providing opportunities to learn about our history, culture, and Native organizational management.

Each of us has chosen a different life path. My older sister, Tanya, earned her bachelor's at Stanford University and her master's at the University of Alberta, where she now teaches English. She travels home to Alaska each year to teach traditional and contemporary dance and storytelling to our Alutiiq youth.

Shauna and I both earned our bachelor's and master's degrees from the University of Alaska. Whereas Tanya has focused on academics as a method to serve our Native community, Shauna chose social services. Today she is the Deputy Director of RurAL CAP, one of the largest and most diverse non-profits in Alaska that serves low income Alaskans, primarily in rural communities, providing programs for the homeless, preschool age students, and other healthy community programs.

I chose to work for my village corporation in positions where I could advocate on behalf of the Native community and provide opportunities for other shareholders. I started in subsistence advocacy, tribal relations and managing the scholarship programs. Today I manage our Corporate Communications, educating people about the benefits of the 8(a) program to ensure future generations are able to go to college *and* learn our traditional way of life.

Each year all three of us travel home to our village to subsist with our father. The only difference is now we take our children, so they too will understand the importance of our way of life and what it means to be Alutiiq.

Chairman MANZULLO. Thank you very much.
The next witness is Ms. Helvi, is it Sandvik?
Ms. SANDVIK. Yes, that is correct.
Chairman MANZULLO. You are recognized. Thank you.

STATEMENT OF HELVI SANDVIK

Ms. SANDVIK. Good afternoon. My name is Helvi Sandvik. I am an Inupiaq Eskimo shareholder of NANA Regional Corp. and president of NANA Development Corp. which is a business arm of our parent corporation. I originally come from the village of Kiana, a 400-person village located above the Arctic Circle in the northwest corner of our State. I appreciate the opportunity to speak on behalf of the 11,200 Inupiaq Eskimo shareholders of the NANA Region and also for the employees of NANA Development Corp.

I would like to note that I have been joined today by one of our board members, Dude Lincoln from Kotzebue, and several young men and women from the NANA Region, all of whom are down here working in our Government contracting companies, gaining the experience they need to take over as the next generation of Native leaders and business leaders in our company.

Today, I hope to provide you with a better understanding of the challenges we face as Alaska Natives who are mandated by Congress under the ANCSA act to provide for the social and cultural and economic well-being of our owners. I would also like the record to reflect that we have submitted more detailed written comments for this hearing. I appreciate the opportunity to respond to some of the questions and the criticism that has been vocalized in recent months, and I do also have to say that we have been appalled by some of the stories that have appeared in the press recently that we believe to be very serious misrepresentation and distortion of the facts.

As we focus on the Federal contracting opportunities with respect to the ANC 8(a) program, I believe we ought to put into proper perspective the scope of ANC participation in the Federal programs. As a shareholder of an Alaska Native Corporation, I believe it is important to emphasize how important that 0.2 percent of Alaskan Native Corporations participation in Federal contracting is to the Native communities in Alaska. In the 35 years since we were established, we have focused on trying to pursue and develop business interests that will provide for sustainable benefits to our current and future generations of NANA shareholders.

The majority of our shareholders live in the 11 villages in the NANA Region. The NANA Region is 38,000 square miles in size, about the size of the State of Ohio, and yet 60 percent of the lands within our region are owned by the Federal program in conservation system units established by the Federal law that Congress passed, the Alaska National Interest Lands Conservation Act. There are no roads connecting our villages to one another or to the rest of the State or to the lower 48 States. Our communities are only accessible year-round by air. Most of our villages do have about a 3,500 foot gravel strip to provide their air service. Some of our communities but not all can receive barge service in the summer months, and in the winter months, our primary means of

access is on snow machines. Three of our villages do not yet have running water.

As you might imagine, being so remote, we deal with horrendous transportation costs. The cost of gasoline and fuel oil in some of our villages recently rose to $8 per gallon, and electricity costs 55 cents for kilowatt hour in northwest Alaska.

Opportunities for economic development or even to develop alternative energy solutions to reduce the cost of living are substantially restricted because of the Federal conservation units that I mentioned earlier.

The sole purpose of NANA is to provide benefits to its shareholders. As a for profit corporation, since we were formed, NANA has distributed very close to 100 percent of our profits to our shareholders. However, cash dividends are but a small part of the overall benefits that we provide to our owners. We spend part of our annual operating income to directly provide for social and cultural services. We also manage the lands that we received under ANCSA which are used primarily for traditional subsistence—hunting, fishing, and gathering activities that are critical to maintain our cultural identity.

We administer programs to help increase job skills, provide internships, award direct scholarships, pay college tuition, and develop leadership and mentoring programs. We also fund social and cultural programs that are provided by other non-profit organizations including search and rescue, so critical in the remote area that we live in, as well as other health services.

As a business, we are successful in providing jobs for our shareholders. In 2005, 13 percent of NANA shareholders between the ages of 18 and 64 worked either directly for NANA or for one of our associated companies. These shareholder employees were paid $27 million in wages last year.

When we first learned that the GAO would be looking into the Alaskan Native Corporations' participation in the SBA 8(a) program, I was confident that the GAO would find that the ANCs have taken their responsibility and delivered with integrity the services that the Government was asking us to deliver. After much investigation, that is exactly what the GAO report found. It did not cite any waste.

Chairman MANZULLO. We have some time issues here.

Ms. SANDVIK. OK. I will finish up here.

It didn't cite any waste.

Chairman MANZULLO. You have 20 seconds on the Harry Alford clock.

Ms. SANDVIK. Thank you.

In short, the GAO report found that the ANCs were living within the law that they provided. However, additional resources were needed to improve oversight.

To conclude, we firmly believe that the 8(a) program for the ANCs was created by Congress for the right reason. We are providing business opportunities that pay dividends, provide scholarships, cultural program support, social service, and job opportunities for Native shareholder/owners of our companies. As demonstrated by the high performance marks we receive from our customers, both

in the Government sector and commercial sector, we are providing excellent value and quality work for our clients.

Thank you.

[The prepared statement of Ms. Sandvik follows:]

Testimony of

Helvi Sandvik
President
NANA Development Corporation

before the

Committee on Government Reform
U.S. House of Representatives

and

Committee on Small Business
U.S. House of Representatives

regarding

ALASKA NATIVE CORPORATIONS' PARTICIPATION
IN THE SMALL BUSINESS ADMINSTRATION
8(a) PROGRAM

June 21, 2006

Washington, DC

Good afternoon, Chairman Davis, Chairman Manzullo, Ranking Members Waxman and Velasquez, and Members of the Committees on Government Reform and Small Business, and Representative Young. My name is Helvi Sandvik. I am a shareholder of NANA Regional Corporation and President of NANA Development Corporation, the wholly owned business arm of our parent Corporation. I am originally from the 400-person village of Kiana, Alaska, which is located above the Arctic Circle in the Northwest Corner of our State. I appreciate the opportunity to speak with you today on behalf of the 11,200 Inupiaq Eskimo shareholders of NANA Regional Corporation and the over 5,000 employees of NANA Development Corporation.

As the President of NANA Development Corporation, I report to a seven-member Board, elected to oversee our business interests from the 23 member Board of NANA Regional Corporation. Our Board members live in the 11 villages of our Region and are elected by our shareholders. I have the responsibility, the accountability, and the privilege of responding to questions about our business issues and activities for our shareholders and employees.

Today, I hope to provide you with a better understanding of our shareholders and the challenges we face as an Alaska Native Corporation mandated by Congress to provide for the social, cultural, and economic well being of our shareholders. In the 35 years since we were established, we have focused on pursuing and developing business interests that will provide sustainable benefits to current and future generations of NANA shareholders.

In 1996, we began to pursue opportunities available to us under the Small Business Administration's 8(a) Program. We have managed our companies with the understanding that if we are to be successful, we must provide excellent service and value to both our commercial and federal customers. From the beginning, we have leveraged the 8(a) Program as it was intended – which is to grow a sustainable business that can succeed long after the 8(a) benefits are expired.

Finally, I appreciate this opportunity to respond to some of the questions and criticism that have been raised because of our success within the 8(a) Program. I must tell you that we are appalled by several of the stories that have appeared in the press in recent months that we believe to be serious misrepresentation and distortion of the facts.

NANA Regional Corporation is one of the 13 Alaska Native Corporations created by Congress in 1971, under the Alaska Native Claims Settlement Act (ANCSA). When we were first formed, we struggled to identify a corporate structure that would provide a vehicle to generate the economic activity contemplated by Congress to allow Alaska Native to continue to survive. NANA Development Corporation (NDC) was established in 1974 and is headquartered in Anchorage, the business center of our State. NANA Development is NANA's business arm, overseeing all NANA business activity, cultivating developmental opportunities for NANA shareholders, and generating income necessary to fulfill NANA's mission and commitments. NANA's financial strength comes from the companies we own and the corporate philosophy by which we conduct

our business. Over time, we have developed a diversified group of businesses, organized along five primary business lines. First, are our professional services companies, which include a wide range of architectural, engineering, design services, project management services, and major facilities management. Second are those involved with lodging, hotel management, and food services. Third are those companies focused on oilfield and mining support. Fourth, are the businesses focused on the development of natural resources located on our lands, and, our fifth business line is contracting services, which is the focus of today's hearing.

NANA's *Vision* is to be a respected, profitable, multi-billion dollar corporation. Our *Mission* is to improve the quality of life of our people by maximizing economic growth, protecting and enhancing our lands, and promoting healthy communities. To achieve our Vision and Mission, we must always strive to be respected for our business acumen, service delivery, and value to our customers, while maintaining our commitment to our shareholders.

ANCSA

To place our vision and our current operations in context, it is important to step back for a moment to focus on just a few highlights of our recent history.

Following Statehood in 1959, in 1966, Alaska Natives formed the Alaska Federation of Natives (AFN) to pursue Native land claims. Soon thereafter, oil was discovered on Alaska's North Slope. With this discovery came the compelling need to settle the land claims. Both Congress and the Alaska Natives rejected the reservation system of the Lower 48 as a model for settlement and instead developed an original and untested model of for-profit corporations. Recognizing, however, the unique circumstances of the Alaska Natives, Congress modified the traditional for-profit, corporate model, and created corporations that have not only economic obligations to their shareholders, but also broader social and cultural obligations.

The Alaska Native Claims Settlement Act was signed into law on December 18, 1971. ANCSA divided the State into 12 geographic regions whose boundaries roughly approximated the areas used by the various Native groups in the State. (A 13th Regional Corporation, which had no land entitlement rights, was formed for those Alaska Natives residing outside the State of Alaska.) Alaska Natives who were alive on the date of ANCSA enactment were given the opportunity to enroll in the Regional Corporation for the area in which they lived. Additionally, those Natives who were living in a village were entitled to enroll in the Village Corporation for that village.

Thus, from ANCSA, we have the NANA region, approximately 38,000 square miles of the Northwest Arctic region of Alaska. Over 60 percent of the lands within the NANA Region are owned by the federal government in conservation system units created under the Alaska National Interest Lands Conservation Act. The existence of these conservation units substantially limit the opportunity to pursue many economic development opportunities that might otherwise be available to us.

The majority of NANA's 11,200 shareholders live in the 11 Villages in our Region. There are no roads connecting our villages to one another, or to the rest of the state, or Lower 48 states. Our communities are only accessible by air year round, with most villages having a 3,500 ft. gravel runway. In the summer months, some, but not all, are able to receive barge service, and in the winter months we use snowmachines as our primary means of access. Three of our villages do not yet have running water, and as you might imagine, because we are so remote, transportation costs are horrendous. The cost of gasoline and fuel oil in some of our villages is now as high as $8 per gallon.

The way ANCSA was written originally, you had to be born by 1971 to be enrolled in an Alaska Native Corporation. NANA had approximately 4,400 shareholders as a result of the initial ANCSA enrollment. However, we are tribal in nature, and NANA believes it is vitally important to include children born after 1971 in the Corporation. In the early 1990s, NANA took advantage of an amendment to ANCSA to enroll its children, which now adds about 200-250 shareholders per year.

As I mentioned earlier, most of our shareholders still live in the region. Over the years, however, many have moved elsewhere, primarily to pursue employment opportunities that didn't exist in our Region. Our culture is alive and strong! The traditional subsistence lifestyle that sustained our ancestors, sustains us today, and is critical to maintaining our cultural identity. Yet, in today's world, and the world we know we will face tomorrow, we must also adapt to develop success in the business world if we are to survive in the future.

While NANA's business ventures are relatively new, just over a generation old, as my business card notes, we have being doing business in Alaska for 10,000 years. Through the years we have carried with us Core Principles of honesty, integrity, commitment, dignity, and respect. Our Inupiat values are central to who we are and how we conduct business.

Today, NANA's diverse operations stretch from the Arctic Circle to Antarctica, from the continental United States to the South Pacific. Our sole purpose is to provide for the economic, social, and cultural well being of our owners – the Inupiat people of Northwest Alaska. We are committed to creating job opportunities for our shareholders and to becoming that multi-billion dollar corporation.

Before focusing on the core issues of this hearing, I would like to note that I have been joined today by one of our Board Members, Dood Lincoln of Kotzebue, and several young men and women from the NANA region. These young people are some of our summer college interns working in our government contracting companies. These shareholders are our future. They come from the 3,000-person village of Kotzebue and the 400-person village of Kiana. They are learning our business operations and how to be successful in the business world. With that experience and their college educations, we're growing a new generation of owner-business leaders in the NANA family. We are fortunate that as we have grown as a company, we are now able to provide more

employment opportunities for our shareholders to take advantage of – this is truly the key to achieving economic independence. So, as we discuss the current and future state of the ANC 8(a) Program, please remember these terrific young people, NANA's future.

In the past several months, and during the recent GAO assessment of Alaska Native Corporation participation in the 8(a) program, questions have been raised regarding the benefits that we, as Corporations, are providing to our shareholders.

Benefits

The sole purpose of NANA is to provide benefits to its shareholders. Those benefits take many forms. As a for-profit corporation, NANA pays annual cash dividends to its shareholders. Since NANA was formed, it has paid close to 100 percent of its profits to its shareholders in the form of dividends. In FY 2005, NANA paid nearly $5 Million in dividends (50 percent of our net income), distributing $3.81 a share up from the $2.00 per share that we were able to distribute the previous year.

It is important to note that cash dividends are but a small part of the overall benefits NANA provides to its shareholders. Unlike most businesses, NANA spends part of its annual operating income to directly provide for social and cultural services for its shareholders. In FY2005, $1.8 Million was spent for these services. NANA also manages the lands it received under ANCSA. The primary use of our lands is for the traditional subsistence hunting, fishing, and gathering activities that are critical to maintain our cultural identity. We are blessed that developable natural resources exist on some of our lands.

NANA is owner of the land that hosts a large zinc deposit that we have been able to develop in an Operating Agreement with Teck Cominco, a Canadian mining company. It is our responsibility to oversee the mine's development to ensure that the mine does not compromise subsistence or endanger any subsistence resources. This is one of the few economic development opportunities that we have been able to pursue in a geographical area that, as I mentioned earlier, has been restricted to development because of the many conservation units that were established under the Alaska National Interest Lands Conservation Act.

NANA also administers programs that help increase job skills, provide internships, award direct scholarships, pay college tuition, assist with other scholarship applications, and develop leadership and mentoring programs. NANA contributes $650,000 annually to the Aqqaluk Trust, a non-profit trust established by NANA to encourage educational advancement and cultural preservation. Through our contributions, our Educational Endowment fund has grown to $2.6 million, and this past year the Trust distributed over $366,000 in scholarships to 300 students pursuing higher education and vocational training. This year over 60 NANA shareholders are college interns or summer hires working for our companies, and 21 are assigned to NANA's contracting subsidiaries. This spring we launched a business orientation program for high school students, giving them early exposure to employment opportunities with the

expectation that this will help them decide on the educational path that will lead to the career that suits their interest.

These types of programs are encouraged and embraced throughout our company. These are our future leaders! The only way they can be successful is to get the actual experience doing the work that we are doing for the government. We are making real progress!

NANA also funds social and cultural programs provided by non-profit organizations, like the Aqqaluk Trust, which provides grants to NANA communities for cultural programs and funds and operates a summer culture camp for children.

NANA provides staff resources and funds for NANA region search and rescue operations, health and social service providers, the Regional Elders Council, Tribal Councils, and other Native-involved organizations. We have been working to bring what we learn in our businesses back to our Region.

Since 2004, NANA's 8(a) subsidiaries have been working closely with the villages to form village partnerships. For example, one of NANA's 8(a) subsidiaries, TKC Technology Solutions, has entered into a Village-Company Partnership with the Village of Kiana to enrich cultural understanding and develop economic opportunities in the village. Notably, one initiative that has come from this partnership is the development of a personnel locator system that will save lives in times of the harshest weather or unfortunate accidents. Our NANA shareholder interns spearheaded this initiative that uses a hand-held personal locator beacon for shareholders to take with them when out in remote areas. When activated, its signal will be relayed to the Alaska Rescue Coordination Center to a dispatcher in the Northwest Arctic Borough. TKC Tech has provided the beacons and has trained villagers on their use. While vast and beautiful, our environment is harsh and often unforgiving. These beacons will not only save lives, they will also reduce rescue time and thereby reduce the resources needed for rescues.

NANA businesses conduct and participate in career fairs and science fairs, offer internships and mentoring programs, and support other similar programs that benefit Alaska Natives. These are recruitment programs specifically to place shareholders in positions throughout the NANA region, Alaska, and around the globe. The NANA Human Resources department is focused on helping our shareholders become employed, either within our company, or with any other job opportunity that might be available.

In 2005, 770 shareholders worked either directly for NANA companies or for one of our partners, resulting in nearly $27 Million in wages to shareholders. Stated differently, 13 percent of all shareholders between the ages of 18 and 64 have jobs with NANA and associated companies. Currently, at our zinc mine, 57 percent of the workforce are NANA shareholders. All NANA subsidiary companies have a shareholder development plan that includes having a hiring preference for NANA shareholders. Each year, NANA surveys all shareholders over 18 who are looking for work and

actively helps all who replied to identify positions or training programs. The progress of shareholders is tracked as they move through their careers.

One of our challenges is that as we have gotten bigger, a large number of our jobs are located out of state. While we do not have that many shareholders interested in relocating, we are working hard to broaden our shareholders' vistas. Our intern programs create awareness and provide orientation to our young people about working in different locations and in different cultures. We encourage our very experienced adult workers to relocate to gain experience in our operations out of state, and to provide shareholder presence and values in more of our global business locations.

Federal Contracting in Context

As we focus on federal contracting with respect to the ANC 8(a) Program, I believe that we should put the scope of the ANC participation in federal contracting in perspective – something that the GAO Report did not do. For example, the Center for Public Integrity conducted a study of Department of Defense (DoD) contract awards from FY 1998-2003 and found that only 40 percent were conducted under "full and open competition." No Native American companies were among the top 20 contractors.

In fact, overall, substantially less than half (about 40 percent) of all federal contracts are awarded through traditional "full and open competition," and the vast majority of those go to large companies. Native companies including ANCs, Tribes from the Lower 48, and Native Hawaiian companies, are awarded only **0.2 percent** of Federal contracts – yet this incredibly small sliver of the federal contracting pie makes a tremendous impact in our Native communities.

Viewed another way, federal contract awards from FY 2001-2003 amounted to a total of $775.5 Billion in awards. Of that, only $23.9 Billion – **or 3 percent** – was awarded to all 8(a) companies, and Native Americans received only 0.2 percent of all federal contracts. As a total of all 8(a) contract awards, other 8(a) firms received 93.78 percent of awards and Native 8(a) awards were 6.22 percent or about $1.4 billion.[1]

There are two little-understood aspects to the 8(a) Program that I would like to address. First, the 8(a) Program does not give an advantage to an unqualified or under-qualified company. Nor does the Program guarantee a contract. The Program only provides that ANCs and Tribes can be eligible to negotiate a contract. Further, any 8(a) company's participation is limited to a maximum of 9 years, during which there is a required phase-in of competitive non-8(a) work. Thus, the 8(a) program provides an incubation period enabling these companies to enter the marketplace and demonstrate the ability to perform – after which they are on their own.

Second, and regrettably, the 8(a) contracts are often referred to as "sole source." As often happens, this shorthand doesn't capture the real essence of how the program operates. These procurements are not a "take it or leave it" action. In fact, the process

[1] Native American Contractors Association, based on research conducted by Eagle Eye.

involves the federal government's contracting officer setting forth its requirements and the 8(a) company responding with a detailed cost proposal that outlines specifically what materials, employees, equipment, and other costs are associated with the job. At that point, there is a negotiation between the contracting officer and the 8(a) company about pricing, G&A, and fees. In the end, the costs associated with these negotiated contracts are fully disclosed; there are no surprises for the customer or the contractor. As you know, the same cannot always be said for many other contracts into which the government enters. This negotiation ensures best value for the government. Nor is there any sacrifice in quality. In short, the government's time and money is spent confirming our companies' capabilities up front, rather then analyzing multiple proposals and references after contract terms, conditions, and requirements were published.

As an example, one of our firms spent nine months negotiating with the State Department to take over a contract where a large corporation's performance was declining significantly. Since our company assumed responsibility for the work, every metric used by the State Department to measure productivity has increased by 40 to 50 percent.[2]

One contracting officer noted that by working with another of our companies that was able to supply critical data and information, the Navy was able to save costs.[3]

In another instance, a contracting officer used the negotiated award mechanism to quickly replace two failing contracts that had previously been awarded on a fully competitive basis. In this example, the contracts were critical to the war effort and the contracting officers had limited time to ensure continuity of service. Our company's efforts enabled the government to stop expending and wasting funds on inadequate service delivery and move forward with service delivery for the Global War on Terrorism.

Similarly, on one contract, one of our companies achieved a 14 percent reduction in costs from the previous contractor and in a second instance saved approximately 22 percent, as well as providing increased services.[4]

Our companies regularly receive the highest accolades for their efforts on behalf of government clients. For example, "The well deserved recognition is the direct result of Akima's dedication and unrivaled commitment to outstanding customer service. Their unselfish efforts have greatly enhanced the quality of life for the entire Grand Forks community. I am proud to have such outstanding individuals under my command." [5]

Similarly, another company received the SBA's Administrator's Award for Excellence. The transmittal letter noted, "Although any small business that provides good and services for the Government, as either a prime or subcontractor, is eligible to be

---

[2] Nakuuruq report
[3] CPRA re: contract N6523601D3821
[4] TKC Communications report
[5] Statement by Lieutenant General John B. Sams Jr. (AMC).

nominated for this award, only a select few firms actually receive these awards. Your firm truly is among the 'best of the best.'"[6]

Finally, in one assessment of our work, it was written, "The Contractor's service has significantly exceeded the Government's expectations. Personnel assigned to efforts under these tasks were very knowledgeable, able to adapt to every aspect of the task, work directly with the customer and . . . demonstrated a high level of expertise."

There are several anecdotal points raised in the GAO report that require a comment. The first concerns the perception that the ANC's are somehow just a "sham" owner and that the companies are run by "outside executives" who earn exorbitant salaries. In point of fact, as President of NANA Development Corporation, my job is to ensure we have the best possible, experienced leadership running our companies. They are paid fairly, with salaries and benefits on par with their counterparts in similar positions in other federal contracting companies. For our businesses to be successful and maximize a profit to our shareholders, I must ensure that we have the best possible executives. Somehow, the GAO Report suggests that offering a competitive benefits package for our managers is inappropriate.

More importantly, however, what was mentioned only in passing in the GAO report is the extent to which these executives are accountable to their Boards of Directors, which include shareholders. NANA has an established oversight process where each of the NANA government contracting companies report quarterly to their boards. Regular NANA subsidiary board meetings and business reviews examine contract status and SBA regulation compliance. In short, the businesses are regularly and carefully overseen by our shareholders.

In his statement to shareholders at our Annual Meeting this past March, NANA Development Corporation Board Chairman, Luke Sampson, said, "Our NDC Board is active in all of our business subsidiaries. They serve on the individual business boards and do an outstanding job of making sure our businesses are run right.... We have a good team. We have hired talented, skilled people – experts in the type of work we do, to help us reach our goals. And they are helping us, by sharing their skills with us, to teach us to be good hunters in the business world."

The second concern often voiced is that our companies are "fronts" for larger government contractors. NANA, like all ANCs, Tribes, and Native Hawaiian Organizations operating under the 8(a) Program, must perform not less than 51 percent of service contract work (15-25 percent for construction). ANCs have the ability to create joint ventures and partnerships, but all these relationships are subject to the formal review, approval, and monitoring of the Small Business Administration. In fact, we recently reviewed the partnering activities of several of our companies and determined

[6] Letter dated May 31, 2006 from Robert S. Paccione, Area VI Director, Office of Government Contracting, U.S. Small Business Administration to the Robert Malkowski, President, TKC Technology Solutions.

that we do not have any joint venture or mentor-protégé arrangement at the present time involving large businesses.

Like all contractors, NANA companies subcontract work to other companies, including other minority organization, 8(a) businesses as well as large corporations. This same review determined that, at present, we have large businesses as a subcontractor on only 6 percent of our current 8(a) contracts. We are particularly mindful of the many well-qualified minority 8(a) and Tribally owned corporations that have specific qualifications to support our projects. Whenever possible and appropriate, we seek to partner with them. For example, one of our firms, TKC Communications, entered into a Mentor-Protégé agreement with the Miami Tribe of Oklahoma's business services group, Miami Nations Enterprises (MNE). We have provided MNE with management training, proposal support consultations, business development and teaming opportunities, federal schedule filings, and other similar support.

In determining how we will deliver against customer expectations and build the right team to solve the particular problem being addressed, we seek partners that share our values and share our approach to business. In the past, we have walked away from opportunities because we did not have the ability to perform and because we could not find a partner with the required skills that matched our values and approach. In business, if we are the prime, we do not yield to our subcontractors and do not relinquish the accountability or responsibility for customer satisfaction, management, and effective execution to any of our partners.

Best Value/Negotiated Sole Source

I read some news accounts about the GAO Report that suggest that contracting with Alaska Native Corporations some how drives costs up. As I noted earlier, nothing could be further from the truth. Government contracting officers are required to provide a cost-effectiveness determination if they are going to award a contract via a negotiated process, whether it is with an ANC or any other contractor. The 8(a) Program is not the only program where negotiated or sole source contracting takes place with the federal government. ANCs participating in the 8(a) program are held to the exact same standards as all other contractors in demonstrating financial competitiveness and performance capabilities.

In fact, there are many examples where having a negotiated sole source contract saves the government money. One of NANA's companies notes that their contracting office estimated that the government saved approximately $224,000 on in-house labor and six months on the acquisition process because they were able to enter into a contract with an ANC 8(a) firm.[7]

Another of our government contracting firms entered into a contract with the NASA Glenn Research Center in Ohio. The contract was phased in over only nine days. Our company was able to save NASA over $400,000 during the first two years, as well as

[7] Ki, LLC contract with the Fort Carson Directorate of Logistics, October 1, 2005.

implement an improved safety program, which saved NASA money and reduced on-the-job accidents (based on prior years' records). Ultimately, our company was selected as the 2003 Safety Contractor of the year at this site.[8]

One contracting officer's official comments as part of a Contractor Performance Assessment Report noted, "(your) technicians ... result(ed) in saving SPAWAR [the Navy's contracting agent] hundreds of thousands of dollars it would have cost to have a vendor provide the same product and service."[9]

GAO Report

When it was first made known to us that the Government Accountability Office would be looking into the ANCs' use of the Small Business Administration 8(a) Program, my reaction was, "Great. We have a wonderful story to tell." I was confident that the GAO would find that the ANCs had operated with responsibility and integrity in the execution of their contracts with the federal government.

After much thorough investigation, that is exactly what the GAO found. The Report did not cite any waste, fraud, or abuse on the part of ANCs. The GAO noted that the SBA and federal contracting officers are understaffed and stretched thin, and that as a result, there could be a "potential" for problems. We agree that as a result of their staffing issues, there is likely very little time for training and oversight. From our experience, the SBA has been extremely helpful to us an advisor, overseer, auditor, and consultant – helping us to understand the program, use the program as it was intended to be used, and helping us to grow sustainable businesses after our 8(a) Program life has expired.

We would welcome more resources for the SBA and federal contracting departments. I know from first-hand experience, as well as from briefings from all the NANA Development Corporation executives, that the SBA officials we work with, particularly those in Anchorage, are first-rate stewards of the program. They are, in my opinion, short-staffed. No less important to our success are the federal contracting officials around the country. They are dedicated and fine people. However, there are too few of them.

As has been well documented in the legions of GAO reports, hearings, and news stories, problems associated with all federal government contracting are well known. The situations described in the GAO report examining contracting with ANCs, which were explained predominantly with anecdotes and vignettes, are equally applicable to any aspect of the federal contracting domain. Thus, while this spotlight is focused on the ANCs, we respectfully suggest that Congress examine this specific, very small segment of the contracting landscape in the context of the whole. There is much about federal contracting processes overall that need addressing, and it should be addressed with respect to all government contractors, not just the ANCs.

---

[8] Akima report
[9] CPARS re: Contract N6523601D5843

If, at any time, the SBA decides to proceed with changing the regulations that govern the administration and use of the 8(a) Program, with all due respect, I would like to restate one obvious point. Although we have focused on the Alaska Native Corporations and their involvement in the 8(a) Program, this program affects not only the ANCs, but other Native peoples, the Tribes of the Lower 48, as well as Hawaiian Natives. In that respect, it is therefore incumbent for the SBA to engage in a full, open, and thorough consultative process with all of the indigenous Americans as is our right.

If changes to the regulations are being considered, I would offer the following comment. At the present time, the 8(a) Program regulations do treat the ANCs differently than the Tribes of the Lower 48. My opinion is that it is appropriate to create a single standard that would apply to both. I would recommend that the Tribes of the Lower 48 be included in the standards that now apply to ANCs.

It has been pointed out regularly that one of the main differences between the traditional 8(a) Program and the one in which the ANCs participate is the lack of a contract specific cap. There is, however, a very significant distinction between a traditional, individually owned 8(a) company and an ANC-owned 8(a) company. In an individually owned 8(a), the profits and benefits most often accrue to the single owner and his family. ANCs, on the other hand, are responsible for providing benefits to an entire community. In NANA's case, that is our 11,200 shareholders.

Put in more concrete terms, if a traditional 8(a) firm were to get a $3 million dollar contract and a standard profit margin of 5 percent, the value to the single owner is $150,000. Yet, if our ANC 8(a) firm were to get the same $3 million project with the same 5 percent profit, the yield to each shareholder would about $13.15. Or stated another way, for each of our shareholders to realize $150,000, NANA would need to generate a job that generated $34.2 billion in revenue.

Conclusion

In conclusion, I would like to restate my central premise. The 8(a) Program for ANCs was created by the Congress for the right reasons. It is working. As demonstrated by the high performance marks we receive from our government and commercial customers and their testimonials, we are providing an excellent value and quality work for our clients. Throughout our organization, we constantly remind our Management Team that it is imperative that we continue our commitment to excellence. When our businesses do well, our NANA shareholders benefit both financially and in myriad other ways, such as benefits for elders, employment assistance, scholarships, burial assistance, support of our subsistence lifestyle, and preservation of our culture.

The 8(a) Program is working as intended. It is prudent to recall, that as far as government programs go, this one is still in its infancy. NANA began with its first 8(a) work only a decade ago. It would be unwise to retreat from what is the ultimate "win/win." The government is getting an excellent value in our work. Our companies

are using the 9-year window of the 8(a) Program to learn the business, establish relationships, build a record of success, and get ready to launch as fully competitive companies. And, what will always be central to our involvement, our Native shareholders continue to use the profits for the betterment of our lives, the preservation of our 10,000-year-old culture, and to prepare for our future in the modern world.

The participation of America's indigenous people in the 8(a) Program is part of the federal government's fiduciary responsibility to provide for a sustainable Native economy as required by treaties, the Constitution, statutes, and court rulings. Firms participating in the 8(a) Program should not be held up to special scrutiny or criticism because the 8(a) Program is working as intended – providing business opportunities that pay dividends, provide scholarships, cultural program support, social services, and job opportunities for Native shareholders. As the Congress looks to the future and this federal contracting program, I hope and trust that you will examine all federal contracting with the same degree of scrutiny. I also hope that you will find, as the GAO did here, that the programs are operating without problems – and that only the "potential" for waste, fraud, and abuse are present. Please do not hold those of us working successfully in the ANC 8(a) Program to a standard higher than any other federal contractor – large or small.

Thank you for inviting me to testify today about NANA and the success of the 8(a) Program. I will be pleased to answer any questions you may have.

Thank You

Chairman MANZULLO. Our next witness is Mr. Bart Garber from, is it Tyonek?

Mr. GARBER. Tyonek.

Chairman MANZULLO. Tyonek Native Corp. We look forward to your testimony. Thank you.

STATEMENT OF BART GARBER

Mr. GARBER. Thank you very much, Mr. Manzullo and Mr. Davis and the rest of the committee members. There will also be a PowerPoint up there if you like to watch things instead of listen.

I am a tribal member of the Native village of Tyonek and the president of the Tyonek Group. Tyonek Native Corp. is a claims act village for the Native community of Tyonek. Tyonek lies about 43 miles southwest of Anchorage, and access, just like NANA, is limited by air and boat. No roads lead to us. We are called Dena'ina Beach People. About 400 of our 600 tribal members and tribal corporate shareholders live outside the village in Alaska and throughout the United States. We were established in 1973 and are entitled to about 200,000 acres of land in south central Alaska.

For over 20 years, the company's business opportunities have been primarily limited to conservative passive investments in surface land leases. In 1995, after a long series of meetings with shareholders and the board, the board instructed us in management to acquire or begin active managed companies. When I was hired at Tyonek Native Corp. in 1995, I was the third employee. TNC owned an apartment building and a startup IT company. Total operating revenues that year were $500,000. TNC relied upon one-time asset sales and resource revenues to finance its operating deficits.

Ten years later, TNC now has operating revenues now approaching $50 million with pre-tax profits between $1.5 and $2 million. The company no longer depends upon earnings from surface leases and resource sales to balance its books. I am happy to say that we have had a large number of women-owned businesses, Asian-owned, disabled service vets, and Black-owned business who have helped us get to this point through either joint ventures or subcontract relationships.

In 2005, our manufacturing revenues were over $30 million derived from 128 negotiated task orders, about 15 percent of the revenue derived from non–8(a) sources. That percentage is actually increasing on newer work.

In most situations, a business case must be made for all fixed price bids. The Government uses weighted criteria to determine final rates and prices. They usually have past prices for many items. Particularly in our obsolescence programs, our bids represent a significant cost savings to the Government over former suppliers due to our lower rates and new technology. We have similar experiences in our service contracts.

Tyonek Native Corp. employs nearly 300 people in seven States.

Our primary lines of in 8(a) business are in defense manufacturing and engineering services and aircraft maintenance. On the commercial side, we are in oil field services, civil construction, port operations, and land and resource development.

Our CEO is an Alaska Native, and the managers of our two operating divisions, the Alaska Division and Tyonek Group, both Tyonek shareholders. Fifty percent of our Alaska corporate administrative staff is Tyonek shareholders. All five of our Alaska operating subsidiaries are managed or co-owned by Tyonek shareholders.

I was CEO of Tyonek Native corporation for 9 years. In May, I transitioned to the role of president of the Tyonek Group which includes all of our 8(a) operating subsidiaries. As CEO, I oversaw the creation and planning for all of our 8(a) and non–8(a) companies.

At the present time, our VP of operations for defense manufacturing is William Jolly, a Chippewa/Metis propulsion engineer, and our saying in the company is it does take a rocket scientist. Scott Pfeifer, whose family is Alaska Native, manages our services companies. The CEO and I are paid $200,000 with performance bonuses that are no more than half of that, and they are tied directly to profit. Our management and direct labor staff share in bonus pools based on profit projections and are recovered as part of our GNA expenses.

Our profit performance over the years has averaged about 5 to 7 percent of gross revenues. You don't get rich in the Government contracting business. The company policy is to distribute 30 percent of after tax profits to shareholders as dividends. The balance of the profits are reinvested into the businesses.

Benefits to our shareholders are listed below in five different areas: scholarship, internships, job opportunities, community projects, and funeral benefits. We contribute hard dollars, both to scholarships and internships. We have two of our interns from Alaska going to our operating plants in the lower 48 every 6 months and are getting trained as electrical technicians, welders, and others. Some have remained and are employed in our plants. We have two shareholder representatives who work solely on employment opportunities for Alaska Natives in Alaska. Nearly 100 percent of our direct labor staff in Alaska are shareholders.

Community projects range from education to cultural matters to employment benefits for education. And, as you can see, we have employment, we have funeral benefits for our shareholders. But, by far, the most significant benefit is a stronger well-managed company. We would never have been where we are with our accounting systems or our management capability without the 8(a) program, and this benefits our businesses in Alaska. You can see that we have distinct lines of businesses that are unique to us, and we believe that those will survive over time in 8(a) program and allow us to compete in the outside world.

[The prepared statement of Mr. Garber follows:]

Testimony For the Record

By
Mr. Bart Garber
Tyonek Native Corporation

Joint Hearing of the United States House of Representatives
Committee on Legislative Reform
and
Committee on Small Business

Tyonek Native Corporation is the Alaska Native Claims Settlement Act village corporation for the Native community of Tyonek, Alaska. Tyonek lies on the northwest shore of the Cook Inlet, 43 miles southwest of Anchorage. Access to the village is limited to travel by air or boat – no roads lead to us. Tyonek is a Dena'ina (Tanaina) Athabascan community. We call ourselves Tebughna, which means the "Beach People." About 400 of our 600 tribal members and corporate shareholders live outside the village in Alaska and throughout the United States.

The Tyonek Native Corporation was established in 1973 and is entitled to receive nearly 200,000 acres of land in and around Cook Inlet in the South Central region of Alaska. For over 20 years the company's business opportunities were mainly conservative, passive investments and surface leases. In 1995, after a series of shareholder meetings, board discussions, and company retreats, the Tyonek board instructed management to acquire or start actively managed companies.

When I was hired at Tyonek Native Corporation in 1995, I was the third employee. TNC owned an apartment building and a start-up IT company. Total annual operating revenues at the time were about $ 500,000. TNC relied upon one time asset sales and resource revenues to finance its operating deficits. Ten years later, TNC's annual operating revenues are now nearly 50 million dollars with pretax profits of 1.5 million dollars. The company no longer depends upon earnings from surface leases and resource sales to balance its books.

In 2005, our manufacturing revenues of over 30 million dollars derived from 128 negotiated task orders. About 15% of the revenue derived from non-8(a) sources. That percentage is increasing on newer work. In most situations, a business case must be made for all fixed price bids. The government uses weighted criteria to determine final rates. The government usually has past prices available for many items. Particularly in our obsolescence programs, our bids represent a significant cost savings to the government over former suppliers due to our lower rates.

Tyonek Native Corporation employs nearly 300 people in seven states. Our primary lines of business are defense manufacturing and engineering services, aircraft maintenance, oil field services, civil construction and port operations. Our CEO is an Alaska Native and the managers of our two operating divisions – the Alaska Division and the Tyonek Group-- are both Tyonek shareholders. Fifty percent of the Alaska corporate administrative staff is Tyonek shareholders. All five of the Alaska operating subsidiaries are managed or co-owned by Tyonek shareholders.

I was CEO of Tyonek Native Corporation for nine years. In May, I transitioned to the role of President of the Tyonek Group which includes all of our 8(a) operating companies. As CEO, I oversaw the creation and planning for all of our 8(a) and non-8(a) subsidiaries. At the present time, our VP of operations for our defense manufacturing subsidiaries is William Jolly, a Chippewa/Metis propulsion engineer (i.e., rocket scientist). Scott Pfeifer, whose family and children are all Alaska Natives, manages our services companies.

The CEO and I are paid $ 200,000 per year with performance bonuses that are directly tied to profit. Management and direct labor staff share in bonus pools tied to profit projections that are recovered as part of our general and administrative expenses. Our profit performance over the years has average about 5 to 7% of gross revenues. The Company policy is to distribute 30% of after tax profits to shareholders as dividends. The balance of the profits is reinvested in our businesses. Other benefits to shareholders include:

Scholarships – The Board budgets at least $ 12,000 in scholarships annually.

Internships – TNC started a formal internship program in 2004 and graduated our first two interns at our manufacturing plant in Huntsville during summer 2005 (one certified welder – hired by TFab Manufacturing, one soon to be certified electrical technician, who will be hired and start college in Huntsville in the Fall).

Job Opportunities – TNC employs shareholder representatives to develop, promote and support specific shareholder hire programs.

Community Projects – TNC funds Tyonek cultural and sports programs ($ 15,000 for cultural activities -- $ 46,000 for secondary education program support), in addition to annual employee education benefits equaling about $ 2,000 per employee.

Funeral benefits – Each shareholder is insured in the amount of $ 100 per share for a death benefit.

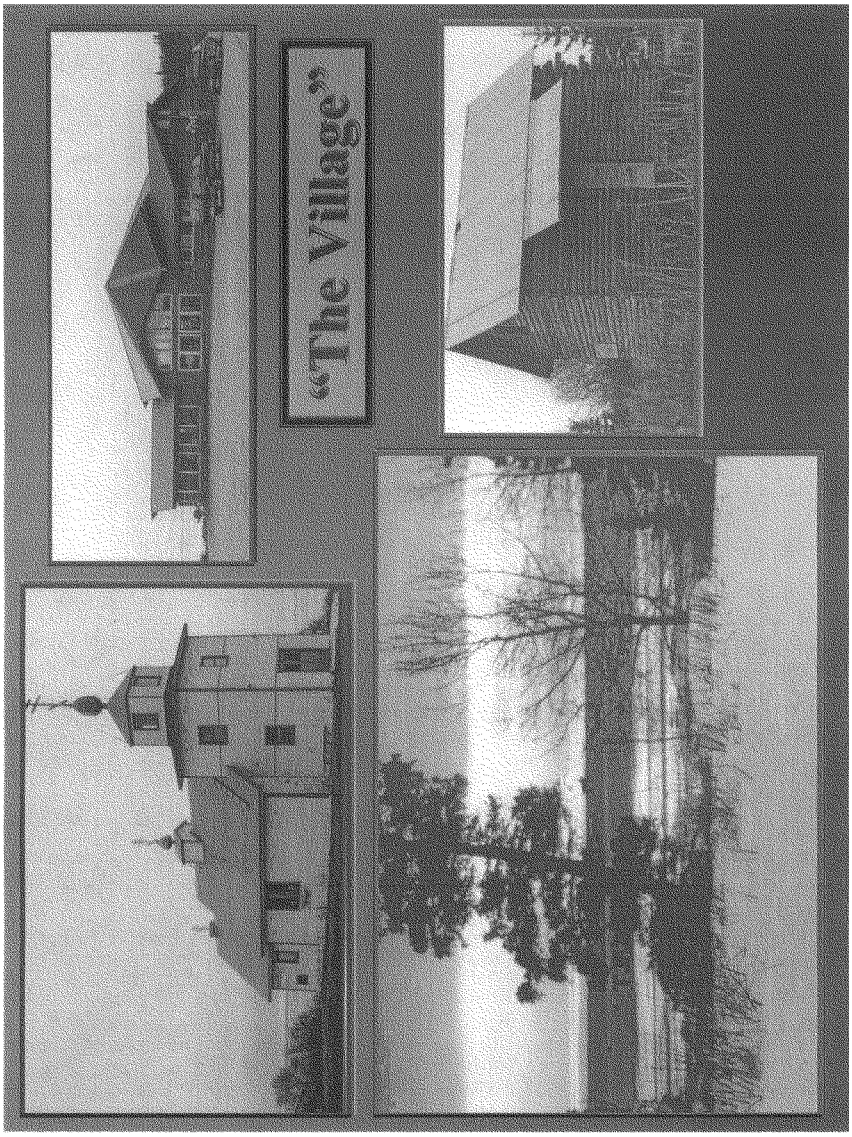
However, the most significant benefit to shareholders is a stronger, well managed company. With the advent of the 8(a) program, TNC has vastly improved its accounting and management systems to the point that they are ISO certified. This gives us tremendous advantages in managing and negotiating business relationships throughout the company, but especially in Alaska where local revenues could not support this level of effort.

TNC has used the 8(a) program to develop distinct lines of business that can survive the program. Due to the nature of our contract work, we rarely operate in areas tread by other small businesses. Indeed, our strategy is to compete against large business where our lower rates give us a distinct advantage and a cost savings to the government. Recent events however, have thrown us into the same pools with small business or at least given the appearance of us competing for small business opportunities. This has reduced our effectiveness as an alternative to big business while providing a platform for small business advocates to impede our marketing and, ironically, protect large businesses against our competitive proposals.

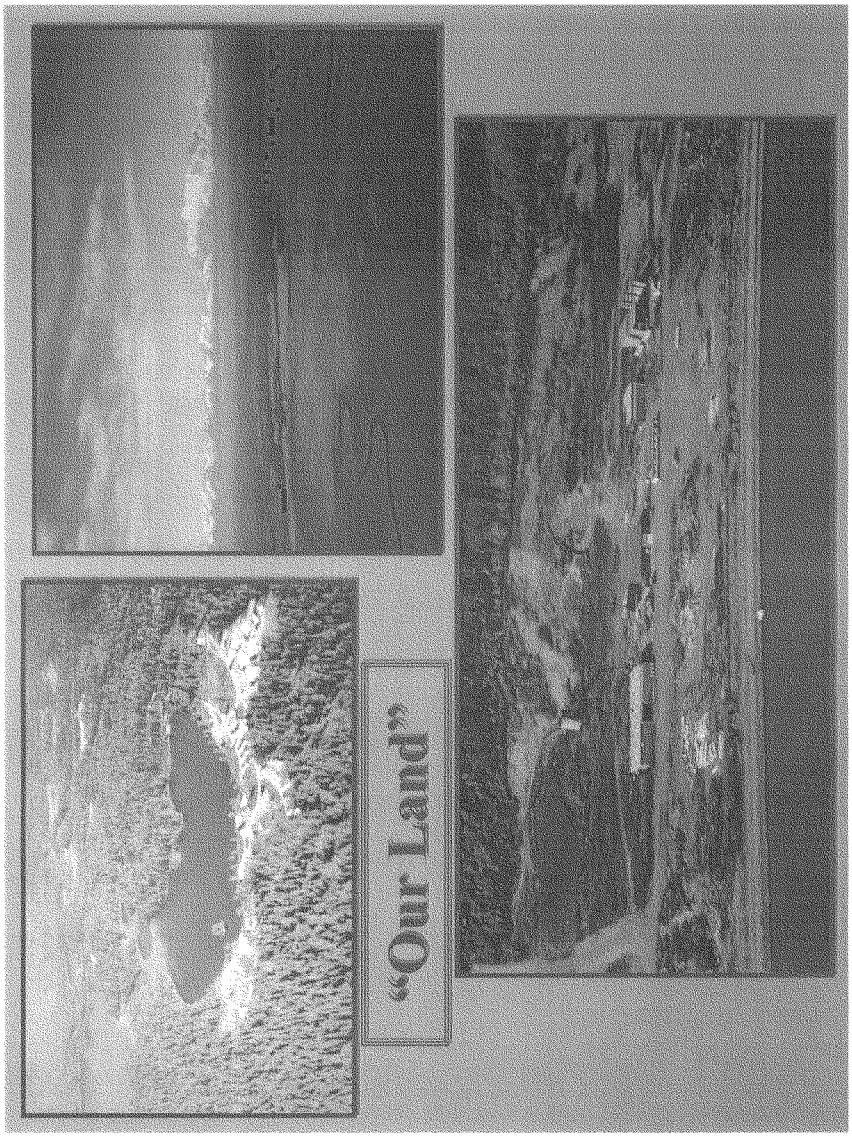
Supplement to Testimony
For The Record By
Tyonek Native Corporation
Joint Hearing
of the
United States House
Committee on Government Reform
and the
Committee on Small Business

TNC

Tyonek Native Corporation
TNC

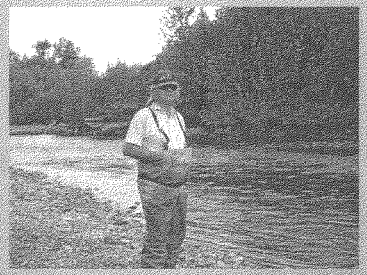

"The Village"

- Athabascan Indian community of Tyonek -- 43 miles SW of Anchorage
- 600 member tribe called the Tebughna -- Deni'ina for "Beach People"
- Tyonek Native Corporation -- one of 215 original AK Village Corporations
- Villages and 13 Regions incorporated as businesses under ANCSA in 1971
- Congress conveyed 44 million acres & 968 million dollars in land settlement
- TNC -- 600+ shareholders and an entitlement of over 200,000 acres


„Our Land"

"Our Vision"

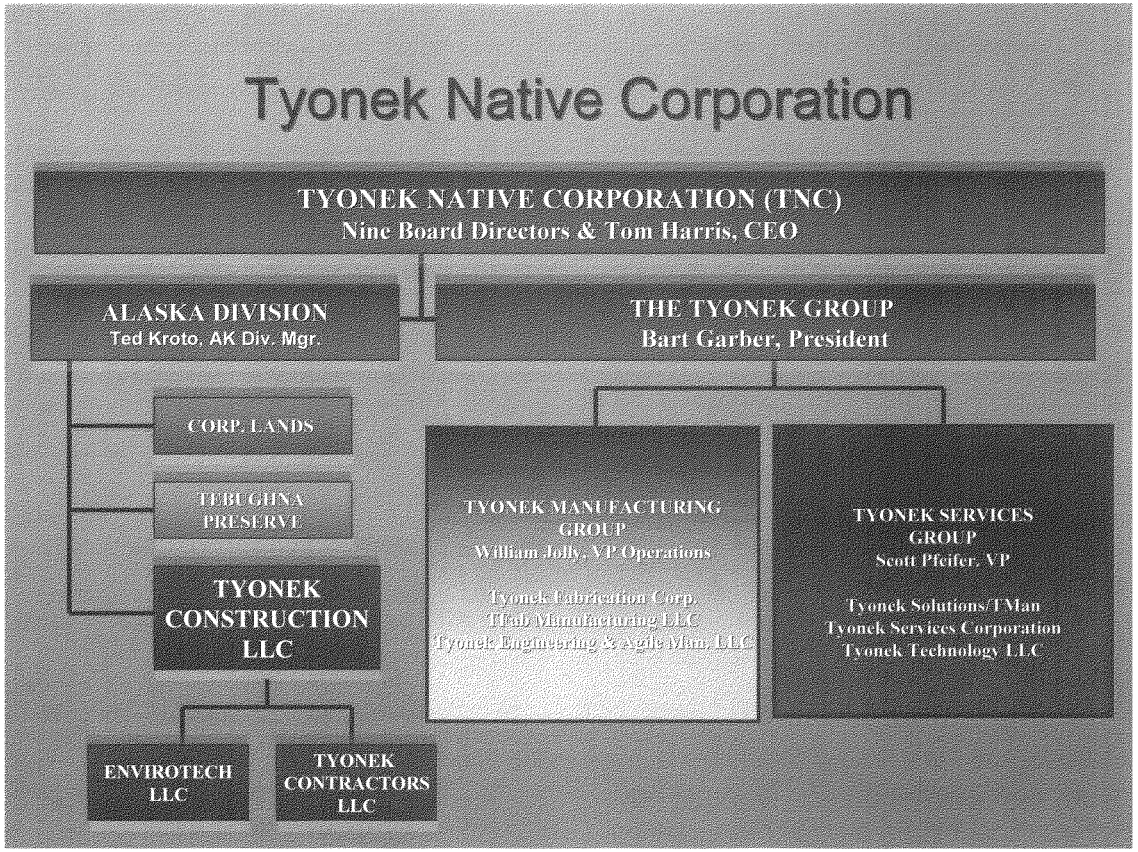
Building Our Future Together



"Our Mission"

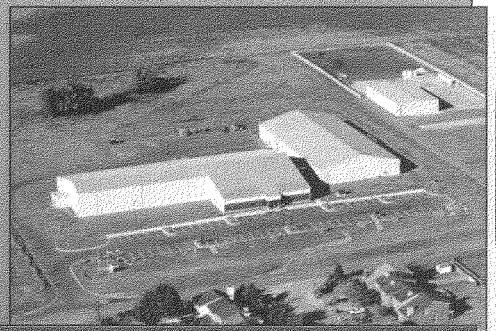
To profitably manage the Corporation so that Tebughna shareholders have the opportunity to prosper individually, collectively and with our partners in business

TNC


Tyonek Native Corporation
TYONEK NATIVE CORPORATION (TNC)
Nine Board Directors & Tom Harris, CEO
ALASKA DIVISION
Ted Kroto, AK Div. Mgr.
THE TYONEK GROUP
Bart Garber, President
CORP. LANDS
TEBUGHNA PRESERVE
TYONEK CONSTRUCTION LLC
ENVIROTECH LLC
TYONEK CONTRACTORS LLC
TYONEK MANUFACTURING GROUP
William Jolly, VP Operations
Tyonek Fabrication Corp.
TFab Manufacturing LLC
Tyonek Engineering & Agile Mfrs. LLC
TYONEK SERVICES GROUP
Scott Pfeifer, VP
Tyonek Solutions/TMan
Tyonek Services Corporation
Tyonek Technology LLC

Manufacturing

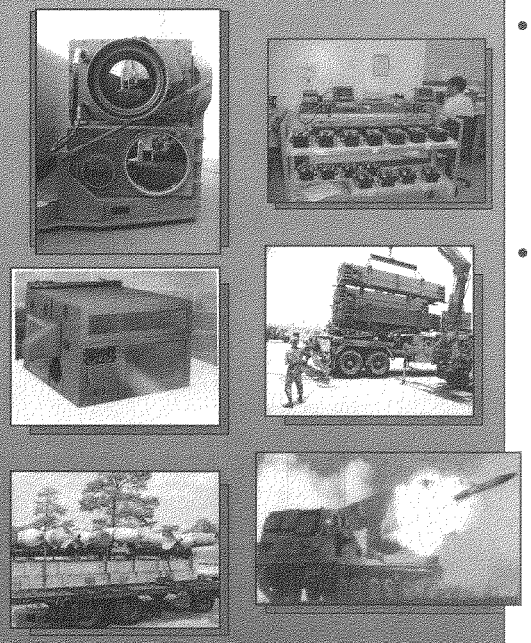
ENGINEERING, MANUFACTURING, PRODUCTION, INTEGRATION



FACILITIES

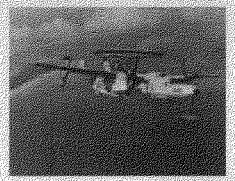
- PALMER RD (HQ) - 50,000 SQ FT (engineering/electrical/manufacturing/painting)
- PRODUCTION AVE - 20,000 SQ FT (integration/packaging)
- ANNISTON FACILITY – 22,500 SQ FT (refurbishment/CARC painting)
- PULASKI PIKE FACILITY – 61,000 SQ FT (fabrication/welding)
- WARNER ROBINS – 10,000 SQ FT (engineering/prototype)

Capabilities



- Engineering and Analysis
  - Electrical & Mechanical Design
  - Obsolescence Engineering
  - Prototype Development
- Manufacturing/Integration
  - Precision Machining
  - Welding/Fabrication
  - Painting/Plating/Coating
  - Circuit Board Assembly
  - Wire Harness Fabrication
  - Mechanical & Electrical Assembly
  - Shelter Modification & Integration

Aviation Services



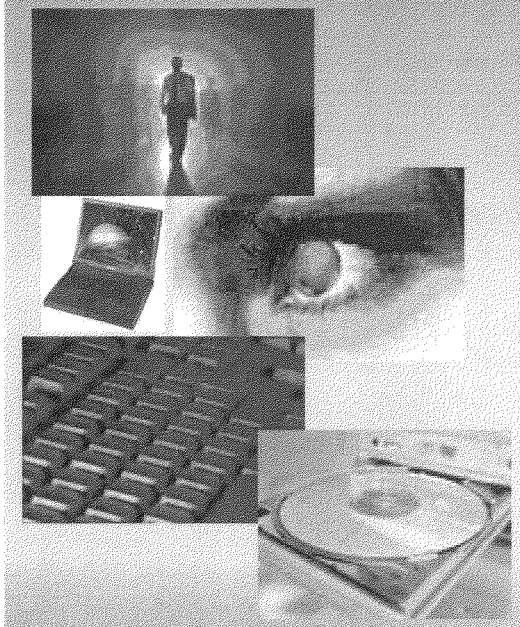
Tyonek Manufacturing, LLC (TMan) provides aircraft maintenance and repair services CONUS wide for multiple U.S. Government departments and agencies. The services we provide include:

- Provision of on-site technical and engineering support personnel to include but not limited to:

  - aircraft mechanics
  - airframe mechanics
  - propulsion mechanics
  - electronics technician
  - avionics technicians
  - munitions technicians
  - sheet metal fabricators
  - composite fabricators
  - fuel/de-fuel technicians
  - aircraft painters

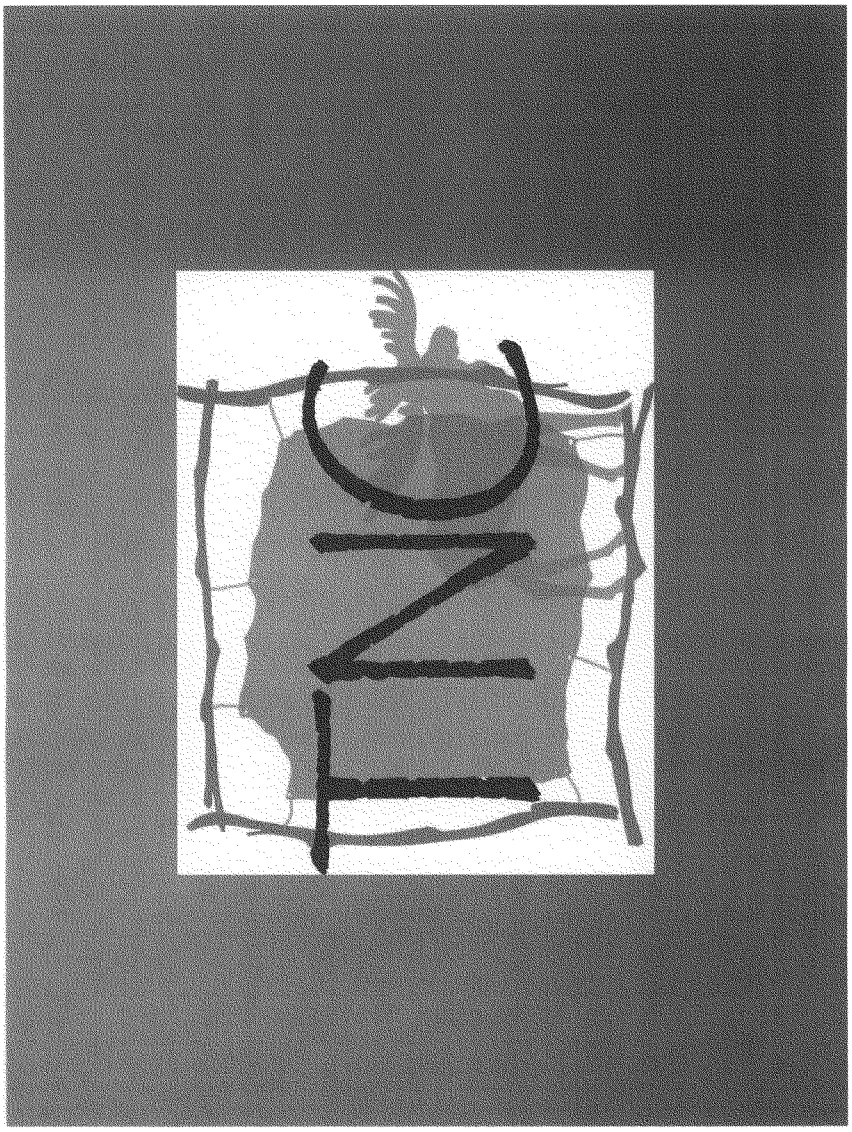
- Comprehensive maintenance and repair, launch and recovery support, aircraft fueling and de-fueling operations, transient alert services, and other aviation support services.
- Operation of base fuels depots and laboratories, motor vehicle maintenance and repair, and maintenance of other complex systems such as generators and electronic systems.

Tyonek Technology, LLC



Specializes in the provision of Information Technology and Technology related services such as:

- Provision of Electronic Security Systems and Configuring these systems into new or existing networks
- Software and Network Security, Configuration Control, and Help Desk Services
- Software and Hardware Systems Design and Installation



Chairman MANZULLO. Thank you, Mr. Garber.

The next witness is Charles Totemoff.

STATEMENT OF CHARLES TOTEMOFF

Mr. TOTEMOFF. Honorable Chairmen, members of the combined Committees on Government Reform and Small Business, thank you for an opportunity to provide testimony to you on the topic of the success of the Alaska Natives participating in the U.S. Small Business Administration and Minority Enterprise Development Program, also know as the SBA 8(a) program.

I must state that we appear with serious misgivings about the preconceptions of the committee members and staff. The very title, "Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement in Alaska Native Corporations," conveys a prejudice and a lack of understanding of Alaska Natives. I come before you today to speak directly to those points with facts and supported by independent verification by the very Federal agencies and the U.S. Government Accountability Office that provided testimony to you today.

Again, my name is Charles Totemoff, and I am the president and CEO of the Chenega Corp. Chenega is an Alaska Native village settled thousands of years ago by our forefathers. I am an Alaska Native, a shareholder of the Chenega Corp., and I have served on the board of the corporation since 1983. I grew up in the village of Chenega and have been with the corporation from the beginning when we had nothing to provide to our elders and shareholders. Like my fellow Alaska Native leader sitting beside me, I work each day to help my people achieve self-sufficiency.

In the late 1980's, Congress and the SBA recognized that Native villages like Chenega and lower 48 tribes as well faced a real problem in Government contracting. Unlike other small businesses, they did not simply represent a family or partnership but were supposed to be engines of economic opportunity for entire communities and cultures. Changes needed to be made to recognize this fact and allow Native-run small business to grow larger, to obtain larger contracts, and to remain in the program longer. I recognize that these changes have been controversial, but they have allowed the program to work for Native communities that participate. We are doing exactly what the Federal Government told us to do, and we are doing it well. The program has not worked perfectly, to be sure, but I challenge you to show me another Federal program that works as well for the Native communities that agree to work hard and play by the rules.

I am proud to say that eventually, as a result of much hard work, Chenega has been successful in the Government contracting business, but it was not an overnight success. There were many lean years as the company made the investments in time and resources, learning the business. Chenega Corp. was pleased to be a participant in the GAO audit. Chenega Corp., its shareholders, and the Federal customers with which Chenega does business are proud to relate that the GAO did not cite a single incident of waste, fraud, or abuse by an Alaskan Native Corporation, nor were the Chenega Corp. and its subsidiaries found to be performing any Federal contracts at below superior standards.

Mr. Chairman, the SBA Native 8(a) has been around a long time. Nobody complained when we were simply getting contracts to perform maintenance at Federal facilities, but now that we have grown, gained expertise, and actually succeeded at getting Federal contracts in substantive areas, people don't want to see Natives at the table.

Let me tell you about a couple of our shareholders and the direct impact this program has had on our lives.

Jason Totemoff is a young Chenega Corp. shareholder and a full time employee of our company. He received his degree in Process Technology, which he was able to obtain through scholarships Chenega Corp. provided to him and to hundreds of others of our students. While attending the university, Jason completed a formal internship with Chenega Technology Services Corp. which is a Chenega Corp. subsidiary. Jason says of his experience, "My experience at CTSC is nothing less than incredible. The skills that I have obtained will benefit me throughout my life and give me the possibilities to venture into careers I otherwise would not have." If it were not for what the Chenega Corp. provides, Jason would not have this option.

Then consider Margaret Brodken, one of Chenega's revered elders in her late eighties. Margaret, like most Alaska Native elders, never worked for a corporation that would 1 day provide her with a pension. She relies greatly on the quarterly dividends Chenega Corp. provides to help pay for her groceries and heating bill. Margaret spoke recently at a corporation-sponsored language preservation meeting that she is very proud of the corporation and what it has accomplished. I am thankful it is here to help care for her. Chenega will never forget our elders.

Unlike most corporations, our mission has a dual purpose. In addition to our business execution, we use the results of our business to further our societal, cultural, and community needs and activities. Many cultures will allow others to take care of their people. Alaska Natives takes care of their own in a cultural fashion of caring and sharing.

Chairman MANZULLO. And I have to take care of the clock. How are you doing?

Mr. TOTEMOFF. I will conclude then.

Chairman MANZULLO. You have 20 Alford seconds.

Mr. TOTEMOFF. Pardon me?

Chairman MANZULLO. Twenty Alford seconds.

Mr. TOTEMOFF. OK.

In summary, the Chenega Corp. and its subsidiaries go to great lengths to provide tangible benefits to the shareholder and their families. These benefits go beyond that of the normal role of a traditional corporation but reflect the special obligations. We do this while providing excellent service to our Federal customers.

Finally, let me stress something about the SBA 8(a) program. It is not wealth redistribution. Despite the many wonderful things the program has done for our shareholders, this is not a welfare program. It is not a jobs program. It is a means by which our villages can learn to stand on their feet.

Chairman MANZULLO. I have to interrupt at that point. Thank you for your testimony.

Mr. TOTEMOFF. Thank you.

Chairman MANZULLO. The next witness is Julie Kitka with the Alaska Federation of Natives. We look forward to your testimony.

STATEMENT OF JULIE KITKA

Ms. KITKA. Thank you, Mr. Chairman and members of the committee for the opportunity to appear before you to testify on the importance of the SBA 8(a) program to the Native people of Alaska and to offer some recommendations, and we offer seven recommendations.

I am testifying in my capacity as president of the Alaska Federation of Natives. By way of background, AFN is the largest Statewide Native organization in Alaska, representing more than 125,000 Alaska Natives residing in Alaska and more than 120,000 Alaska Natives scattered over the rest of the 49 States. AFN was organized in 1966 to advocate for one voice for fair settlement of our aboriginal land claims.

The discovery of oil in Prudhoe Bay and the need to bring clear title to the land needed to build a pipeline to bring that world class discovery online and the sense of urgency it produced in terms of providing for the energy needs of our country created a historic opportunity for a settlement of our land claims. In December 1971, after years of efforts by Members of the Congress, the Alaska Native leadership, and others, the Alaska Native Claims Settlement Act was signed into law by President Richard Nixon. ANCSA extinguished aboriginal claims, and Alaska Natives were compensated as mentioned in previous testimony. Unlike previous Indian land claims settlements, the assets, land, and resources provided for in the settlement in 13 regional for profit corporations and more than 200 village corporations.

Today, the Alaska Federation of Natives is governed by a 37 member board of directors, representing villages, both federally recognized tribes, ANCSA village corporations, 12 regional non-profit organizations who run hospitals, health clinics, non-profit law enforcement, so forth, and the 13 regional ANCSA regional corporations.

Geographic considerations, in my written testimony, I describe the sheer size of Alaska and its lack of basic infrastructure in rural areas which makes it exceedingly difficult to build sustainable economies. Alaska, as you know, is two and a half times the size of Texas and about a fifth the size of the lower 48. If you look at a map that I have included in the testimony, when you compare it to Europe, the size of Alaska completely engulfs or touches within the boundaries of at least 16 countries from Portugal to Turkey. Alaska has one of the largest Native populations in the United States, making up about 22 percent of the total population in Alaska. If you take a look and think of that, the length and the logistics, not even to mention the Arctic conditions, you will understand our challenges in building sustainable economies.

In settling our land claims, Alaska Natives gave up a lot. Our land holdings were significantly reduced, yet we accepted the settlement because we believe the United States would honor its trust obligation to us, and our people would benefit from the land capital in corporations created by ANCSA.

I want to mention, some news articles have talked about whether or not the 8(a) companies are a front for somebody else. Alaska Natives have been involved, just enmeshed in capitalism, for over 34 years because our land claim settlement was structured by the Congress in the corporate forum. And so, we have had to learn to maneuver and how to make capitalism work and the forums of corporate structure work for our people, and that is a fundamental difference between us and other Native people within the United States. We have no reservations. We have no trust lands. Our whole, the viability of our cultures and ownership of our lands depend upon the viability of our corporations to maintain fiscal stability and in order to protect our land because it is not trust land.

We considered the amendment on the 8(a) program to be an integral part of the ANCSA economic settlement, and I was involved in 1986 in testifying before the Congress, asking for the inclusion of the SBA amendment as well as a whole package of other amendments that we felt were absolutely essential for the success of the land claim settlement and for our people.

I also want to say, Alaska Natives have lived in our homelands for over 10,000 years, and we continue that, and we are here to stay. We have a land base, and we are building our capacity. One of the most important things of the 8(a) contracting is the capacity-building, the opportunity for mentorship, what we are learning in how to do business—absolute essential.

What we have also done recently is we have commissioned a 30-year trend analysis to see how we have done in the last 30 years on a whole range of indicators, whether or not you are talking about education, health, infant mortality, life expectancy, and so forth. And I am here to report to you that we have made tremendous success in the last 30 years.

I will give, for example, poverty rates among Alaska Natives. Thirty years ago, our poverty rates among our people were in the 60 percent plus. Now, the poverty rate among Alaska Natives is down to 20 percent, and that is with a population that increases every 23 years and doubles in its population. That is a remarkable achievement by any standard and should be something held up by the U.S. Congress and the administration to other parts of the world of how to reduce poverty linked to economic growth.

Chairman MANZULLO. We have a red light here.

Ms. KITKA. In conclusion——

Chairman MANZULLO. You know what that means.

Ms. KITKA. Yes.

In conclusion, Mr. Chairman, the program is a success. We are proud to be a part of it. We have seven recommendations which we urge your consideration and which we think can make good economic policy for Alaska Natives, Native Americans, and I note for the delegate from Guam, many of those recommendations could specifically address some of the concerns that she has with the Chamorro people in Guam.

Thank you.

[The prepared statement of Ms. Kitka follows:]

Testimony of
Julie Kitka, President
Alaska Federation of Natives

Joint Hearing
Committee on Government Reform
Congressman Tom Davis, Chairman
Rep. Henry Waxman, Ranking Member

and

Committee on Small Business
Congressman Donald A. Manzullo, Chairman
Rep. Nydia Velazquez, Ranking Member

Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement and Alaska Native Corporations
Wednesday, June 21, 2006

Room 2154
1:00 pm
Rayburn House Office Building
Washington, DC

Table of Contents:

1. Background
2. Land Claims Settlement and the Promise of an Economic Base
3. 8a Government Contracting and the Special Trust Relationship
4. 30 Year Trend Analysis: Status of Alaska Natives
5. Alaska Native Participation in the 8a Program – Part of the Solution
6. Recommendations – seven proposals
7. Attachments

Further information:
Julie E. Kitka, President
Alaska Federation of Natives
1577 C Street, Suite 300
Anchorage, Alaska 99501
(907) 274—3611

web site: nativefederation.org
email: nevakitka@aol.com

Chairmen Davis and Manzullo, Ranking members Waxman and Velazquez and distinguished members of both committees, thank you for the opportunity to appear before you today on behalf of the Alaska Federation of Natives (AFN), to talk about the importance of the Small Business Administration's 8(a) program to the Native people of Alaska and other important considerations.

My name is Julie Kitka. I am testifying today in my capacity as President of the Alaska Federation of Natives (AFN), a position I have held for over fifteen years. By way of background, AFN is the largest statewide Native organization in Alaska representing more than 125,000 Alaska Natives residing in Alaska, and more than 120,000 Alaska Natives scattered over the rest of the 49 states. AFN was organized in 1966 to facilitate bringing the various regional and village associations together, to advocate with one voice for a fair settlement of our aboriginal land claims. [1]

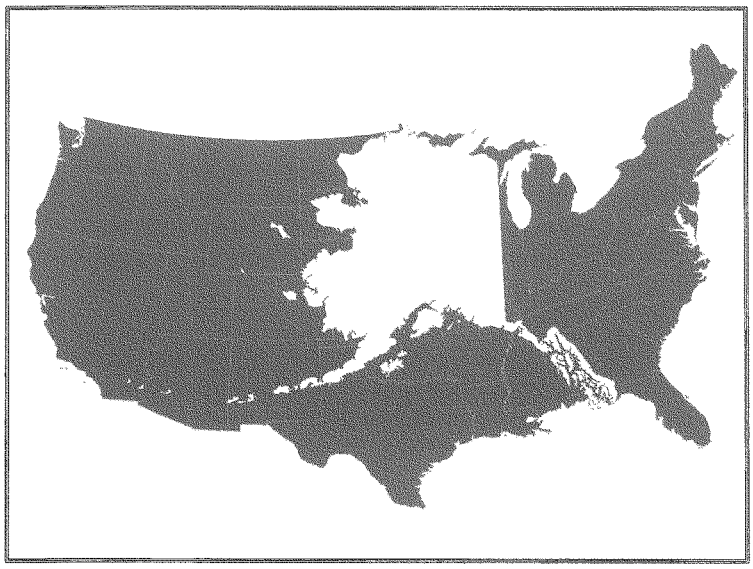
With the discovery of oil in Prudhoe Bay, and the need for clear title in order to build a pipeline to bring that world-class discovery on line, to provide for the energy needs of our country, a sense of urgency created a historic opportunity for a settlement of our land claims. In December 1971, after years of effort by Members of the U.S. Congress, and Alaska Native leadership, the Alaska Native Claims Settlement Act, (ANCSA), P.L. 92-203 was signed into law by President Richard Nixon. In extinguishing aboriginal claims, Alaska Natives were compensated with fee simple title to 44 million acres of land and $962.5 million for lands lost to the State, federal and private interests. The Act created 13 regional for-profit corporations and more than 200 village corporations to receive and oversee the land and monetary entitlements.

Today, AFN is governed by a 37-member board of directors representing villages (both federally recognized tribes and ANCSA village corporations), 12 regional

[1] Attachments include a listing of the Native People and Languages of Alaska; and a map of the geographic division of the population.

non-profit organizations, and the 13 regional ANCSA corporations. AFN's annual convention is the largest annual gathering of Native people within the United States numbering close to 5,000 individuals. AFN's mission is to enhance and promote the cultural, economic and political voice of the Alaska Native community.

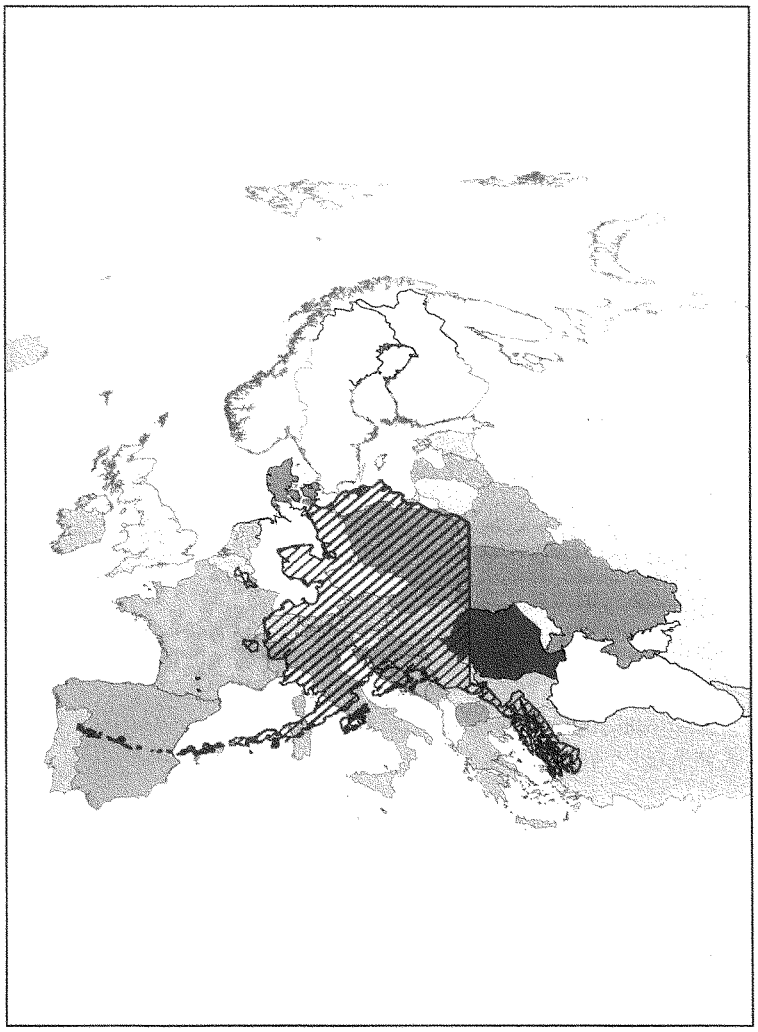
Background: To gain perspective, it is helpful to realize that the United States is about half the size of Russia, about 3/10th the size of Africa, about ½ the size of South America, or slightly larger than Brazil, slightly larger than China and about 2 ½ times the size of Western Europe. Within the United States, Alaska is the largest state, about 2.3 times the size of Texas and about 1/5th the size of the lower 48 states.



Alaska has one of the largest Native populations in the United States. Our people make up about 22% of the total population in Alaska and our people are scattered across the entire breadth of the state. Our Native cultures are land-

based, and our occupation and use of our land predates Plymouth Rock and the pyramids

For comparison purposes, the next map is created by overlaying the boundaries of the State of Alaska over Europe. As you study the overlay, you will see how many countries of Europe are totally engulfed, or touched within the boundaries – such as Portugal, Spain, Germany, France, Switzerland, Italy, Austria, Slovenia, Macedonia, Bulgaria, Romania, Ukraine, Hungary, Belarus, Slovakia, and the Czech Republic. If you just stop and think of this for a minute, you will understand how large Alaska is as a land mass and how great the logistics and infrastructure needs are in terms of building sustainable economies. To survive and prosper in such an environment requires tremendous effort and supportive government policies.



Land Claims Settlement and the Promise of an Economic Base

While Native leaders were finally successful in reaching a settlement with the United States on our land claims, we gave up much. Native land holdings were significantly reduced under the terms of ANCSA. Yet we accepted the settlement because we believed the United States would honor its trust obligation to us and that our people would benefit from the land, capital and corporations created by ANCSA and the economic opportunities that would be created. Since then many of our corporations have struggled to achieve the goal of economic self-determination. ANCSA's successes and failures have been judged largely by the performance of the regional corporations. Unfortunately, many have experienced turbulent times. Shareholders expected the regional corporations to do everything: to protect traditional ways of life and ancestral lands used for subsistence; to provide for the social welfare of the people; to be profitable; to provide employment; and pay regular dividends. These often-conflicting expectations were complicated by the fact that the leaders of the new corporations had little or no experience in the business world. According to the ANCSA 1985 Study, prepared for the Secretary of the Interior, only one regional corporation had not reported a loss since its formation – and more than one had considered bankruptcy. The lack of economic development opportunities and basic infrastructure in Native villages made it virtually impossible for Native corporations to generate economic progress without assistance.

8a Government Contracting & the Special Trust Relationship

Over the years since ANCSA was passed, Congress has enacted many laws to foster self-sufficiency and economic development in Native communities. Among the most successful of these laws are the special provisions implementing Section 8(a) of the Small Business Act. The contracting status offered by the 8(a) program is based on the trust and statutory relationship between Native Americans and the Federal Government. As you are well aware, there is a special legal and political relationship between the United States and Indian and Alaska Native Tribes, and that special legal and political relationship is grounded

in treaties, the United States Constitution, federal statutes, court decisions and a course of dealing. We also note that this special legal and political relationship between the United States and Native American tribes includes Alaska Natives. Although the legal status of Alaska Native corporations is different than that of Tribes, it has long been recognized that a special legal and political relationship exists between the United States and Alaska Natives.

The Federal Government has an obligation to foster self-sufficiency and economic development in Native communities. Congress amended ANCSA to help Alaska Natives overcome barriers to economic development in rural Alaska by allowing them to be eligible to participate in the 8(a) program. We consider this an integral part of the original ANCSA economic settlement.

The ANCSA regional and village corporations and tribes in Alaska that have participated in the 8(a) SBA program have achieved success by providing real value and quality work for the government at a fair price. By paying attention to detail, and by being careful stewards of the responsibility entrusted to us by the government, we have delivered a needed service to the government while at the same time providing job opportunities and upward mobility economic opportunities for our Native people.

Since our land base and resources are held by our Native corporations, and are not trust lands held by tribes with reservations status, the financial health of our Native corporations is extremely important to our continued existence as distinct, land-based cultures and peoples living in the United States. Contracting opportunities have allowed us to contribute to our country, gain experience, continue to build capacity, and reinvest profits back into our corporations and people for the future.

As First Americans who have used and occupied our homelands in Alaska for over 10,000 years, and who continue to live in the farthest Northern corner of the United States, we are here to stay. We have a land base and are building our capacity in the use of corporations, modifying the corporate structure with the help of the Congress to better meet the needs of our people. Every Congress since 1971 has had a package of technical amendments to fine-tune aspects of the settlement.

Make no mistake about it; our 8a companies are not fronts for someone else. We have 34 plus years enmeshed in capitalism as a result of our 1971 land claims settlement in which you, the Congress choose the corporate form of governance for our people. We have had a steep learning curve.

Participation in the 8(a) program has enabled our Native-owned businesses to develop the experience, skill and expertise necessary to succeed in the competitive business market. The 8(a) program has helped Alaska Native entities overcome significant economic barriers, create and expand competitive businesses in the private and federal markets, create new business opportunities in remote rural areas of our state and return profits to our communities.

30-Year Trend Analysis

Over the last thirty years, Alaska Natives have made great progress in basic health, education and safety areas. A recent thirty-year trend analysis, which we commissioned, measured size, growth and structure of our population. The study looked at factors impacting population growth (including fertility, infant mortality, and life expectancy), labor and employment figures; poverty and income distribution; educational attainment levels; and health status. All showed remarkable improvements. For example, over the thirty-year period, poverty rates among Alaska Native decreased from the 60% + down to 20%. This is a remarkable achievement by any standard and was made possible by the

combined efforts of the federal and state governments and our people themselves.

For the Native leadership, one troubling aspect is the continuing disparity between Alaska Natives and other Alaskans in nearly all sectors. We are continuing to focus on strategies and actions to close the gaps. We have recommendations, which follow later in the testimony.

Alaska Native Participation in the 8 a Program – Part of the Solution

One of the reasons we are here today with a united voice, is to tell you that we need this program for our people. It is an exceedingly rare example of federal Indian policy that successfully promotes economic development and self-sustainability without large direct federal appropriations.

Outspoken opponents, inaccurate media and calculated leaks about the GAO report are attempts by organized parties to discredit the success of the program. The fact is that the actual GAO report shows no wrongdoing on the part of Alaska Native corporations, it mostly addresses areas within the SBA oversight that need attention.

I am glad this committee will have a chance to understand that this attempt to discredit the Alaska Native corporations has failed. It is now time for you to hear the truth about the program. The program is the cornerstone of our future and we need to strengthen it for the benefit of all Alaska Natives and American Indians.

As less and less funding is available for Indian concerns including health and social benefits, Congress should look more closely at programs like this one that benefit both Alaska Natives and American Indians by helping them attain economic independence.

In conclusion, Alaska Native corporations and Alaska's Tribes engaged in the 8(a) program provide benefits to Native communities and whole regions of economically and socially disadvantaged people, as recognized by the current law, whereas in an individually owned 8(a), the owners retain all the benefits.

Recommendations:

The following recommendations are offered in the spirit of positive dialogue on the role of the federal government to constantly seek to expand the "economic pie", and share the prosperity of our growing economy to pockets within the United States that are often left out, and left behind.

1. Recognizing that U.S. businesses, including Alaska Native corporations, are not just competing with other states for jobs, but are also competing with China, India, Korea and other countries for the capital to build businesses; and recognizing that the jobs go where the businesses go. Congress should make high-speed telecommunications a national priority to help drive up our country's productivity and potential for economic growth. We need fast, accurate communication networks to stay competitive in the global economy. Given the geographic breadth of Alaska, and its strategic location in the growing East-West sphere, we need the most advanced telecommunications services in order to continue to build our capacity and to compete for jobs and capital.
2. Congress should enact legislation to change the investment climate in rural Alaska and within reservation economies across the country. The Congress should support economic development by creating investment guarantees by expanding current US economic policy to offer domestically the same incentives that are offered to investors in China, India and Brazil.
3. Congress should authorize a feasibility study of a demonstration project in Alaska to be the first outsource free trade zone in the United States.

Similar feasibility studies should be authorized for other Native American communities if there is interest. In order for the US to compete worldwide for jobs and capital, we must be able to offer advantages, which can compete with other major out source suppliers in China, India and now Dubai in the United Arab Emirates. Recent reports indicate that Dubai is looking at a targeted share of 5% of the global outsourcing industry in five years. They have set up a trade zone that offers advantages as streamline bureaucratic processes, zero corporate income tax, personal tax and sales tax; and the country is funneling a large amount of funds into construction and diversification plans. A feasibility study of a demonstration project in Alaska, and within other Native American communities would examine the pros and cons of such an approach in the United States, and whether it would make sense. If Congress decided to authorize such a feasibility study, the AFN would like to be a part of it.

4. Congress can enact legislation to create "knowledge economy ecosystems" designed to support the business and government needs of information and communications technology and include other sectors. Congress is aware that knowledge is the most valuable commodity in the economy of the post-industrial world. Congress can ensure that Alaska Natives are able to participate in the global economy, even among such giants that have tremendous wealth and the ability to innovate beyond what we can imagine. Congress should note that Dubai is setting up what they call the Dubai Knowledge Village – described as a vibrant, connected learning community that will develop the regions talent pool and accelerate its move to the knowledge economy. Congress must not allow U.S. businesses to fall behind or be hobbled in their drives to be competitive entities in the global economy.

5. Congress can support demonstration projects on workforce development for the knowledge economy – multiple demonstration projects, including one in Alaska. A multi-department initiative including the U.S. Departments of Labor, Education and Commerce is needed immediately.

6. Congress should authorize and fund a knowledge-management/financial entity to capture best practices in government contracting. This entity would foster innovation in developing the capacity of Alaska Native peoples and their organizations. It would identify strategic drivers; forecast various economic scenarios and trends, review developing models for promising practices in delivery of services for both the government and private sector. Most importantly it would work to help facilitate expanding mentorship opportunities and breathe fresh air into technical assistance efforts. A focus on improved productivity and best practices would equal savings to the government and improved services. Again, a similar entity to focus on reservation specific contexts should be considered if there is interest.
7. Congress should establish two different financial funds, a Native American Economies Diagnostic Studies Fund and a Native American Incubation Center Fund". The first fund, the "Native American Economies Diagnostic Studies Fund" would be designed to provide comprehensive economic analyses of Native economies and, in turn, offer recommendations to remove or ameliorate inhibitors to greater investment and job creation. The second development fund, the "Native American Incubation Center Fund", would be designed to encourage the design and implementation of pro-growth economic policies to help stimulate Native economies. AFN strongly supports the underlying rationale behind the establishment of funds designated to these purposes and believe they would assist economic development throughout Alaska and within other Native American communities if they were enacted into law.

In closing, I would like to commend both committees for their commitment to the issue of economic development and to looking at strategies for building healthy Native economies and stronger Native communities. I ask you on behalf of the Alaska Native people to consider the enormous benefits the 8(a) program has

provided to Alaska Natives and the role it plays in fulfilling the federal government's obligation to foster self-sufficiency and economic development for our people. The continuation of the program is essential in helping Native people gain control over our future, over our lives, and over our destinies.

Thank you for the invitation to testify, and I welcome any questions you might have.

Attachments:

1) Matrix of Alaska Native Organizations and State and Local Governments
2) Matrix on Native Peoples and Languages of Alaska

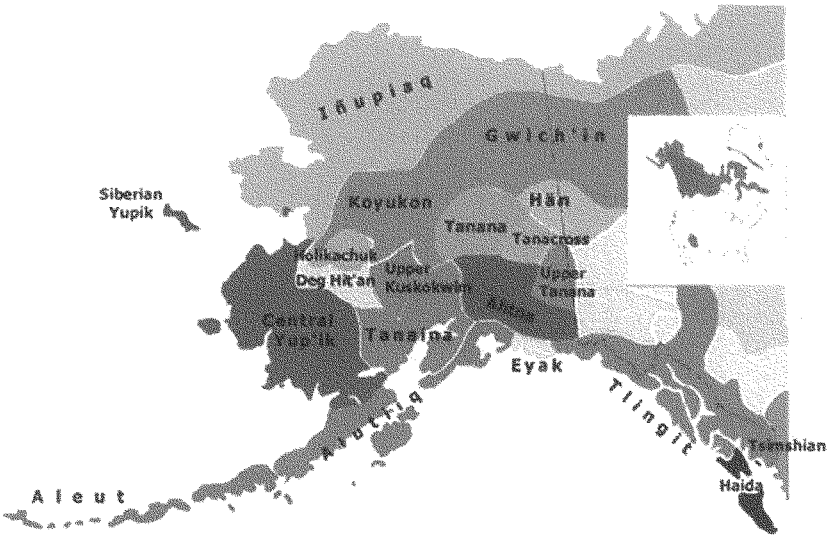
Native Peoples and Languages of Alaska

The aboriginal affiliation of Alaska Natives is derived from ancestral linguistic groups. The two major Alaska Native language families are the Eska-Aleutian and Na-Dene. Eska-Aleutian languages are further divided into Aleut and Eskimo—the two major languages in Eskimo are Yupik and Inupiaq. The Na-Dene family language includes the Athapaskan languages, Eyak and Tlingit. Other language families in Alaska are Tsimshian and Haida.

Alaska Native Language Groups

Language Family	Language Names
Eskimo-Aleut	
Aleut	Aleut
Eskimo	Alutiiq (Sugpiak) Central Yupik Siberian Yupik Inupiaq
Tsimshian	Tsimshian
Haida	Haida
Athabaskan-Eyak-Tlingit	
Tlingit	Tlingit
Eyak	Eyak
Athabaskan	Ahtna Tanaina Ingalik Holikachuk Koyukon Upper Kuskokwim Tanana Tanacross Upper Tanana Han Kutchin

Geographic Divisions The Inupiat live in North Alaska, along the Beaufort and Chuckchi Sea coasts (and inland), along the Kotzebue Sound, and down to Unalakleet in the Norton Sound. The Siberian Yupik (Eskimos) live on St. Lawrence Island, while the Central Yupik can be found along the coast (and inland) of Norton Sound from Unalakleet to Egegik in Bristol Bay. The Alutiiq (Eskimos) are found primarily on the Alaska Peninsula, Kodiak Island, and along the coast into Prince William Sound up to Eyak. The Aleuts live primarily on the Aleutian Islands. Athabaskans (Tanaina, Ahtna, Ingalik, Upper Kuskokwim, Holikachuk, Koyukon, Tanacross, Upper Tanana, Han, and Gwich'in) are found in Interior Alaska. The Eyak, Tlingit, Haida and Tsimshian live primarily in southeast Alaska.



Chairman MANZULLO. Thank you very much.

I think we are talking about two different things. I think Mr. Alford hit it on the head. It is that 8(a) was not set up to be a community development program. It was set up to be a helping hand for small, struggling businesses until they get their legs firmly put upon the land and develop some business practices and are able to go out and compete on their own. So we have two different things going here.

There is a good argument, a good factual argument that these 8(a) exceptions have helped dramatically the Alaska Natives. But if you take a look at Mr. Ramos' figures of the Department of Defense, he said that of the contracts awarded, I believe that $1.1 billion goes to Alaska Native Corporations, $1.2 billion to African-American, and about the same to Hispanics. If I do the calculations, if 22 percent of the people in Alaska fall into the category for inclusion as Alaska Natives, that is about 144,000 people that are not only situated just in Alaska, but according to the testimony of Mr. Garber, 400 of the 600 live I believe outside of Alaska.

Mr. GARBER. No.

Ms. KITKA. Mr. Chairman.

Chairman MANZULLO. Is that correct?

Mr. GARBER. No. They live in the village. They live in the region.

Ms. KITKA. Mr. Chairman.

Mr. GARBER. Outside the zone. They live in the region.

Chairman MANZULLO. OK.

Mr. GARBER. Within 50 miles of the village.

Chairman MANZULLO. OK, all right. Now my question is——

Ms. KITKA. Mr. Chairman.

Chairman MANZULLO. Yes.

Ms. KITKA. The current census says 125,000 Alaska Natives within the borders of our State, 120,000 Alaska Natives scattered over the rest of the United States.

Chairman MANZULLO. OK. Now, as to the latter, are they included in the dividends that are paid by the ANCs, just based upon meeting the qualifications to belong to Alaska Native tribes?

Ms. KITKA. Mr. Chairman, I could address that. The requirements in enrolling for the land claims is you had to meet a certain blood quantum, you had to have been alive on December 18, 1971.

Chairman MANZULLO. No. I understand. I am talking about the corporations when the dividends are paid.

Ms. KITKA. Yes, what I am saying is when you enrolled in 1971, no matter where you lived, if you lived if Seattle, if you——

Chairman MANZULLO. There are people who are Alaska Natives that are not working with the corporations, the ANCs, that have their own businesses, regardless of their wealth, that are still the beneficiaries simply because they belong to the qualifying tribe by tribal definition, isn't that correct?

Mr. MCNEIL. That is so, under the Alaska Native Claims Settlement Act.

Chairman MANZULLO. That is right, and I am not trying to say there is anything wrong with that. But what I am saying——

Mr. MCNEIL. There is even a——

Chairman MANZULLO. Let me finish my point. What I am saying is what Mr. Alford is talking about is the 8(a)'s that are represent-

ing the African-American and the Hispanic community and the others covered by 8(a), those are individual businesses where the owners themselves who are working, not just because they are members of a corporation to get the share and the benefit of the profits of the corporation. That is the struggle going on here as to 8(a) being used as a tool of economic development for ANCs and 8(a) being used as a helping hand up for the other so-called, well, for the other minorities that are involved in it.

That is where we are having our problems as Members of Congress because to the Harry Alford and to the Hispanic community, they see this gross disparity of amounts of money going to the ANCs in terms of the awarding of the contracts as opposed to the other minorities. This program is working well, but that is not what 8(a) ever intended was to work this well toward just one group of people that are involved in these contracts.

Mr. McNeil.

Mr. MCNEIL. Yes, Mr. Chairman. Congressional policy certainly has evolved over time and including the advent of the Alaska Native Claims Settlement Act. The Native people of Alaska gave up quite a bit for that claims settlement, and that is part of it.

Chairman MANZULLO. I understand, but so did other Native American tribes——

Mr. MCNEIL. That is true.

Chairman MANZULLO. That are not included with the special exceptions.

Mr. MCNEIL. The other, the Native Americans are also included in the same program.

Chairman MANZULLO. OK, all right.

Mr. GARBER. Mr. Chairman.

Chairman MANZULLO. Yes.

Mr. GARBER. The program has evolved in community development. I would say that there is a strong argument to say that our 8(a) exception isn't necessarily pointed at community development. It is development of businesses and the benefits, and there is a larger beneficiary pool, not just the shareholders, but there is also descendants who all gain from the benefits of our scholarships and the like.

The new HUBZone regs are all about community development in places that have nothing to do with Indians.

Chairman MANZULLO. I understand.

Mr. Davis.

Chairman TOM DAVIS. I have a couple questions.

Look, nobody quarrels with the intent of the Native Claims Act or of the ANC. We understand what the purpose is.

I come at it from a different point of view. I oversee the committee that oversees all Federal procurement. Whenever you let people go out with sole-source bids, we just don't think you get the same value as when they are competed. You talk about a seat at the table, and I think the comment from Mr. Totemoff was that people don't want to see Natives at the table. I want you at the table; I just don't want you to have your own table. We want you out there competing with these others, with other 8(a) companies and the like. They have written different rules for you, so that when we go out and you compete for a contract, you are in a class by yourself.

For a Government procurement officer, a small business officer to go out, they can negotiate just with you and other 8(a)'s but you count against 8(a) percentages and everything else, and it just makes it a little too neat and convenient. That is the concern.

We are trying to figure out what the best way is. There is a cost to the Government for doing that. We are just trying to take a look at it in this context. I don't think anybody, any ANC has abused the process. These were the rules that were written. You are doing what you ought to be doing. I just think on the Government side sometimes, as this has grown, it has grown at the expense of people who could have been in there bidding and offering the best deal.

Mr. Alford.

Mr. ALFORD. Congressman Davis, it is rather hideous to hear Mr. Ramos say that everything is on par because they all have a billion a piece. Forty million African-Americans, forty million Hispanics, the population of Alaska Natives, less than half the district, any one of your Districts, and they are on par? For the gentleman to say, well, I just made $200,000 a year. Ninety percent of my constituents would love to make $200,000 a year.

Chairman TOM DAVIS. I wouldn't mind it.

Mr. ALFORD. Thank you. I am wondering about the reality of the whole thing.

One last thing, Akima has been mentioned—Charlotte, NC, spawned in Charlotte, NC. Look at the Katrina rebuilding and the ANC involvement—Norfolk, VA; Greenbelt, MD.

Chairman TOM DAVIS. They have some in my District, too. Let me just say——

Mr. ALFORD. Are they Alaska Natives?

Chairman TOM DAVIS. Well, the shareholders are Alaska Natives and that is where the money goes. The profits go back into Alaska.

Mr. ALFORD. They are not Alaska Natives though.

Chairman TOM DAVIS. The employees may not be, but the owners of the corporation, as I understand, are Alaska Natives, and it gets channeled back there. I don't think there is anything improper about that, but here is what concerns me. What concerns me is, again, getting the Government's best value.

Mr. Waxman brought this up earlier. Henry and I don't agree on everything with Government contracting, but he has been very consistent in saying that we should not be doing a lot of sole-source contracting, no-bid contracting where you are just sitting across the table with one company and a Government negotiator. You ought to have other companies there. The difficulty on the ANCs is you are not at the table. Your 8(a)'s aren't at the table. Other 8(a) aren't at the table. Other large companies aren't at the table. We think in competition, ANC still may end up getting the work. They do a lot of good work, but we just think the Government is going to get a better value if they do that.

That is my point. If you take exception to that, but that is——

Mr. GARBER. Mr. Chairman, I am one of the few at the table actually who actually operate these companies, and I am right there. We have substantial cost savings to the Government in multiple millions of dollars in manufacturing. For the most part, our primary areas in the 8(a) are heavy-duty aircraft maintenance of jets

and helicopters. We have very, very few, if any, small businesses who do that. We do——

Chairman TOM DAVIS. Do you object to competing?

Mr. GARBER. We are actually beating large business and the proof in the pudding is that large business, after a number of years, is coming to us to subcontract because our rates are cheaper and we are——

Chairman TOM DAVIS. But you shouldn't be afraid of competition, that is all I am saying.

Mr. GARBER. Over time, I wouldn't be, except that, as you know better than I do, large businesses can do any number of different contracts.

Chairman TOM DAVIS. I wouldn't mind you competing against other 8(a)'s. That would be fine. The difficulty is that their threshold for sole-source is $3 million or $5 million, and you have no threshold.

Mr. GARBER. In most situations, there are reasons why we have actually avoided the pools of under five and under three.

Chairman TOM DAVIS. Let me ask you this. How many contracts do you have that are open contracts that are basically open to everybody?

Mr. GARBER. We compete almost 100 percent right now of our services contracts in small business competes.

Chairman TOM DAVIS. But you are small business. How many contracts have you won that are full and open?

Mr. GARBER. On the services side, on the manufacturing side, like I said, 10 to 15 percent. On the services side, we have only been bidding for the last 9 months.

Chairman TOM DAVIS. So you are new. In time, you think you can move to that, is what you are saying.

Mr. GARBER. Yes.

Chairman TOM DAVIS. Let me ask you the others. I am not advocating it. I am just trying to get a flavor for how many contracts you are winning in the open marketplace.

Mr. GARBER. Well, I also, you are making the point that we are losing money for the Government. We are winning. Our rates are about one half to two-thirds big businesses.

Chairman TOM DAVIS. Well, if they are, why can't we compete it against others, if your rates are so good?

Mr. GARBER. Because the effect of these things on us is that big business is being protected from us.

Chairman TOM DAVIS. Why in the world can't you compete against other small businesses?

Mr. GARBER. Because they can't do what we do.

Chairman TOM DAVIS. Then you are not afraid of competition. My point is a very simple one. We can compete against you in an 8(a) pool, and you would be treated like other 8(a)'s. The difficulty isn't that we don't want you at the table. We want you at the table. We would just like to have other people at the table. That is the only concern.

I don't want to upset something that is working for Alaska Natives. Congressman Young, I think made a very eloquent presentation today about what this is doing, going back historically. We are not trying to upset the whole thing, but there is a concern, at

this committee level, whenever anybody is given these no-bid contracts and you are sitting across with a Government negotiator. I did this for a living for 20 years. I understand the way it works.

If you have a couple other companies there with you, small businesses if they can find them, but right now, they are prohibited from looking at them because they have a threshold. For Mr. Alford's company, it is $3 million to $5 million. When you are sitting down with a $30 million, you are the only guys in town, and that is the concern. I just say that.

Now you do a lot of good work. This is the right way to do it. You are earning your way. You have done nothing wrong. You are operating under rules that we have written. Our question is: Should we revisit the rules a little bit and tweak them a little bit, so maybe we can include a little bit more competition, not from the large companies but maybe from other small companies in this pool?

Mr. GARBER. That is my problem, and I guess that is the point that you don't understand, that the vast majority of all the source contracts, sole-source contracts are big business. They are not small business, and they are not us. In the time that we have been speaking——

Chairman TOM DAVIS. I agree with that.

Mr. GARBER [continuing]. At this hearing, there are more sole-source contracts——

Chairman TOM DAVIS. Let me tell you something. This committee has jumped all over other agencies, just so you understand, because of sole-source, even in emergency situations. We have four areas in Iraq. So I don't need a lecture from you to tell me what we are doing on that.

Mr. GARBER. Oh, I am sorry.

Chairman TOM DAVIS. We are going after sole-source and these no-bid contracts everywhere. So this is a small piece of that. I am asking you, though, if you could compete with other small businesses, that is OK, isn't it? You can beat them straight up, can't you?

Ms. BORDALLO. In our areas, it would be a concern. We do now, and there are not that many who can do what we do.

Chairman TOM DAVIS. So you ought to be OK, and that is the concern. The difficulty is that a lot of small 8(a) businesses can't compete with you because of the size limitations that they have that you don't have.

Mr. GARBER. That is not the reason they can't compete with me. Not many mom and pop's maintain jets and not many mom and pop's have the manufacturing organizations.

Chairman TOM DAVIS. Then that is fine. That is fine. I don't have a problem with that, but in some of the IT and some of the other areas, there certainly are competitive parts to this.

Mr. ALFORD. Sir, I would like to introduce him to some 8(a) firms who do maintain jets.

Chairman TOM DAVIS. Well, I think the Government can find them if they do it, and if they can find them, I think you are still going to win a lot of contracts.

Mr. GARBER. We compete against that.

Chairman TOM DAVIS. I still think you are doing a lot of good. That is my only point.

Ms. SANDVIK. Excuse me, a couple of points I would like to make. No. 1, there seems to be some question about whether it is appropriate to have different caps, limits placed, and that somehow or another, there is a suggestion that is inappropriate for Alaskan Native Corporations to not be subject to the same caps that some of the smaller, individually owned businesses are.

Frankly, we believe it is absolutely appropriate. As I mentioned in my testimony, there are 11,200 beneficiaries of all of NANA's business efforts, and so we distribute our profits amongst 11,200 people. If we were held to the same threshold as the $3 million, and we earned a typical margin on that work of 5 percent, that means $150,000 would be distributed to 11,200, yielding a $13.15 return.

Chairman TOM DAVIS. Ms. Sandvik, in a vacuum, you are right, but here is the practical side of it. We drive these procurement officers to meet a certain percent and threshold of 8(a) contracts that they are letting out. Because it is so easy for them to go no-bid, sole-source to you, basically they don't give it to other people, and that is the difficulty with this. So we want to try to figure out a way out of it. It is an unintended consequence.

I am not griping or complaining about what you are doing and the way this has come about. I am just saying I think it always works better for the Government when we are looking at contracts to have two or three potential bidders out there. If we can find two or three ANCs, that would be fine. I would feel better about that, but we can't. The record shows that we haven't been able to do that. This is driving some fairly large procurements at this point. That is the concern.

I think some of the other concerns, I think you have addressed very well today, but that is the concern.

Mr. WAXMAN. Thank you.

Mr. Totemoff, let me ask you some questions about a TSA contract for maintenance of airport screening equipment. This is a contract that Chenega sought but did not receive.

In late 2004, TSA planned to hold a competition for this contract, and the plan was for companies to submit informal white paper proposals before a formal request for proposal was sent to a smaller number of select contractors. Both Chenega and Siemens were among the contractors that made it to the second round, is that correct?

Mr. TOTEMOFF. Yes, I believe so.

Mr. WAXMAN. At this point, the competition was halted because of political pressure. According to a November 1, 2004 e-mail from Lee Kair, the Acting Assistant Secretary for Acquisition, the entire Alaska congressional delegation was pushing for Chenega to receive the work under a no-bid contract it had with Customs and Border Patrol. The e-mail states, "Staff from these offices have been adamant that we evaluate an option using a CBP contract with Chenega for similar services." Then the other documents confirm that TSA officials met with the staff of the two Senators from Alaska on October 19, 2004.

Mr. Totemoff, did Chenega ask the Alaska delegation to intervene with TSA on Chenega's behalf?

Mr. TOTEMOFF. I am not aware of any such thing.

Mr. WAXMAN. What specifically did you ask them to do?

Mr. TOTEMOFF. I really don't recall the TSA contract.

Mr. WAXMAN. Then if you didn't ask them, the two Senators and a Congressman just decided on their own to begin pressuring TSA to consider giving the work to Chenega without a competition.

Mr. TOTEMOFF. Maybe.

Mr. WAXMAN. That is what happened. Do you think that is what happened?

Mr. TOTEMOFF. It is possible.

Mr. WAXMAN. The documents also show that TSA succumbed to this political pressure by giving Chenega special access to present its no-bid plan to TSA. Is that true? Did Chenega make a presentation about its proposal to a TSA panel on November 29, 2004.

Mr. TOTEMOFF. I don't recall that far back, no.

Mr. WAXMAN. 2004?

Mr. TOTEMOFF. Yes.

Mr. WAXMAN. November? Well, according to the TSA documents obtained by the committee, Chenega proposed using Siemens as its subcontractor. A November 24, 2004 memo from Mr. Kair said, "Chenega stated that Siemens would deliver 100 percent of the technical effort." In other words, Siemens "will execute the technical work under Chenega's management."

Is that right, Mr. Totemoff? Did Chenega propose to have a large non-Native subcontractor do all of the actual maintenance work?

Mr. TOTEMOFF. I don't recall again. I don't recall those e-mails that you are referring to.

Mr. WAXMAN. Do you recall this whole issue of this contract?

Mr. TOTEMOFF. I recall we didn't receive the contract.

Mr. WAXMAN. In this case, TSA ultimately resisted the political pressure because it didn't think a no-bid contract to Chenega would be a good deal for the taxpayer. Mr. Kair, the acquisition official, wrote, "While it asserted that it was convinced it could save over the current prime, Chenega was unable to demonstrate knowledge of current costs or provide a projected order of magnitude of savings." In addition, he concluded, "Sole-source negotiations simply cannot yield the kind of savings or pressure that the market brings to bear."

On November 29, 2004, TSA announced that it was resuming the competition. Siemens ultimately received the contract on March 1, 2005.

Mr. Totemoff, do you think it makes sense to award Federal contracts on the basis of who has connections to Members of Congress?

Mr. TOTEMOFF. I don't believe so.

Mr. WAXMAN. Although Chenega didn't receive this contract, this is a disturbing case. An ongoing competition was halted due to political pressure. This is not supposed to happen in our procurement system.

This contract highlights another major drawback of a no-bid ANC contract. In the absence of competition and with a clear criteria for selecting contractors, contracting officials are susceptible to political pressure and lobbying. What I described is an unsuc-

cessful effort, but nevertheless it raises the question of if you don't have competition, then the pressure is on to maybe give political favors to a bidder which means the taxpayers don't get the benefit of competition and the procurement people feel they better go along with the political pressure, even though the taxpayers may not get the best deal.

Mr. TOTEMOFF. I think our corporation is ethically far better than that. I mean from my viewpoint, as being the president and CEO, I tell all my managers that we are going to either do things above board and always do the right thing.

Mr. WAXMAN. Do you think it was reasonable to have a contract that you wouldn't be handling but Siemens would be handling and then get it on a no-bid basis?

Mr. TOTEMOFF. Again, I don't recall the final negotiations of the TSA contract. What I do recall is we didn't get it.

Mr. WAXMAN. Thank you.

Thank you, Mr. Chairman.

Chairman MANZULLO. Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Totemoff.

Mr. TOTEMOFF. Yes.

Ms. VELAZQUEZ. You know you made a comment about the fact that this is all about people not wanting to see Native Americans at the table. You are totally wrong. We in Congress are in the business of making sure that things are done the right way and if there are fixes that need to be done, that is our responsibility. Since SBA has not taken oversight seriously for the last 5 years, we need to make sure the taxpayers' moneys are protected.

Mr. Alford, agencies want to buy things the fastest and easiest way possible. If agencies were split off from the 8(a) program, agencies will have the choice of the 8(a) program with no contract dollar limit or 8(a) with its restriction on the company, the owner, and the contract. Even considering civil rights implications and the possibility of not achieving contracting goals, which are limited multi-weighted factors, wouldn't we be setting up a situation where contracts would disappear from the 8(a) program in a monumental fashion, even faster than they are now.

Mr. ALFORD. Congresslady, the best agency that uses 8(a) contracting programs and has the best results and diversity is HUD, and Secretary Jackson will tell you: I use the 8(a) program to make sure we have diversity in HUD. They are the best agency, and I don't see ANCs proliferating over there because they use the true spirit of the 8(a) program.

God bless ANCs and give them half the Federal treasury if he deems necessary, but let them have a program that does not prey on Hispanic, African-American, and Asian 8(a) companies. A $2 billion increase, ANC; $2 billion increase, other ethnicities. There is a direct correlation there.

Ms. VELAZQUEZ. Again, as you know, ANCs are able to receive multimillion or billion dollar contracts without competition. The rationale for that was to encourage economic development that we all support. Given this, do you think we should be making sure that the profits from these contracts are used for the stated purpose of

economic development and not to line the pockets of executives who have nothing to do with Native Alaskan communities?

Mr. ALFORD. Absolutely, and my concern in this whole thing came out of these ANC "companies" in the good old South and going to their facilities, not seeing one Alaska Native and seeing billion dollar companies that have a subsidiary arm called an ANC that is feeding the other companies of this conglomerate. So I think there should be some serious auditing done to see exactly where is the money done.

Ms. VELAZQUEZ. Thank you.

Ms. Sullivan, can you talk to the committees a little bit about how ANCs serve as enablers for agencies to do more contract bundling?

Ms. SULLIVAN. I had a difficult time hearing you. Would you mind repeating the question?

Ms. VELAZQUEZ. Can you talk to the committees a little bit about how ANCs serve as enablers for agencies to do more contracting bundling?

Ms. SULLIVAN. The larger the contracts that they are allowed to award, the more bundling that we think happens. So, because the ANCs do not have the same limitations that other 8(a) companies do in terms of sole-sourcing, I think that it is pretty clear there is a trend toward larger contracts.

Ms. VELAZQUEZ. What do we need to do about this?

Ms. SULLIVAN. You know, there are a lot of recommendations. The President, in 2002, in his contract bundling initiative, laid out nine steps. But it seems, and the 2005 SBA IG audit, they are saying that SBA failed to create a statutorily required data base for tracking bundled contracts. The agencies have told the GAO that the definitions are complex and unclear. And so, there is a lot of work, in our opinion, that needs to be done by the agencies to make sure that contract bundling is properly reviewed.

Ms. VELAZQUEZ. In what way do you think the definition of bundling should be modified?

Ms. SULLIVAN. You know, I have the definition somewhere here in my papers, but it is very, very long and it is a number of pages. I would like to be able to come back to you with that answer because I think that takes some serious review on our part.

Ms. VELAZQUEZ. Thank you.

Mr. Chairman, I just would like to add for the record that we have in the 8(a) program, 9,700 8(a) firms and 154 8(a) ANCs. That get 13 percent of all the 8(a) contracting dollars. Less than 2 percent of the 8(a) contracts go to the ANCs. The problem here that we have is, to have a level playing field, the ANCs, without competing and sole-source, which the rest of the minorities who are under the 8(a) program do not have. How can we benefit or allow for the 8(a) contractors, minority contractors to have a level playing field, so that we allow for them to have access to the fair marketplace?

There is no level playing field, and I think we need to look into ways legislatively that we can address that imbalance.

Thank you.

Chairman MANZULLO. Mr. Alford and Ms. Sullivan, actually anybody, can you describe to me a typical 8(a) company?

Mr. ALFORD. Over the last 5 to 6 years, a typical 8(a) company, a college graduate with Fortune 1000 experience and a specific degree, usually family owned, husband and wife, two brothers, with skill sets that identify them as probably going to be successful, just need to get into the program and get that break and get that experience and they grow.

One of our larger companies, S.R. Smoot Corp., a construction company, has been around since 1946. Lewis Smoot, second generation, comes out of Michigan State with an engineering degree and convinces his father and uncles that they can take this company farther if they employ the right people and do the right thing. He convinces them to get into the 8(a) program in the 1970's. Today, they do about $800 million in construction and do a lot around here in Washington, DC.

Chairman MANZULLO. Are they still 8(a)?

Mr. ALFORD. Oh, no. They graduated years ago. But I am saying and as I said in my report, most of these 8(a)'s, when they graduate, are probably going to spell big success, the ones who are getting the contracts and know how to market and get through it. There are many 8(a)'s, and that is becoming less and less, who rely totally on the 8(a) program and don't prepare for graduation. But today that curve is changed, and as I said in my testimony, the majority of our businesses who have succeeded are 8(a) graduates.

Chairman MANZULLO. Do you know of companies that lost contracts to 8(a) ANCs?

Mr. ALFORD. I know companies that are livid. Jerry Harris, Cirrus Technology, Huntsville, AL, you would have to arrest him if he came into this room right now today. He couldn't control himself. He has lost many millions of dollars. He is 8(a). He is African-American.

Chairman MANZULLO. How many employees?

Mr. ALFORD. Probably at the top, 100. Disabled veteran, top secret clearance, Vietnam Vet, can do maintenance on jets, but he is livid about the contracts that he has lost. He calls me monthly. What are we going to do about the ANCs?

I think what we have here, you have apples and oranges, and they have a serious situation, but it is not similar to the situation of a typical 8(a). So, why are they in the same arena? Why can't Congress come up with a program specific for the ANCs that doesn't create them as being predators to the traditional 8(a) company.

Chairman MANZULLO. The other Native American tribes do not enjoy the same exceptions.

Mr. GARBER. Yes, they do.

Chairman MANZULLO. Do they, under the $5 million and $3 million? They don't take advantage of it.

Mr. ALFORD. Let me, something I am kicking around, there are African-Americans Indians, Pequots in Connecticut, plenty in Oklahoma. I am going to get some of them into the ANC program and then probably it will go away when that happens.

Chairman MANZULLO. I just have one other question. There is a reason for this hearing, and that is that members from across the Nation have approached me and Mr. Davis about why there are

8(a)'s who are not even 8(a)'s. We are outside the realm of 8(a)'s with regard to competition.

If I look at the demographics, the population of Alaska in 2004 is 655,435. The Natives, and this is according to the Government definition, is 96,505 or 15.4 percent. The 8(a) program has evolved into something that it was never intended to do. This is coming from Congress that we are in a position where obviously we represent our congressional districts, but as a whole, I see this going in the wrong direction. It is self-destructive, and it could end.

It could be big problems for the future of the 8(a) program, if the complaints continue to come this way from the 8(a) participants themselves. They are wondering, why even have an 8(a) program when 13 percent of the contracts are going to 154 companies representing 96,000 people as opposed to 9,700 companies representing tens of millions of others that come within the definition of minorities within the 8(a). That is the reason for the hearing.

Nobody here is picking on the Native Americans in Alaska. That is not the purpose of the hearing. It is to show that there are huge concerns, and the message has been very clear. That is that the industry itself ought to take a serious look at trying to resolve this issue. The last thing you want to do is have Congress try to fix it and foul it up again because this place is notorious for trying to fix issues like this one which have to be resolved within the industry.

I have no further questions.

Mr. Waxman, did you have any questions?

Mr. WAXMAN. Yes.

Mr. MCNEIL. Can I comment on the equal playing field issue?

Chairman MANZULLO. Yes, sir.

Mr. MCNEIL. I think the story is incomplete here in the sense that comparing our owners and constituents of Native people as tribal members with the very large numbers of other minority groups because it would be the same and it would be a good analogy, if in fact those 9,700 individual entrepreneurs distributed all the benefits to 40 million people, and they don't. That is an obligation that we have to essentially distribute the benefits to our people, and we have done it. I think there is very good evidence of that.

But I think that is a very important fact here because if there was that sharing that went out to a broad base of people, then I think the analogy would make some sense.

Ms. VELAZQUEZ. May I ask you a question?

Mr. MCNEIL. Yes, ma'am.

Ms. VELAZQUEZ. In any given contract, can you give 49 percent of the contract profits to a non-Alaskan executive?

Mr. GARBER. Any 8(a) can do that.

Mr. MCNEIL. Yes, any 8(a) can.

Mr. GARBER. Us or the individually owned ones, that is an 8(a) regulation not unique to Alaska Natives.

Mr. MCNEIL. Let me clarify that as well.

Ms. VELAZQUEZ. I don't think that is the intent of the law.

Mr. GARBER. The law applies to all 8(a)'s.

Mr. MCNEIL. Representative Velazquez, there is a mentor-protege program that does allow participation in a partnership, and I believe the question here is really what benefit occurs in that kind

of partnership. The benefit that we, as Alaska Native people, as tribes, achieve in those partnerships is that they build capacity in our companies that we don't have or in our people because it provides a level of expertise that we are able to develop over a period of time. I think that is one of the key intents of those relationships which are permissible under the law and regulations.

Chairman MANZULLO. Yes, Ms. Kitka.

Ms. KITKA. Mr. Chairman, I just had one comment. You raised earlier the concern about the jobs leaving the country, going into other countries and the loss of jobs. Our recommendation No. 3 addresses that, and it is, we put that forward with the good will that what we would like to see this committee, this joint committee do is expand the economic pie for Alaska Natives, Native Americans, other minorities in this country and not pit us against one another.

We very carefully calculated some different recommendations which we think would be very, very timely. This one in particularly, especially taking a look over the past months of the controversy of Dubai on wanting to take over the ports, on that, we have spent some time studying what they were doing. They were building a first of its kind, world class outsourcing tax/trade-free zone. For U.S. businesses, including homegrown ones like Alaska Natives, for us to be competitive in the global economy, we need to be able to match up on that.

I really strongly commit, strongly urge the committee to take a look at our recommendations and look at how to expand the economic pie and how to create incentives that will benefit Hispanics, African-Americans, Alaska Natives, Native Americans. There are ways to solve some of these issues and these conflicts by expanding the opportunities as opposed to pitting us against each other. So I just respectfully urge you to consider some of these things.

We are very concerned about the jobs leaving the United States and would like to really engage in some talking about how do we create more economic opportunities; how do we make American companies more competitive in the global economy; and how do we grow the investment climate in our country, so that we become magnets for these jobs as opposed to them going over to India or China or other places as well.

So, thank you very much.

Mr. ALFORD. Mr. Chairman.

Chairman MANZULLO. Yes, sir.

Mr. ALFORD. Take $2 billion from our community and then say, now, let us get along. It is a cancer to us, and we are not going to get along with it.

And I was saying about the size of the populations, how ludicrous it would be if my constituents had that same scale. I am not asking for it. I think it is crazy. But, as the scale clearly shows, it is a different animal from us. We are different animals. We don't belong in the same corral.

Chairman MANZULLO. Well, I hate to end on that note, Harry.

You all have been extremely gracious with your time, extremely sincere, and I appreciate your testimony. I certainly want to thank the witnesses for coming today, especially those who have traveled from a great distance.

The committees stand adjourned.

[Whereupon, at 4:34 p.m., the committees were adjourned.]

[The prepared statement of Hon. Elijah E. Cummings and additional information submitted for the hearing record follow:]

U.S. House of Representatives
109th Congress

Opening Statement

Representative Elijah E. Cummings, D-Maryland

Full Committee Joint Hearing with the Committee on Small Business:
"Northern Lights and Procurement Plights:
The Effect of the ANC Program on Federal Procurement and ANCs"
Committee on Government Reform

June 21, 2006

Chairman Davis and Chairman Manzullo,

Thank you both for holding this important hearing on the preferences Alaska Native Corporations (ANCs) receive in federal contracting.

As you know, native populations in this country have experienced a long history of oppression. Alaska Natives in particular were denied claim to their land from 1884 to 1971—nearly a century—before Congress addressed the problem.

In the late 1960s, under the leadership of then-Secretary of the Interior Stewart Udall, Congress enacted The Alaska Native Claims Settlement Act, which set aside land and funding to compensate Alaska Natives for their loss. The law set up 13 regional ANCs and 182 village, urban and group corporations to receive the available funding.

The intent behind the law was to invest in the economic development of Alaska Native populations, in an attempt to make up for years of oppression. Congress recognized that there was "an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims."

You might say the need was not only immediate, but long overdue.

Congress expanded its commitment to Alaska Natives in 1986 by making ANCs eligible for small business contracts. But somewhere between 1971 and now, the intent behind the creation of ANCs seems to have been lost.

We are here today to discuss the findings of the recent Government Accountability Office (GAO) report titled "Contract Management: Increased Use of ANCs' Special 8(a) Provisions Calls for Tailored Oversight" (GAO-06-399).

The report says that ANCs have increasingly been used by larger, non-Native-owned companies to get no-bid government contracts.

The practice cheats Alaska Natives and it cheats American taxpayers.

According to the GAO, this well-intentioned law is being used to thwart government oversight in contracting, taking away money available to Alaska Natives while costing the government unnecessarily high fees.

Furthermore, the practice threatens all programs aimed at promoting diversity in government contracts: If this one program cannot operate as it was intended, how can we make the case that others will not also fail?

Clearly, we must find a balance between supporting Alaska Natives and awarding government contracts in good faith.

ANCs, like all other companies, should be hired by government agencies based on the quality of the services they provide. They should not be used as a conduit for other companies to buck the system.

We have a system in place for awarding government contracts for a reason: So that taxpayer dollars are used effectively and efficiently. Unfortunately, according to GAO, that has not been the case with ANCs.

I regret that fact, and I am hopeful that we can find a way to fix the system so that ANCs can go back to what they were intended to be—a support system for an oppressed community.

Thirty-five years after the passage of The Alaska Native Claims Settlement Act, native populations are still experiencing disparities. Situations like the one we are faced with today only act as roadblocks in the path to recovery.

I look forward to the testimonies of today's witnesses and yield back the balance of my time.

STATEMENT FOR THE RECORD

Lucille Mayer
President
Olgoonik Corporation

for the

Committee on Government Reform
U.S. House of Representatives

and

Committee on Small Business
U.S. House of Representatives

Regarding

Alaska Native Corporations' Participation in the Small Business Administration 8(a) Program

June 21, 2006

Olgoonik Corporation
P.O. Box 29 – Wainwright, Alaska · (907) 763-2613 · 763-2614 · 763-2615

Thank you Chairman Davis, Chairman Manzullo, and other distinguished members of the House Government Reform Committee and the House Small Business Committee.

My name is Lucille Mayer, and I am President of the Olgoonik Corporation.

I am delighted to have this opportunity to tell you about Olgoonik's participation in the 8(a) program. Our participation is a rather new phenomenon since we only began our endeavors in 1999. In such a short time, the 546 residents who live in the remote village of Wainwright, 180 miles north of the Arctic Circle, have begun to benefit through the success of our company. Under the current legislation, Olgoonik anticipates continued success and greater economic benefits to our shareholders. If the Committee decides to modify the 8(a) program and its impact on ANCs, let me assure you that my colleagues and I are eager to work with you in writing such draft legislation.

In this statement for the record, I would like to tell you about how our company came into being, the successful business relationships we have formed with several Federal Government agencies, and our perspective on the future.

The Beginnings of Olgoonik Development (OD)

The Olgoonik Corporation has been in existence since 1973, created as part of the Alaska Native Claims Settlement Act (ANCSA). However, it was only in 1999 that the Olgoonik Corporation Board of Directors decided to enter the world of small business Federal Government contracting. With an initial investment of $1.3 million of the corporation's own money, Olgoonik Development was created.

Olgoonik Development's strategy was to apply our existing business experience in the areas of construction and environmental remediation services to new companies that could participate in the SBA 8(a) program. We initially established two subsidiaries, Kuk Construction and O.E.S., Inc. Kuk provides commercial, institutional, and industrial construction and construction management services to military, government, and private clients. OES specializes in environmental management and remediation. It also has expertise in oilfield services and environmental training for military, government, and private industry.

In 1999, Olgoonik Development saw other opportunities in the Federal marketplace and established two more subsidiaries – Olgoonik Management Services (OMS) and Olgoonik Logistics. Olgoonik Management Services specializes in base operations and support services, facilities maintenance and management services, and business systems analysis and mapping. Olgoonik Logistics provides integrated program support in all areas of supply chain management, transportation, warehousing, maintenance, and planning.

OES was enrolled in the 8(a) program in 1999. Kuk, Olgoonik Logistics, and Olgoonik Management Services were approved for the program in 2000.

The Kuk/KBR Joint Venture

Allow me at this time to mention a few words about Kuk and its relationship with Kellogg Brown and Root (KBR). As you know, this relationship was briefly cited in the recent GAO report. Kuk and KBR formed an SBA-approved Mentor Protégé agreement in 2001 to compete for Federal contracts in which each company's expertise could be leveraged. To pursue an opportunity identified in a Department of State contract, a Mentor Protégé Joint Venture was established between Kuk and KBR to provide compound security upgrades on DOS facilities world-wide.

The purpose of an SBA Mentor Protégé Joint Venture agreement is to allow small businesses to gain the necessary expertise from larger, more experienced corporations so that they can eventually stand on their own. Indeed, Kuk has gained considerable technical knowledge and field expertise through the relationship with KBR and is a prime example of the successes that are possible through the Mentor Protégé Joint Venture agreements. This point seems to have been overlooked in during the heightened attention that was given us because of our relationship with KBR.

I firmly believe that a thorough and serious review of both the relationship and the work performed thus far would demonstrate the enormous benefit of this joint venture, and the facts speak for themselves:

- Kuk signed the contract on September 30, 2002 after the Overseas Building Operations (OBO) at DOS reached-out to Kuk to perform the work;
- $80 million of the $100 million contract has already been completed;
- In 2004, the contract was increased by $45 million, as further evidence of the Department of State's satisfaction with the value and quality of Kuk's work; and
- The recent GAO investigation and report found no lack of compliance with SBA regulations.

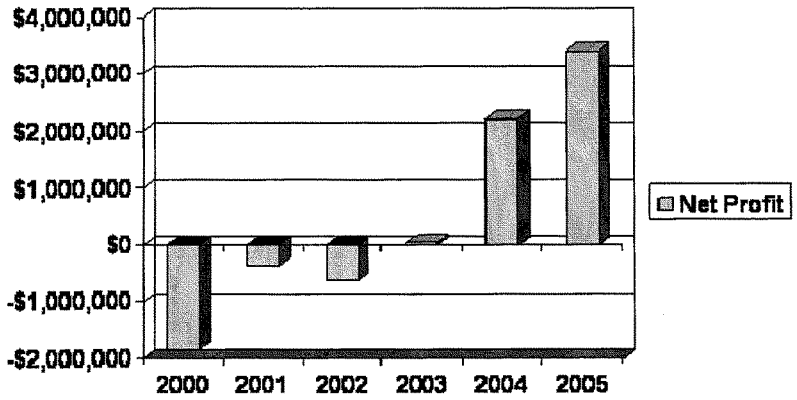
I believe the greatest evidence of the constructive nature of the Kuk/KBR relationship is the fact that Kuk will very soon graduate from the 8(a) program and become an effective competitor in its own right. This shows that the program is benefiting those for whom it was created.

We at Olgoonik agree that improved oversight by both the contracting agency and the SBA is a realistic and necessary objective that would be helpful in assuring fairness to all participants in the program. We welcome such an effort and will be willing to offer further suggestions as to how that might be done in the most effective manner.

The Current Success of Olgoonik and its Subsidiaries

As I mentioned earlier, Olgoonik's four subsidiaries began their work in earnest in 2000. It was not until 2003 that the Olgoonik Corporation received a return on its investments into our ventures in Federal Government contracting, when we turned a profit in the

amount of $30,177. In 2004, Olgoonik increased its total profits by nearly $2.2 million. And, in 2005, profits continued to increase to $3.3 million.



Olgoonik Corporation Net Profit

In 2006, Olgoonik made a strategic decision to broaden the scope of its work by adding two new subsidiaries – Olgoonik Global Security and Olgoonik Technical Services. Olgoonik Global Security provides a broad spectrum of staff expertise to accomplish the client's mission of detecting and countering the technical threat to personnel, information and property by hostile intelligence organizations. Olgoonik Technical Services provides Information Technology design, implementation, and support.

Olgoonik's performance in the Federal sector spans several different agencies, to include the Department of State, Department of Interior, the Department of Homeland Security, Department of Defense, and others. Olgoonik's work is as diverse as it is broad. We are currently doing business in many different parts of the world. To cite one specific example, Olgoonik Logistics provides the U.S. Embassy's Narcotics Affairs Section in Bogotá, Colombia with program management, administrative/operation services, and logistics support to numerous missions, programs, and activities at various locations throughout that country.

Shareholder Benefits

The benefits of Olgoonik Corporation's success to its shareholders are growing as the success of Olgoonik Development increases. During the past 7 years this growth has made it possible for Olgoonik to employ villagers on local infrastructure and service projects in Wainwright that improve not only our quality of life, but also improve the value of the Corporation's assets. This is possible because of our Government contracts.

We firmly believe that every opportunity should be made to allow the people of Wainwright to actively participate in Olgoonik's success. For the Committee's information, the total number of corporate shareholders is 449; 47 of whom are employed by the Corporation, 42 in Wainwright and five in Anchorage.

An extensive survey conducted this past year among shareholders and descendants not currently working for our companies found that 29 would be interested in working for Olgoonik. The rest are either gainfully employed, not interested in working, live a subsistence lifestyle, are retired or of school age. Of those 29 interested, only four are willing to work outside of Wainwright, and none are willing to work outside of the North Slope Borough.

To support employment for those wanting to work in the village, Olgoonik has designed local work programs which provide seasonal employment, training in specific trades, as well as build critical supervision and management skills.

To enhance shareholder development efforts, scholarships and internships have been established. We are also considering creating an education foundation and providing additional financial support to local cultural and other non-profit organizations.

Today, the Corporation's $1.3 million original investment in Olgoonik Development has grown to a net worth of more than $9.7 million. Again, this result is largely due to our participation in government contracting. The Olgoonik Corporation Board and I continue to support our strategic decision to not yet give corporate dividends. We have decided that it is more prudent at this stage to reinvest in our businesses to make them even stronger, more capable, and more competitive to pursue contracting opportunities. We are still very young, but look forward to more options to reinvest in our people as our company matures.

The Future

Allow me to talk about the future of Olgoonik. In short – it looks bright. Kuk will be graduating from the 8(a) program this summer, and we will continue to work hard to graduate our other subsidiaries to compete at a fully competitive status. At the same time, we will continue to seek opportunities to provide value to the Federal sector through the diverse Federal contracting opportunities.

I stated earlier that we at Olgoonik welcome increased oversight by both SBA and the agencies. In fact, we think it will be healthy and necessary for the program's success in the future. As the Congress works through the many issues discussed, I hope that we come to closure soon, whatever the outcome. We have set lofty goals for the Corporation and its subsidiaries. The current uncertainty about the future of the 8(a) program makes expansion and employment decisions difficult if the very Federal programs we are embracing might change. We are in limbo with so much uncertainty; we need your help.

Conclusion

I want to thank Congress, in particular our representatives from Alaska, for giving us the opportunity to create 8(a) small businesses. Our participation in the 8(a) program will continue to open new doors for our young people through education and jobs.

We consider ourselves trusted agents and partners with the Federal Government as we, together, accomplish its contracting objectives. We look forward to forging new relationships with the Government and private industry, both large and small businesses.

Statement
Submitted for the Record

Joint Hearing

House Government Reform Committee
House Small Business Committee
of June 21st, 2006

Alaskan Native Corporation Participation in the SBA 8(a) Program

A Joint Statement of a National Coalition of Minority Business Organizations:

AABR
Asian-American Business Roundtable

LAMA
Latin American Management Association

MBELDEF
Minority Business Enterprise Legal Defense & Education Fund

NBCC
National Black Chamber of Commerce

USHCC
United States Hispanic Chamber of Commerce

El Paso 8(a) Government Contractors' Association

El Paso Hispanic Chamber of Commerce

New Mexico 8(a) & Minority Business Association

Point of Contact:
LAMA
Latin American Management Association
PO Box 70561
Washington DC 20024
Stephen Denlinger, Pres/CEO
LAMAUSA@Comcast.net

ANC Participation in the SBA 8(a) Program

Executive Summary

Alaskan Native Corporations (ANCs) are very large tribal companies that have access to 8(a) sole-source contracts of unlimited size. ANCs are receiving multiple billions of dollars in 8(a) sole-source contracts per year. There are 8(a) sole-source contracts to ANCs of $500 million, $1 billion and even $2 billion. There is no limit on how many 8(a) sole-source contracts they can secure. There are no limits on the aggregate dollar value of ANC 8(a) sole-source contracts. Individual ANCs can have multiple 8(a) companies under their dominion and they are all entitled to 8(a) sole-source contracts of unlimited size. Small business size standards don't apply to ANCs (the way they apply to all other small businesses, including Tribally-owned 8(a) firms). Net worth limits don't apply to ANCs. ANCs don't have to secure any contracts competitively during their 8(a) tenure, and 100% of their business can be 8(a) sole-source contracts. Unlike all other applicants to the 8(a) program, ANCs (and their 8(a) subsidiaries) do not have to prove economic disadvantage. Whereas, the economic disadvantage criteria for entry into the 8(a) program for non-ANCs is a net worth not to exceed $250,000, an ANC with $1 billion in revenues can participate in the 8(a) program. Unlike other 8(a) firms, ANCs are able to remain in the 8(a) program indefinitely through the formation of succeeding generations of new 8(a) businesses. 8(a) awards to ANCs cannot be protested. GAO reports that Federal agencies are favoring ANCs over other 8(a)s and small businesses because they can contract with ANCs quickly and easily. GAO also reports that Federal agencies favor ANCs because they can more readily meet their small business contracting goals through large ANC contracts. Some Federal agencies are bundling work formerly performed (or that could be performed) by local small businesses into large, multi-year contracts for ANCs. It is our belief that these trends are having serious adverse consequences on local small businesses, 8(a) companies, and firms in other socio-economic programs (e.g., HUB Zone, SDVets, Woman-owned, etc.).

Overview

Alaskan Native Corporations (ANCs) are eligible to participate in the SBA 8(a) Program. Unlike regular 8(a) program participants, however, they have very special privileges. The most important privilege is that ANCs can receive sole-source 8(a) set-aside contracts of any size.

In the past couple of fiscal years, Federal sole-source contract awards to ANCs have surged to multiple billions per year (and continue growing rapidly). ANCs have received numerous 8(a) sole-source contracts of $100 million, $250 million, $500 million, $1 billion, and even $2 billion!

In addition, limitations that apply to the rest of the 8(a) portfolio are not applicable to ANCs (e.g., economic disadvantage, net worth limitations, the requirement to win competitive bids during 8(a) tenure, etc.) And... for all practical purposes, there is no graduation from the 8(a) program because ANCs can remain in the 8(a) program indefinitely by the formation of succeeding generations of 8(a) firms.

ANCs can secure sole-source 8(a) contracts of any size.
There is no limit as to how many sole-source 8(a) contracts they can obtain.
Nor is there a limit on the aggregate dollar value of 8(a) sole-source contracts.
Individual ANCs can have multiple 8(a) companies under their dominion.
Small business size standards don't apply to ANCs (the way size standards are applied to all other small businesses, including Tribally-owned 8(a) firms).
Net worth limits don't apply to ANCs. They don't have to secure any contracts competitively during their 8(a) tenure, and 100% of their business can be sole-source 8(a) contracts.
ANCs can avoid graduation by simply forming new 8(a) companies.

There are 13 Regional ANCs covering the entire State of Alaska. According to the ANCs' Annual Report for 2003, ANCs had over 500 Federal contracts, totaling multiple billions of dollars. In September, 2005, the ANC 8(a) firm Alutiiq LLC (wholly-owned subsidiary of Afognak Native Corporation) posted on its website that it had:

- 40+ contracts of $50 million or more
- 6 contracts of $1 billion each
- 65 offices across the U.S.

ANCs are large conglomerates that are not required to meet SBA's small business size standards (in the normal manner imposed on all other small businesses) to continue receiving billions of dollars in 8(a) sole-source contracts.

ANCs were created in 1971 by Federal law as part of the Alaskan Native Claims Settlement Act. Most ANCs are very large businesses, with multiple divisions and subsidiaries. The ANCs have several billions of dollars in annual revenues, thousands of employees, and offices all over Alaska, the United Sates and, in some cases, all over the world.

In addition, with some limitations, ANC subsidiaries and related business units can also become 8(a) certified. They also become eligible to secure 8(a) sole-source contracts of unlimited size. GAO estimates that there are 154 8(a) ANCs and related business units, all of which qualify for sole-source 8(a) contracts of unlimited size.

Small business size standards do not apply to ANCs in the normal manner. In size standards determinations for ANCs, the number of employees (or revenues) of their subsidiaries, partnerships and affiliates are <u>not</u> included in determining if the ANC is a small business. In size standards determinations for all other small businesses (including Tribally-owned enterprises), the number of employees (or revenues) of their subsidiaries, partnerships and affiliates <u>are</u> included in determining if the business is small. In this

manner, individual ANC 8(a) firms can become exceedingly large companies, yet still be considered small businesses for purposes qualifying for 8(a) sole-source set-aside contracts.

ANCs Chugach and Chenega, for example, have combined annual revenues of about $2 billion, yet they qualify as economically disadvantaged 8(a) companies.

According to the most recent report on ANCs by the GAO, there is a trend in Federal contracting toward awarding large 8(a) contracts to ANCs because contracting with ANCs is fast and easy, and because the agencies can more readily meet their 8(a) and small business goals by making large awards to ANCs. Certain Federal agencies are also taking advantage of the ANC's unlimited sole-source set-aside authority to make huge contract awards in emergency situations (such as in the aftermath of the Katrina and 9/11 disasters).

Another trend is that some Federal agencies appear to be engaging in bundling of requirements in favor of ANCs. Contracting offices bundle numerous small requirements into large contracts for sole-source award to ANCs under multiple-year agreements. This is devastating to local companies because it takes away small contracts that are normally performed (or could be performed) by local 8(a) firms, SDBs and other small businesses. This takes jobs out of local communities and has an adverse impact on local economies.

Federal contracting offices bundle small requirements into large requirements and award them to ANCs. In this manner, procuring agencies reduce their administrative burden, go to contract quickly, and more easily meet their minority and small business goals, all at the expense of other small businesses.

Congresswoman Nydia Velazquez recently characterized bundling as the Number #1 Enemy of Small Businesses. She was correct in that assessment. The ANC program is becoming a huge bundling mechanism, and it is sitting right smack in the middle of the 8(a) Program! This is a very unhealthy development for the 8(a) program.

Special 8(a) Authorities

Beginning some 15 years ago, legislative enactments of the U.S. Congress gave Alaskan Native Corporations (ANCs) special privileges in the 8(a) program. Most notably, ANCs were given the right to secure 8(a) sole-source contracts of any size. Thus, ANCs were freed from the sole-source caps of the regular 8(a) program ($3 and $5 million for service contracts and manufacturing contracts respectively).

Over the years, ANCs have used the 8(a) program to obtain multiple billions of dollars in 8(a) sole-source contract awards. Furthermore, in the rush of contracting following 9/11, Katrina, and the war in Iraq, the size of 8(a) sole-source contract awards to ANCs has increased dramatically. We are now witnessing individual 8(a) sole-source contract

awards to ANCs of $500 million, $1 billion and $2 billion. Huge 8(a) sole-source contracts in recent years have caused a dramatic surge in the aggregate value of ANC 8(a) awards.

We are now witnessing individual 8(a) sole-source contract awards to ANCs of $500 million, $1 billion and $2 billion.

These awards are often made by Federal agencies that need to let out huge contracts quickly. For example, two ANC 8(a)'s - Alutiiq and Chenega - were awarded over $1 billion in 8(a) sole-source contracts by the Army for security services at multiple military bases. The Army utilized the ANC sole-source authority, citing the urgency of their need to get replacements for personnel that they were deploying to Iraq.

In recent years, ANCs have used their special 8(a) contracting privileges to generate 8(a) contract awards in the multiple billions of dollars per year. This amounts to billions of dollars per year in 8(a) sole-source contracts spread among 154 ANCs. That compares to a similar level of 8(a) contract awards to the balance of the 9,700 firms in the 8(a) portfolio. This huge (and increasing) imbalance is at the heart of the alarm and debate over ANC participation in the 8(a) program.

In the past two or three fiscal years, it is estimated that 8(a) contract awards to ANCs have shot up to multiple billions annually, and that figure is increasing.

SBA does not track 8(a) awards to ANCs. Therefore, not even SBA knows for certain how much in sole-source 8(a) contracting is going to ANCs.

Originally Sympathetic - When the special 8(a) privileges were bestowed on ANCs beginning about fifteen years ago, leaders in the minority business community felt sympathetic. The purpose appeared to be to promote the development of disadvantaged Alaskan native companies. It was thought that this would generate jobs and economic opportunity in Alaskan Native communities. Minority business leaders felt it was appropriate for Alaskan native businesses a "get leg up" so that they could participate more effectively in Federal procurement, build Alaskan companies, and create jobs in their communities.

Leaders in the minority business community never anticipated that ANCs would receive a burgeoning number of billion-dollar 8(a) sole-source contracts for work performed outside of Alaska, employing virtually no native Alaskans in Alaska.

Two ANC 8(a) companies, with combined revenues of about $1 billion in 2004, were jointly awarded a $2.2 billion sole-source 8(a) contract for work that will not be performed in Alaska, and will employ virtually no Alaskan natives in Alaska. This pattern is repeated over and over again with large ANC 8(a) sole-source contracts.

Jobs for Native Alaskans in Alaska? - Despite the billions of dollars in 8(a) sole-source awards to ANCs in the past few years, only a miniscule number of the jobs generated by these huge 8(a) contracts are going to Native Alaskans in Alaska (probably significantly less than 1%). The ANC, Chenega Technology Services, is a good example.

Chenega is a large ANC 8(a) company involved in information technology, manufacturing and security services. The firm is headquartered in Alexandria, Virginia (that's right, Virginia, not Alaska). In 2004, Chenega had revenues of almost $500 million (you read that correctly - half-a-billion dollars!). Yet, according to a November 25, 2004 article in the Washington Post: ***Only 33 Alaska natives are among the 2,300 employees who work for Chenega Technology Services, its Anchorage-based parent company or other subsidiaries.***

If this Washington Post article is correct, that is a total of 33 Alaskan Native employees (1.4% of all employees) both inside and outside of Alaska. The figure for Native Alaskans employed by Chenega in Alaska is, no doubt, dramatically less.

Minority business leaders, who were originally sympathetic to the special 8(a) authorities for ANCs, never imagined that ANCs would receive an upwardly spiraling number of billion-dollar 8(a) sole-source contracts for work performed outside of Alaska, employing few Native Alaskans in Alaska.

Non-Alaskan Executives - If Alaskan natives are not getting very many jobs as a result of the huge 8(a) largess received by the ANCs, then who is benefiting from these special 8(a) authorities? It is likely that hundreds of non-Alaskan ANC executives, lobbyists, consultants and political marketers are the ones that are benefiting the most from these billions in 8(a) sole-source contracts.

According to a November 25, 2004 article in the Washington Post, Daniel Brian, Executive Director of the **Project On Government Oversight**, referred to the contracting preferences for Alaskan Native Corporations as:

"...a total manipulation of people's natural sympathy toward the history of exploited Native Americans to further the profit-making of a very few."

Two Very Different 8(a) Programs

For all practical purposes, two very different 8(a) programs exist: one for **Regular 8(a) Firms**, and one for **Super-Advantaged ANCs**. Here are the main differences:

The Regular 8(a) Program - Participants in the Regular 8(a) Program are subject to:

- Net worth may not to exceed $250,000 for entry into the 8(a) program
- Net worth may not exceed $750,000 during their tenure in the 8(a) program
- Must submit a detailed application proving social and economic disadvantage

- Must always qualify as a small businesses according to SBA's size standards rules
- All subsidiaries, partnerships, affiliates and related businesses of the 8(a) firm are taken into consideration when SBA determines whether or not a firm continues to qualify as a small business
- The owner must be full-time with the business and must be in daily operational control of the business
- May not receive 8(a) sole-source contracts of more than $3 million for services or $5 million for manufacturing.
- May only be in the 8(a) program for 9 years, and cannot participate in the 8(a) program again in the future
- Must secure an increasing percentage of competitively won contracts in order to continue to be eligible to receive 8(a) contract awards
- Sole-source 8(a) awards can be protested
- May not have affiliates or subsidiaries in the 8(a) program

The Super-Advantaged ANCs - Participants in the Super-Advantaged ANC 8(a) Program are blessed with the following:

- There are no net worth (or financial) ceilings/limits on ANCs for entry into the 8(a) program - they can be admitted into the 8(a) program even if they have a billion dollars a year in revenues, dozens of subsidiaries, thousands of employees, and offices all over the country
- There are no net worth (or financial) limits on ANCs during their tenure in the 8(a) Program - they can continue in the 8(a) program even if they have a billion dollars a year in revenues, dozens of subsidiaries, thousands of employees, and offices all over the country
- ANCs need not prove economic disadvantage, and there are no net worth ceilings or any other financial ceilings
- None of an ANC's subsidiaries, partnerships, affiliates and related businesses are taken into consideration when SBA determines whether or not an ANC continues to qualify as a small business
- The owners of ANC 8(a) firms are not required to be in daily operational control of the business - the management of the business can be completely delegated to others, including non-Alaskans - that is the prevailing pattern
- Sole-source contracts to ANCs can be of any size - numerous recent 8(a) awards to ANCs are in the $500 million, $1 billion and $2 billion range
- ANCs can remain in the 8(a) program indefinitely through the formation of succeeding generations of new 8(a) companies
- ANCs are not required to secure any competitively-won contracts to continue to be eligible for 8(a) sole-source contracts - 8(a) sole-source contracts can constitute 100% of their business during their entire tenure in the 8(a) Program
- Sole-source 8(a) awards to ANC's cannot be protested
- ANCs may have numerous affiliates, subsidiaries, partnerships and joint-ventures in the 8(a) program, all of whom are eligible for 8(a) sole-source contracts of unlimited size, along with the other 8(a) advantage cited above

Second-Class Status - The differences in these two 8(a) programs are like night and day. In the **Super-Advantaged 8(a) Program**, 156 ANCs live in a rarified world of unbounded and unending privilege. In the **Regular 8(a) Program**, the rest of the 9,700 firms in the 8(a) portfolio are relegated to a far-distant second-class status. Participants in the Regular 8(a) Program are discriminated against in the very program that was originally designed to counter a history of discrimination against them.

The sole-source limit for regular 8(a)s for service contracts - $3 million. Sole-source limit for ANCs for service contracts - unlimited, and include awards in the $500 million, $1 billion and $2 billion range. The disparity is stupefying!

How Many Native Alaskans?

According to the ANCs, the underlying rationale for the Special ANC 8(a) Program was to improve the economic welfare of Alaskan Natives living in impoverished conditions. That being the case, it is reasonable to inquire as to how many Alaskan Natives there are in the 13 jurisdictions served by the ANCs that cover all of Alaska.

According to the ANC's 2003 Annual Report, there are just over 119,000 Native Alaskans in the ANC's 13 Regions. That is the total population of Native Alaskans served by the ANCs - 119,000 Native Alaskans in all of Alaska.

Some 119,000 Native Alaskans are served by the 13 Regional ANCs. That is the total population of Native Alaskans in Alaska served by the ANCs.

Impoverished Native Alaskans - Without a doubt, there are many impoverished Native Alaskans in this population of 119,000. According to the ANC Annual Report of 2003, poverty among Native Alaskans was 64% in the 1960s. More recently, according to this Report, poverty has dropped to about 20% (about the same as the poverty rate for Hispanics and African Americans in the U.S.). Therefore, about 20% of 119,000 native Alaskans are impoverished - approximately 24,000 Native Alaskans. That's it - 24,000 impoverished Native Alaskans in all of Alaska.

There are approximately 24,000 impoverished Native Alaskans in the 13 regions served by the ANCs.

It boggles the mind that this Special ANC 8(a) Program, involving billions upon billions of dollars in 8(a) sole-source contracts (being performed all over the world), was created to serve an impoverished population of 24,000 Native Alaskans in Alaska. It is especially troubling that the massive ANC 8(a) sole-source contracts of recent years are providing very few jobs to these 24,000 impoverished Native Alaskans in Alaska.

Dividends, Scholarships and Other Benefits - ANCs indicate that meaningful portions of their profits are going to Alaskan Natives in the form of dividends, scholarships and

other benefits. While the distribution of these types of benefits is not part of the congressionally mandated purposes of the 8(a) program, it would be most interesting to know how many of those benefits actually reach the referenced 24,000 impoverished Native Alaskans in Alaska.

90 Million Other Minorities - The 119,000 Native Alaskans served by the 13 Regional ANCs stand in dramatic contrast to the 90 million African Americans, Hispanics, Asians, Native-Americans and other minorities throughout the United States. In this population of some 90 million minorities, about 18 million (20%) live in poverty. The difference between 24,000 Native Alaskans living in poverty and 18 million other minorities living in poverty is just mind-numbing.

From a public policy point of view, it is astonishing that the plight of 24,000 poor Native Alaskans can be so blatantly favored over the plight of 18 million poor minorities throughout the rest of the country. There is a complete lack of proportionality.

Other Deserving Populations - In addition, there are other equally deserving populations that are not eligible for the astonishing privileges of the ANCs, including the nation's women business owners. Millions of women business owners have been shut out of the Federal marketplace for as long as the Federal marketplace has been in existence, despite the fact that they represent about 1/3 of all small businesses in the country. The historic lack of access to the Federal marketplace by millions of women business owners further illustrates the massive dis-proportionality of bestowing massive, unrestricted 8(a) privileges on 154 ANCs in behalf of the very small population of impoverished Native Alaskans they represent (some 24,000).

Business Development vs. Community Development - The 8(a) Program was created by the Congress to foster the growth and development of small disadvantaged businesses. It was not created as a vehicle for community economic development by large businesses.

ANC's claim they are using the 8(a) Program for community economic development. While laudable, that mission does not fit the purposes of the 8(a) Program as established by Congress. The 8(a) program is the wrong vehicle for community economic development for the 24,000 impoverished Native Alaskans in Alaska.

Rather than distort the 8(a) program, and the Federal procurement system, through the ANCs' special 8(a) privileges, the population of 24,000 impoverished Native Alaskans could be better served by the housing programs of HUD, the rural development programs of the Department of Agriculture, and/or social welfare programs of the Department of Health and Human Services and the Department of Labor.

Furthermore, the Interior Department, the Department of Energy, and other Federal agencies, could be enlisted to provide technical support to assist the ANCs in developing the massive oil, gas, coal, minerals and other natural resources on the 44 million acres of land they own in Alaska.

Impact on Small and Minority Businesses

A significant negative impact of the Special ANC 8(a) Program appears to be that ANCs are taking away contracts from local 8(a) firms and other small businesses. We have received complaints about ANCs taking work away from 8(a) firms and other small businesses all across the country. Here are a few profiles that illustrate the preference being given to large Alaskan ANCs at the expense of local small and minority businesses.

Example #1 - Contracts previously performed by my company (and other small businesses) have been contracted out to Chugach, an ANC from Alaska. Contracting opportunities that my company used to perform at a local AFB and two national labs have all been contracted to Chugach. To add insult to injury, I have exhausted the resources of my company bidding on subcontracting opportunities from Chugach with zero results. Despite submitting numerous bids to Chugach, we have never gotten any subcontract work. We have just been exercised by Chugach. As a result of all of the work going to Chugach and as a result of Chugach not subcontracting anything to my company, my company has gone from 102 employees, to 27 employees in the course of a little over one year. I will be lucky to keep the doors open as a result of all the work going to Chugach.

Example #2 - The ANC program is having a devastating impact on my company. We were invited numerous times to bid on subcontracts at a local Air Force base by Chugach (prime contractor - an ANC) but we never got anything. Each time we bid, Chugach would change the scope of work. I finally came to the conclusion that we were just being exercised by Chugach. In addition, we had previously been a successful job-order contractor doing office remodeling and similar work at a local Federal facility. After Chugach was awarded the maintenance contract at that facility, we never got any more job orders for remodeling work. And finally, over the years, we have been a successful contractor at two other major Federal facilities. But now, all of the jobs we used to do at those two facilities have been awarded to Chugach, and there is no work left for local companies like mine. It is very defeating. Why should all this work, which could be performed by local 8(a) contractors like my company, be awarded to Alaskan ANCs? Contracts, jobs and economic opportunities are being taken away from our communities by these arrangements with Chugach and other ANCs.

Example #3 - I am very concerned about the emphasis being placed by Federal agencies on doing business with Alaskan ANCs to the exclusion of deserving local firms like mine. The procurement manager at a major Federal facility where we have done lots of business in the past recently informed me that the way to get new business in the future is to team with ANCs "because they are going to get a large portion of the new contracts in the future." I don't begrudge ANCs getting government contracts, but I am concerned with the trend toward awarding large (bundled) contracts to ANCs. That not only takes business away from us, but we get no subcontract work from the ANCs because they have their preferred subcontractors and because, unlike other prime contractors, they are not required to subcontract with small, minority or women-owned businesses. I see the same trend happening at the Department of Energy and at Treasury.

Example # 4 - As a Native American 8(a) company, I am concerned about the future of the 8(a) program. We recently lost a contract at a major Federal installation that had taken my company a year to secure. The contract got rolled up into a large sole-source contract that was awarded to an ANC, Chugach McKinley. Furthermore, we had worked for many months with facility engineers and buyers at this Federal facility to develop multi-year pricing so that we could secure an IDIQ contract for roofing services. But task orders that were to come to us have instead been awarded to Chugach McKinley under a large 8(a) sole-source contract. Similarly, re-roofing task orders that we performed in the past have dried up when the agency awarded the prime contract to Chugach.

Example # 5 - We are a family-owned paving company. We do about $1 to $2 million per year. One of our best clients is a major Federal facility in our area. In recent weeks, four projects (about $600,000 in business) have been taken from this facility to be given to an ANC - Chugach - under a sole source contract. This is a devastating blow to us because of the certainty that we would have won at least some of that business. These local paving contracts are no longer available for local contractors (like my company) to bid on. I think something is really rotten when these local projects get taken away from local businesses to be awarded to an Alaskan ANC. That does not benefit small business. ANCs are large businesses. No one in Alaska is going to get a job as a result of these local paving contracts going to ANCs. It's a disgrace.

Example # 6 - We are a general construction company. We do a lot of business with the federal government including numerous DOE facilities around the country. I am concerned about a trend that I see developing at DOE of favoring ANCs for contracts over other qualified minority and small business contractors. I am aware of DOE taking a contract from one small minority company to give it to an ANC. This is not an isolated example. I am aware of similar situations at other Federal facilities. I am worried that the same thing will happen to my contracts at various Federal facilities given the favoritism toward ANCs that is becoming more and more apparent. The well other being of my company, and many small and minority businesses, will be jeopardized by this trend of favoring ANCs over other qualified small contractors.

Federal agencies should not be giving preference to huge ANCs from Alaska for work that has historically been performed, or could be performed, at the local level, by small local companies.

The Losers - The losers appear to be local small and minority businesses that are losing contracts to Alaskan ANCs. In addition, losers appear to be Alaskan natives in Alaska who are getting few of the jobs generated by the huge sole-source 8(a) contracts recently awarded to ANCs.

The Winners - The winners appear to be the many, many non-Alaskan Native executives of the ANC 8(a) firms. Indeed, the overwhelming proportion of ANCs' executives are not Alaskan natives. Winners also appear to include the lobbyists, consultants and political marketers who are receiving substantial fees from the ANCs.

Non-Alaskan Operatives - In the regular 8(a) Program, the owner has to be full-time with the 8(a) business and be in daily operational control of the business. In the Super-Advantaged ANC 8(a) Program, the owners do not have to be in daily operational control of the business. In fact, they don't have to be involved in the day-to-day management of the company at all. Most of the large ANC 8(a) firms are not managed by Native Alaskans.

From a public policy perspective, it would be useful to see how the compensation packages (salaries, perks, benefits, bonuses, commissions and all other forms of remuneration) of the non-Native-Alaskan 8(a) ANC executives compare to the incomes of the 24,000 impoverished Native Alaskans that the ANCs are supposed to be serving.

Tribally-owned 8(a) Firms - It is interesting to note that Tribally-owned 8(a) firms in the lower-48 states also have access to 8(a) contracts of unlimited size. Unlike the ANCs, however, Tribally-owned 8(a) firms must meet an economic disadvantage test to qualify for the 8(a) program. In addition, they are subject to the same small business size standards that apply to all other small businesses (all others, except for the ANCs).

Tribally-owned 8(a) firms appear to be using their special 8(a) authorities in a much more responsible manner. They appear to be using the 8(a) program to grow businesses, create jobs, and provide management and technical training programs for their tribal members in their respective tribal areas.

A Tribally-owned 8(a) firm in New Mexico, for example, has reduced unemployment on its reservation from about 35% to about 10%. This is in concert with what everyone thought was the purpose of the special ANC 8(a) privileges in the first place. That is, sole-source contracts to help develop tribal businesses, leading to the creation of jobs and economic opportunity for their tribal members in their tribal areas.

This is in dramatic contrast to the ANCs receiving a dizzying number of multi-million-dollar and billion-dollar 8(a) sole-source contracts for work outside of Alaska that create almost no jobs for native Alaskans in Alaska! The ANCs' special 8(a) privileges are policies that, while they may have had sincere beginnings, are now totally out of control.

Who Are The ANCs?

The typical citizen in the lower 48 states probably thinks ANCs are impoverished tribal entities scattered across Alaska. This perception most likely comes from media exposure to some American-Indian reservations in the lower-48 states characterized by poverty, and lack of jobs and economic opportunity.

Myth: ANCs are impoverished tribal entities.

The reality of ANCs is quite different. There are 13 Regional ANCs covering all of Alaska. Most ANCs are very large corporations, with numerous divisions and

subsidiaries. Collectively, they have billions of dollars in revenues, thousands of employees, hundreds of business units, and offices all over Alaska, the U.S. (and, in some cases, all over the world).

Reality: ANCs are large businesses with billions of dollars in revenues, thousands of employees, hundreds of business units, and hundreds of offices across the country and the world.

In addition, ANCs own 44 million acres of land in Alaska that contain massive reserves of oil, gas, coal, minerals and other natural resources.

Sample ANC Profile - Here is a profile of an ANC: **Artic Slope Regional Corporation**, located in the northernmost part of Alaska. This information is taken almost verbatim from the **Artic Slope's** website - http://www.asrc.com/splash.asp.

ASRC
Artic Slope Regional Corporation

For-Profit Corporation - ASRC is a private, for-profit Alaska Native-owned corporation representing the business interests of the Artic Slope Inupiat. It had $1.3 billion in revenues in 2004. The corporation is headquartered in Barrow, Alaska, with administrative and subsidiary offices located in Anchorage and throughout the world.

Entire North Slope - ASRC's region encompasses the entire North Slope of Alaska. It includes the communities of: Pt. Hope, Pt. Lay, Wainwright, Barrow, Atqasuk, Nuiqsut, Kaktovik, and Anaktuvuk Pass. There are slightly over 7,000 Native Alaskans in these 8 North Slope communities.

$1.3 Billion Revenues - In 2004, ASRC's revenues were $1.3 billion. That is up from $1.0 billion in 2003 and $940 million in 2002.

REVENUES - 2004

Energy Services	$ 442,800,000
Petroleum Refining and marketing	$372,400,000
Technical Services	**$311,400,000***
Engineering and Construction	$173,600,000
Other Businesses	$20,500,000
Resource Development	$14,200,000
Discontinued operations	$4,900,000
Elimination and other	($24,100,000)
TOTAL REVENUES	**$ 1,315,700,000**

* **Technical Services** is an 8(a) subsidiary of ASRC.

Technical Services - This firm is an 8(a) subsidiary of the ASRC. Technical Services had revenues of $300+ million in 2004, most of which were 8(a) sole-source contracts.

ASRC Companies - Business activities of ASRC and its many subsidiaries include:

- Engineering and consulting services
- Civil construction
- Oil and gas support services
- Petroleum refining and distribution
- Aerospace engineering services
- Communications
- Venture capital management
- Facilities management

ASRC Clients - ASRC clients range from local to multinational corporations, and local to federal governmental agencies. ASRC also participates in various partnerships, joint ventures and other business activities.

5 Million Acres - ASRC is one of the state's largest private landowners, holding title to approximately five million acres on Alaska's North Slope. Most of these ASRC lands are highly prospective for oil and gas, coal and metal sulfides. These lands include known resource reserves such as the Alpine Oil Field and the Arctic Coalfields.

Oil - ASRC is situated within one of the largest hydrocarbon provinces of North America. Major oil companies have leased, and are leasing, tracts of ASRC land throughout the region.

Coal - There are an estimated four trillion tons of high quality bituminous coal in Northern Alaska. That is about one-ninth of the world's known coal reserves and one-third of the U.S. reserves. Alaska's North Slope could be the world's coal storehouse for the next century.

ASRC had over $1.3 billion in revenues in 2004.
One ASRC 8(a) subsidiary - Technical Services - had over $300 million in revenues in 2004. Are ASRC and Technical Services really disadvantaged entities?

<u>ASRC Summary</u> - Artic Slope Regional Corporation is a large $1.3 billion corporation with slew of subsidiaries, joint-ventures and other partnerships. It has thousands of employees, numerous subsidiaries, offices all over the world, and 5 million of acres of land in Alaska that are rich in oil, gas, coal and minerals.

According to the Anchorage Daily News (March 21, 2006)
Artic Slope announced record profits for 2005
of $126 million on sales of $1.6 billion.

By any measure, ASRC is not an impoverished, economically disadvantaged tribal entity. ASRC is a large, successful conglomerate that can stand on its own feet in the free marketplace. It does not need to be propped up by huge 8(a) sole-source contracts.

ASRC's 8(a) subsidiary - Technical Services - had over $300 million in revenues in 2004. Clearly, this 8(a) firm has reached critical mass and should be able to compete in the open marketplace without further sole-source largess from the Federal government.

ASRC is a large conglomerate that can compete in the open market. Likewise for it's $300-million 8(a) subsidiary.

ANC Summary - In essence, the Regional ANCs are governments in the form of corporations, 13 of which cover the entire state of Alaska. Most of them are large corporate conglomerates involved in many types of business enterprises totaling (it is estimated) several hundred business units. In addition, the ANCs own 44 million acres in Alaska which contain highly valuable resources, including petroleum, gas, coal, minerals, and so forth.

ANCs are large businesses with billions of dollars in revenues, thousands of employees, hundreds of business units, and hundreds of offices across the country and the world.

In addition, ANCs own 44 million acres of land in Alaska that are highly prospective for oil, gas, coal, minerals and other natural resources.

Public Policy Perspective - From a public policy perspective, Washington DC decision-makers need to get over the myth that ANC's are impoverished tribal entities that desperately need billions of dollars in Federal sole-source contracts to survive. ANC's are not small struggling entities. Most of them are large, successful conglomerates.

Jobs for Native Alaskans - Furthermore, as discussed above, ANCs are not creating many jobs for native Alaskans in Alaska through the billions of dollars in 8(a) sole-source contracts they are currently receiving.

A massive, multi-billion dollar, sole-source, set-aside contracting program is not the appropriate vehicle for creating jobs for Native Alaskans in Alaska.

ANC Arguments - ANCs routinely postulate that they should continue to be part of the 8(a) program with their special privileges intact. Their arguments are along these lines:

We represent downtrodden native Alaskans in communities that are lacking in jobs and economic opportunity. The special 8(a) authorities of the ANCs are guaranteed to us as a matter of Treaty under the Alaskan Native Claims Settlement Act. We should not be fighting each other for crumbs. If you rock the boat, the conservatives in the Congress will do away with the entire 8(a) program.

We beg to differ, but these self-serving arguments do not hold water. First of all, the billions upon billions of dollars in Federal sole-source contracts that the ANCs are receiving are not crumbs.

Secondly, the billions upon billions in Federal sole-source 8(a) contracts that ANCs are receiving do not bear any reasonable proportionality to the small population of impoverished Native Alaskans (24,000) that ANCs are supposedly serving. Furthermore, the preferential treatment that ANCs are increasingly receiving from certain Federal agencies is an unfair and unhealthy development in the 8(a) program.

No End In Sight!! - Most importantly, there is no end in sight to the ANCs' insatiable appetite for 8(a) sole-source contracts which generate few (if any) jobs for Native Alaskans in Alaska, and which take contract opportunities away from other deserving small businesses. There is no limit, no ceiling. ANCs can continue amassing sole-source 8(a) contracts in the multiple billion of dollars as far into the future as the eye can see. They can perpetuate their participation in the 8(a) program by creating new 8(a) firms as far into the future as the eye can see. Quite literally, therefore, there is no end in sight. This is a program with no limits and no boundaries, and it is totally out of control.

We are not going to waste our time on the ANCs' self-serving arguments while they expand their dominance of the 8(a) program. We are not going to waste our time on the ANCs' transparent arguments while they continue taking contract opportunities away from our companies across the country (thereby, taking jobs and economic development opportunities away our people and our communities).

Attitude of Entitlement - One of the most disturbing aspects about the ANC's participation in the 8(a) program is their blatant attitude of entitlement. While self-righteously carrying on and on about how downtrodden they are, and about the impoverished communities they are so nobly serving, ANC spokespersons often claim that:

> **"The ANC's special 8(a) privileges are guaranteed to us as a matter of Treaty under the Alaskan Native Claims Settlement Act."**

The following quote further illustrates this self-righteous entitlement attitude. According to Alutiiq's Manager of Corporate Communications (quoted from The American Prospect - On-Line Edition):

> **"The participation of America's indigenous peoples in the 8(a) program is part of the federal government's fiduciary responsibility to provide a sustainable Native economy as required by treaties, the constitution, statutes, and court cases."**

These attitudes raise the notion of entitlement to a whole new level, as though Alaskan Natives are entitled to limitless billion-dollar sole source contracts as a matter of treaty and birth-right. Most Americans would be shocked by this brazen attitude of entitlement. Simply put, it's shameful and disgusting.

SDB Subcontracting Program - Readers of this document should also be aware that Congress recently passed an amendment that bestows SDB status on ANCs for purposes of receiving SDB subcontracts from major Federal prime contractors.

Yes, unfortunately, you read that correctly. Multi-billion dollar ANCs are now SDBs with respect to the subcontracting programs of the major Federal prime contractors. This includes all their 8(a) subsidiaries, partnerships, and joint-ventures.

This will, no doubt, lead to the erosion of subcontract opportunities for SDBs from prime contractors in the same manner in which regular 8(a) firms are losing prime contract opportunities to ANCs at the Federal agencies.

To add insult to injury,
the ANC behemoths are now classified
as SDBs for purposes of participation in the
subcontracting programs of Federal prime contractors.

Solutions

The main issue the Congress needs to address is the structural imbalance in the 8(a) program which so disproportionately favors 154 ANCs over the other 9,700 firms in the 8(a) portfolio. The entire 8(a) portfolio of 9,700 firms needs to have equal access to federal prime contracts. Furthermore, ANCs should not be put in an advantaged position that causes them to be singled out for favoritism by Federal buying offices.

The entire 8(a) portfolio needs to have equal access
to federal prime contracts.

The 8(a) program was explicitly designed by the Congress to enable small disadvantaged businesses to gain access Federal prime contracts. To ensure continued access to Federal prime contracts by all firms in the 8(a) program, there must be a level the playing field between ANCs and the rest of the 8(a) portfolio.

The 8(a) program was not created for the ANCs to receive
mega-8(a) prime contracts and for the rest of the
8(a) portfolio to become supplicants to ANCs for subcontracts.

The Associations that are jointly submitting this position paper to the Congress would gladly share the 8(a) program with small disadvantaged companies in Alaska, providing they participate on a co-equal basis with all other participants in the 8(a) program. We are not prepared, however, to continue to have the 8(a) program gouged and abused by large, rapacious ANCs, especially on the questionable premise that they are bringing jobs and economic opportunity to impoverished Alaskan natives in Alaska.

Separation or Modification - The organizations submitting this position paper propose immediate policy changes with respect to the ANCs' special privileges in the 8(a) Program. Basically, there are two ways to proceed:

1. **Separation**
2. **Modification**

Bottom line... there are two alternatives:

Move ANCs out of the 8(a) program, or
Level the playing field between ANCs and all other 8(a) firms.

1. Separation - Given the manner in which the ANCs' special 8(a) privileges are presently constructed, ANCs do not fit in the traditional 8(a) program. Having ANCs in the 8(a) program is like having multiple Lockheed-Martins in the 8(a) program. ANCs are large, billion-dollar conglomerates. Most of the restrictions placed on the other 8(a) firms do not apply to them. They are big, powerful entities. They are like the proverbial bull in the china shop. Their presence is the 8(a) program is seriously distorting the program.

It is a grossly unfair to the other 9,700 participants in the 8(a) program to have these ANC behemoths in the 8(a) program. The 8(a) program was originally designed to facilitate the growth and development of small, socio-economically disadvantaged minority companies. There is nothing small or socio-economically disadvantaged about these large ANCs.

It is even more ridiculous to have these huge ANCs in the 8(a) program considering that the entry criteria for a regular 8(a) participant is a personal net worth not exceeding $250,000. Yet an ANC, with annual revenues of a billion dollars, can qualify for the 8(a) program!! This disparity is mind-boggling.

An ANC with a billion dollars in revenues qualifies
for the 8(a) program. Yet, the net worth for all other 8(a) applicants
may not exceed $250,000 for entry into the 8(a) program.
This disparity is mind-boggling!

Therefore, the most desirable alternative is for ANCs to be separated from the 8(a) program. If ANCs and their political representatives can convince the U.S. Congress that they need access to billion-dollar Federal contracts on a sole-source basis, then they can create a separate program to meet those needs.

2. Modification - In the course of discussions with ANC leaders over the past year, it has become clear that they are aggressively committed to their unlimited 8(a) authority, along with the many other special privileges they enjoy in the 8(a) Program. In fact, they feel entitled to these special privileges as a matter of Treaty.

If the ANCs cannot be moved out of the 8(a) program, then major modifications to the ANCs' lavish 8(a) privileges must be made. At minimum, these are the fundamental changes that are needed:

1. Eliminate the ANCs' unlimited sole-source contracting privilege. The ANCs should be subject to the same sole-source caps that apply to the rest of the firms in the 8(a) program;

2. Raise the sole-source caps for all 8(a) firms to $20 million (an increase in the caps is long overdue - there has not been an increase in the caps since 1989), and apply the caps equally to ANCs and the rest of the 8(a) portfolio;

3. Require each ANC entity (subsidiary, joint-venture or partnership) to prove economic disadvantage, just like all other 8(a) participants;

4. Require that each ANC 8(a) applicant meet tests of economic disadvantage and net worth limitations (or the equivalent), just like all other 8(a) applicants;

5. Place a revenue limit on ANC 8(a) applicants - for example, ANC firms with sales of $10 million or more would not be eligible to apply for the 8(a) program;

6. Make the small business size standards applicable to ANCs, just like they apply to all other small businesses, including Tribally-owned 8(a) companies (in other words, the revenues or employees of the subsidiaries, joint-ventures, partnerships and all affiliated businesses of ANC's should be included in small business size determinations);

7. Limit the number of 8(a) entities an ANC can have to no more than two at one time;

8. Require that ANCs secure an increasing share of competitively won contracts in their business mix during their 8(a) tenure in order to continue to be eligible to receive 8(a) sole-source awards, just like the rest of the 8(a) portfolio;

9. Place a cap on total ANC 8(a) sales - for example, once an ANC's sales exceed $500 million, they would no longer be eligible for any 8(a) contracts (sole-source or competitive);

10. Repeal the legislative enactment that gives ANCs SDB status with respect to subcontracting with Federal prime contractors;

11. Prohibit Federal agencies from including in their small business reporting, contract awards to ANCs wherein the ANCs did not meet the small business size standards as applied to all small businesses (for which ANCs are presently exempt).

####### END ########

3201 C Street, Suite 700 • Anchorage, AK 99503
Phone (907) 222-9500 • Facsimile (907) 222-9501
www.alutiiq.com

STATEMENT OF RICHARD M. HOBBS, II, EXECUTIVE VICE PRESIDENT
Afognak Native Corporation and Alutiiq, LLC
On behalf of Alutiiq Management Services

Joint Hearing in the House of Representatives

by the

Committee on Government Reform

and

Committee on Small Business

Review of

ALASKA NATIVE CORPORATION'S PARTICIPATION IN THE SMALL BUSINESS ADMINISTRATION'S 8(A) PROGRAM

Wednesday, June 21, 2006

Alutiiq

Submitted June 26, 2006

My name is Richard M. Hobbs, II, and I am the Executive Vice President of Afognak Native Corporation (hereinafter "Afognak") and its Government Contracting arm, Alutiiq, LLC. Afognak is a village corporation established under the 1971 Alaska Native Claims Settlement Act. The Board of Directors of Afognak created Alutiiq in order to diversify Afognak's business operations and develop a series of core competencies in government contracting. Alutiiq has worked through the Small Business Administration's 8(a) Business Development Program to accomplish this mission.

Afognak is managed by a nine member Board of Directors, all of whom are Alaska Native shareholders of Afognak. Collectively Afognak has almost 700 shareholders, some of whom continue to live in the Native Village of Port Lions, located on Kodiak Island in the Gulf of Alaska.

On June 21, 2006, during the joint hearing on ANC participation in the 8(a) program, Rep. Waxman raised concern over an Alutiiq contract with the U.S. Department of State for construction renovations in Sao Paulo, Brazil. We are submitting this additional testimony in order to clarify the record on this project.

The consulate renovation contract was performed by Alutiiq Fluor Constructors, LLC, a joint venture between Alutiiq Management Services, LLC, and Fluor Federal Services. The joint venture was formed under an SBA-approved mentor-protégé relationship.

Rep. Waxman's questions suggested that the Committees would benefit from greater background as to the negotiation process that led to the final price for this contract. It is accurate that the difference in price between the Government's original cost estimate and Alutiiq's first proposal was significant. What this does not reflect is that the Government's original cost estimate was developed internally without the benefit of a recent detailed site visit. The Independent Government Estimate ("IGE") also did not reflect the accelerated construction schedule that was required to meet the State Department's time frame. Meanwhile, the Government required Alutiiq to submit its first price proposal on an extremely condensed schedule without the benefit of full information as to project scope or risks. The cost estimate that was refined during negotiations provided detailed information as to the materials, labor requirements, equipment, and other costs and risk factors associated with the job. The Alutiiq team and the Government then negotiated, in detail, over all aspects of the cost and pricing estimate and ultimately reached a price that was very close to the Government's revised estimate.

In my opinion this contract is a successful example of the 8(a) program working as intended. Alutiiq's cost and pricing data was fully available to the Government customer. There was complete transparency in the process and the Government ultimately received an excellent product at a **reasonable, well documented, and agreed upon price**. The negotiations over budget, price, and scope that occurred on this project are identical to those that occur on virtually every construction project, commercial or government, around the country and the world.

Alutiiq agreed with the State Department's comments to this issue that were contained within the GAO report:

> As with any new firm doing business with the Department, there is a learning curve where they begin to understand our requirements and we reach an understanding of what perception they had when putting their price proposal together. It is not an unusual situation. Once communications improved, their understanding of the needs of the Department resulted in their offered price becoming closer to the Government estimate of what the project should cost. The price went from twice as much to slightly above our estimate. The negotiations came to a successful conclusion and we were able to determine that the final price was fair and reasonable.[1]

Mentor-protégé relationships, like that between Alutiiq Management Services and Fluor Federal Services, help to meet the goals of the SBA's 8(a) program. Small and developing companies, particularly those learning the ropes in the world of government construction, benefit from assistance on estimating procedures, accounting system development, and bonding capacity. It was Alutiiq's unfamiliarity with these areas, particularly estimating, that justified our relationship with Fluor. Our mentor-protégé relationship with Fluor worked *exactly* as the 8(a) program intended; it is, in fact, an *exceptional* example of the success of the 8(a) program, not an abuse of that system as some misguided individuals have suggested. At the end of the day, Alutiiq effectively managed and executed a remote international construction project on a tight deadline while meeting the State Department's need. Fluor gave us the expertise in estimating, cost accounting, and internal processes that we needed in order to become competitive. In many respects, this project positioned us to become a viable competitor of Fluor and other large government contracting companies in the future. As a direct result of our work on the Brazil consulate, Alutiiq has been able to grow and prosper in the construction field. We continue to provide exceptional construction services for our military forces, now winning competitive procurements, and are now capable of doing so without the assistance of a formal mentor.

As with all our projects, the profits earned from this project were passed up to Afognak Native Corporation, which distributes profits to our disadvantaged Native shareholders in the form of dividends, job training, internships, scholarships, and cultural and social programs, among others.

Thank you for the opportunity to clarify our work. I am happy to answer any questions you may have.

---

[1] *Department of State Comments on GAO Draft Report.* GAO Report 06-399. "Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored oversight." April 2006. Page 61.

June 15, 2006

[redacted]

Honorable Tom Davis (VA)
Chairman Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Tom Davis:

I respectfully submit this statement for inclusion in the June 21, 2006, U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record concerning the Government Accountability Office (GO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

The Native SBA 8(a) provisions represent successful federal policy intended to positively impact Native American participation in the marketplace. The 8(a) program has helped tribal communities build a revenue base, diversify economies, and provide jobs, education, services and community-wide benefits to a group of Americans who historically have been severely disadvantaged. The 8(a) program has been particularly helpful to those tribes and Alaska Native Corporations located far away from major markets or industrial centers because of the broader opportunities federal contracting provides.

The Native 8(a) provisions have resulted in just what the Congress intended – facilitation of Native communities' economic diversification, self-sufficiency and the ability to participate more fully in the mainstream of society. The program contributes to the development of new competition and forces increased efficiencies for existing competitors. We are proud of our business capabilities and the substantial performance benefits we provide to our customers. We are clearly building more self-reliant communities for future generations. Congress should unquestionably preserve the benefits of these Native 8(a) provisions.

Akima Management Services, Inc.
13777 Ballantyne Corporate Place, Suite 400, Charlotte, NC 28277
Phone: 704-714-4556 • **Web:** www.akima.com

Letter to Honorable Tom Davis
June 15, 2006
Page Two

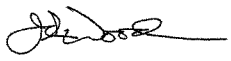
Akima Management Services has a strong performance record in facilities management, technical and engineering support, construction management, training development and support, range management, logistics and data/records management. Akima, an Alaska Native Corporation (ANC), has achieved an outstanding reputation as a high quality government contractor.

Our principal parent company, NANA Development Corporation (NDC), is owned by more than 11,400 Alaska Native shareholders of Inupiat Eskimo descent. Since inception, NANA has paid out 100 percent of its profits to shareholders as dividends. The total of dividends paid out thus far equals over $51 million, $7.2 million more than the original cash received by NANA under the terms of the Alaska Native Claims Settlement Act. In 2005, NANA employed 730 of its shareholders. Wages paid to these shareholders totaled $27.8 million. In addition, the Aqqaluk Trust distributed $366,208 in scholarships to 299 shareholder students in 2005. Akima is proud to be NANA's largest contributor to these funds.

On behalf of the shareholders that the Akima companies benefit, I urge you to continue supporting the SBA's Native 8(a) Program and Native provisions.

Sincerely,

AKIMA MANAGEMENT SERVICES, LLC



John D. Wood
President/CEO

June 15, 2006

Honorable Tom Davis (VA)
Chairman Government Reform Committee
[redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Davis,

As an Alaskan Native Corporation, I submit the following statement for inclusion in the June 21, 2006, U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

As you may know, the Native SBA 8(a) provisions are a rare example of federal policy promoting Native American government-to-government participation in the federal marketplace successfully. The 8(a) program has helped tribal communities build our governmental revenue base, diversify our economies and provide jobs, education, and services and community-wide benefits to a group of Americans historically far less able to access the American dream. The 8(a) program has been particularly helpful to those tribes and Alaska Native Corporations that are located far away from major markets or industrial centers because federal contracting can occur anywhere in the United States and abroad.

The Native 8(a) provisions have resulted in just what the Congress intended – facilitation of Native communities' economic diversification, self-determination and the ability to fulfill our governmental obligations to our citizens. The program has also been a good bargain for taxpayers by giving Native American companies a foot in the door in certain industries. It contributes to the development of new competition and efficiencies for the few large businesses that dominate certain markets by diversifying the pool of suppliers. We are proud of our increased business capabilities. We know we are building self-reliant communities for future generations. Congress should preserve the benefits of these Native 8(a) provisions.

Because Tribal governments and ANCs represent a community rather than an individual, the 8(a) rules applicable to Tribes and ANCs differ, purposely, from the rules that govern 8(a) companies owned by individuals. Revenues earned by Tribal and ANC enterprises are used to provide governmental services and community-wide benefits in economically and socially disadvantaged Native communities. In contrast, the profits earned by an 8(a) company owned by an individual are retained by that individual owner.

The recent GAO report recognized the unique nature of Alaska Native Corporations and the need for the SBA to tailor its regulations and policies to improve its oversight of the program and did not recommend that any legislative changes be made to the Native 8(a) program. We

11833 Canon Blvd., Suite 102
Newport News, Virginia 23606-2589
Phone: 757-873-0019 **FAX: 757-873-0362**

Goldbelt Eagle, LLC provides services to various government clients in the following listed business practice areas. We are currently engaged in both Prime-Sub; Joint Venture; and Mentor–Protégé relationships with both large and small businesses with multiple contracts with the Department of Energy, National Energy Technology Laboratory in Morgantown, WV and Pittsburgh, PA; and the Department of Interior, Bureau of Indian Affairs; and the Department of Defense, nationwide.

- **Facility Operations and Maintenance**
  - Site Operations Support
  - Site Administrative Services
  - Operation and Maintenance Services
  - Construction and Renovation Management Services
- **Information Technology Services**
  - Enterprise Application Integration Services
  - Enterprise Resource Planning
  - System/Data Security
  - Data Center Services
  - Technical Help Desk Services
  - Records Management
- **Specialized Training Services**
  - Pre-deployment Training (Cultural Awareness/OPFOR)
  - Deployed Linguist/Translator Services
  - Readiness Training
  - Survival, Evasion, Resistance, and Escape (SERE) Training
  - Security Operations Training

I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. The program is working, as demonstrated by our ability to grow to a $22M per year firm while generating new technical qualifications through teaming arrangement under direct awards and then utilizing these qualifications to win additional work competitively.

If I may answer any questions or provide further information, please contact me at 757-873-0019 Ext 224.

Sincerely,

Joseph T. LoCasale, P.E.
President
Goldbelt Eagle, LLC

cc: Congressional Delegation
Native American Contractors Association

June 23, 2006

The Honorable Tom Davis
Chairman, Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Donald Manzullo
Chairman, Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Davis and Manzullo:

As a follow-up to the June 21, 2006, Joint Committee Hearing on the ANC Program and Federal Procurement, Akima respectfully wishes to provide your committees additional information to correct certain mischaracterizations of the facts and circumstances associated with Akima Site Operations, LLC's Army Corps of Engineers contract to provide classrooms as part of the Katrina recovery effort. I am specifically requesting that this letter be made a part of the official hearing record.

During your Committees' deliberation there were comments and testimony that suggested Akima had no basis for raising its price during contract negotiations and thus overcharged the government for its services related to the contract. I wish to emphasize that was not the case, and I want provide additional details to clarify the situation. The bottom line is that Akima provided the government a fair and reasonable price for the successful delivery of 450 classrooms, ahead of schedule, saving the school year for the children in Mississippi.

There has been considerable publicity concerning the difference between Akima's $32.5M order-of-magnitude estimate submitted to the Corps of Engineers on Friday, September 16, 2005, and our final $39.5M firm-fixed contract that was accepted by the Corps on Sunday, September 18, 2005. Akima wishes to clarify the interactions and discussions between the Corps and Akima that occurred during price negotiations prior to the execution of the contract.

After the Corps initially contacted Akima on the afternoon of Wednesday, September 14, 2005, concerning their requirements for 450 classrooms, Akima presented the Corps a series of order-of-magnitude estimates for "used", "leased", and "new" classrooms with several delivery schedule scenarios. The purpose of these estimates was to provide the Corps the "relative" difference in "classroom stock costs" among these options, so the government could decide which option best suited their requirements. When parties use order-of-magnitude estimates, it is with the understanding that such estimates do not include all costs associated with the project, but rather provide a rough comparison of the various alternatives.

During negotiations on Saturday, September 17, 2005, the Corps finalized the requirement for Akima, concluding that it needed 450 new classrooms: 200 in 14 days and all 450 units by November 1, 2005. As a result, Akima proceeded to prepare a full cost estimate based on the newly defined scope of work. For the first time, Akima's cost proposal took into account the numerous other costs associated with the project, including warranty liabilities, permit fees, transit insurance, security costs, driver logistics costs, fuel staging, vehicle escort costs, and other indirect costs associated with transporting the units. In addition, Akima submitted its proposal without firm orders

Akima Management Services, Inc.
13777 Ballantyne Corporate Place, Suite 400, Charlotte, NC 28277
Phone: 704-714-4556 • **Web:** www.akima.com

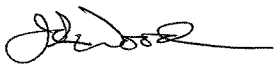
from suppliers, and properly anticipated the requirement to pay a premium for units that could meet a delivery schedule substantially more aggressive than earlier estimates. Akima's September 17th cost proposal also took into account Akima's costs of money and the tremendous risks associated with providing these units on schedule and within cost in a disaster recovery area. It is worth noting that Akima's order-of-magnitude estimate submitted on September 16th included a delivery schedule that extended to the end of January 2006 (over 130 days) versus our final negotiated schedule of 45 days, which had a major impact on the project's cost. Akima presented all of its supporting cost information to the Corps, and the Corps determined that Akima's proposal was acceptable, met its schedule needs, and was within its budget. In fact, we have very recently learned that our price was consistent with the Government's original estimate for the work.

It is important to emphasize that Akima met all project milestones, delivered quality units on an expedited basis, and fully satisfied the Corps' requirements five (5) days ahead of schedule--for a fair and reasonable price. Additional information on this project is also available on Akima's website, www.Akima.com.

Thank you for your consideration in accepting this letter for the hearing record. I would be happy to meet with you or your staff to discuss this project further if so desired, and please feel free to contact me anytime at (704) 714-6408 or jwood@akima.com.

Sincerely,

AKIMA MANAGEMENT SERVICES, LLC



John D. Wood
President/CEO

JDW/ws

cc: The Honorable Henry Waxman
The Honorable Nydia Velazquez

Business Day

NYT C1

THURSDAY, AUGUST 12, 2004

The New York Times

Security for the Homeland, Made in Alaska

Tribal Groups Find Corporate Partners

By LESLIE WAYNE

As the Pentagon shipped thousands of military police to Iraq over the last year, it had to move quickly to replace guards at important installations around the country, including Fort Bragg, N.C., and West Point. So it turned to the private sector and quietly awarded multimillion-dollar contracts without putting out competitive bids.

The winners hailed from Alaskan corporations representing native tribal groups that are uniquely eligible to win Pentagon contracts in unlimited amounts without having to compete against other companies. But perhaps the main beneficiaries were their minority partners, two big security firms, Wackenhut Services and Vance International.

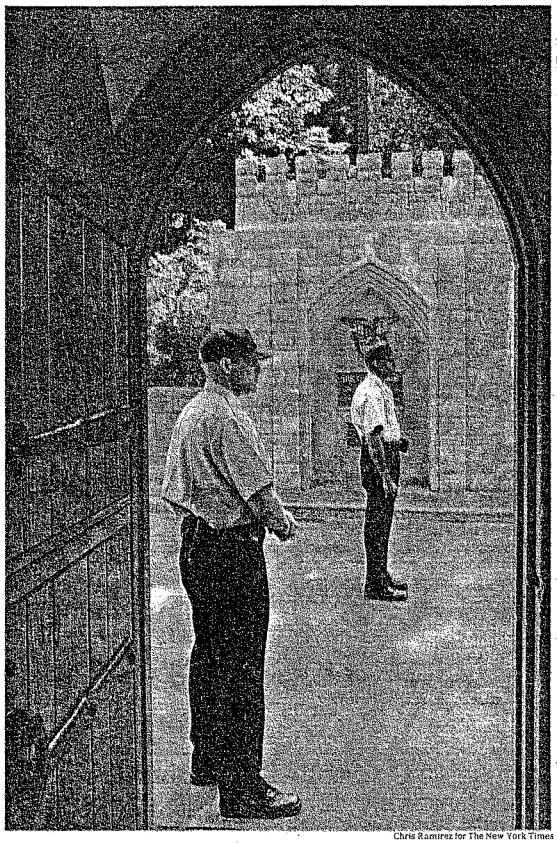
The Pentagon has made no public announcements of the contracts, in which the joint ventures are being paid $194 million to protect 40 properties. If options to extend them are exercised, the contracts' value could reach $500 million, according to Army documents obtained by The New York Times from officials briefed on the arrangement.

So far, there have been no complaints about the performance of the private guards, who have been moving on to Army bases over the last year to protect gates and patrol grounds.

But the prominent roles of Wackenhut, which is working with an Alaskan native corporation called Alutiiq, and Vance, a partner of the Chenega Corporation, also of Alaska, have raised a variety of concerns, from the way the contracts were awarded to questions about whether the established security companies that are doing much of the work are appropriate for the job.

"The intent of the law is to help minority businesses, yet these are major corporations who wouldn't otherwise need help getting contracts," said Danielle Brian, executive director for the Project on Government Oversight, a Washington nonprofit group that studies military spending. "You

Continued on Page 6



Chris Ramirez for The New York Times

Evan Johnson, foreground, and Otis Antoine check ID's at West Point. They work for a private security venture between Wackenhut and Alutiiq, a tribal group.

Security for the Homeland, Made in Alaska

Continued From First Business Page

have a law that was set up to benefit native American companies."

The government's urgency was clear: 4,100 soldiers were to be shipped overseas. They would be replaced by 4,385 private security guards. Beginning in early 2003, the Army began to survey which bases would get the private guards and approached the Alaskan companies and their partners, which ultimately received the awards.

Military officials have told Congress that the no-bid arrangement was made to get "boots on the ground" quickly in Iraq, according to one Army document. The document also said that given the Iraqi call-up, "contract security guards are a viable manpower option."

"The reason for the privatization of gate guards is to free up the warfighter from doing garrison support and do what they are trained to do, which is go and fight," said Jerome Kelly, a spokesman for the Installation Management Agency, a division of the Army that manages military bases. The Army began to let the contracts in late 2003.

Besides the lack of competition, the awards have raised other concerns. Government investigators have repeatedly cited Wackenhut for security lapses at other federal installations it was hired to protect. And Wackenhut is foreign-owned, which means it is prohibited from some sensitive post-9/11 security contracts like airport screening.

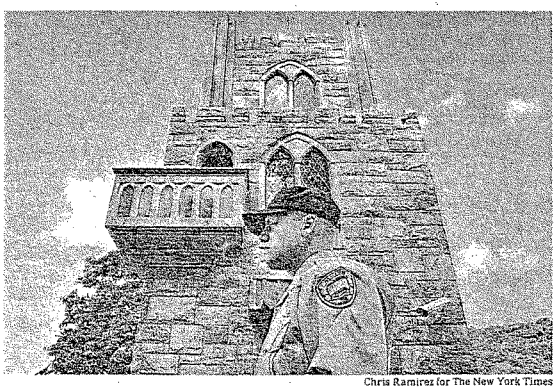
"There is an irony in that Wackenhut is foreign-owned and a lot of the profits will be going overseas," Ms. Brian said.

Vance International has received several high-profile assignments, including the Athens Olympics, as well as having received $1.1 million so far to provide security for the Bush-Cheney campaign. The company was founded by the former son-in-law of President Gerald R. Ford, Chuck Vance, who has since left the firm.

"We have to be careful," said Representative Lane Evans, Democrat of Illinois, who is investigating the arrangement. "This is a real vulnerable area. We are awarding contracts to one company that has a really bad track record and now they are being handed out on a nonbid basis. We want to make sure no harm will be done."

In January, the inspector general of the Energy Department cited Wackenhut, a subsidiary of Group 4 Securicor, which is based in London, for serious improprieties in conducting antiterrorism drills at a Tennessee weapons complex. It has been criticized in several other inspector general reports for other security lapses in the last three years. The company contends that the reports are misleading and inaccurate.

Even so, the concerns have stymied a similar no-bid deal involving the Energy Department and the



Chris Ramirez for The New York Times

Evan Johnson, a private guard, at Thayer Gate at West Point. Private guards have replaced soldiers who were sent to combat areas overseas.

same contractors. A $40 million "sole source" no-bid contract awarded to Alutiiq and Wackenhut earlier this year to provide security at nuclear laboratories in Idaho was withdrawn following opposition from the state's Congressional delegation.

"By joining up with Alutiiq, Wackenhut can get to sole-source work instead of having to compete for it," said John Revier, a legislative director for Representative Mike Simpson, Republican of Idaho. "Alutiiq had no experience in the field, and we did not want to experiment when it comes to securing nuclear material."

In the case of the military bases, critics also say that the no-bid process lacks oversight and that the security companies involved are exploiting a loophole that allows them to avoid open competition in a crucial area of national security. Under the law, no Alaskan even has to be employed under these contracts.

But the companies defended their role, saying they had helped fulfill a need for security at a critical moment.

"The Army had a most severe problem," said James L. Long III, chief executive of Wackenhut Services in Palm Beach Gardens, Fla. "You literally had thousands of military police, national guardsman and reservists working as gate guards. The military had to do something. So private security companies can fill the void."

As for the government's criticism of Wackenhut, Mr. Long said, some of the reports referred to parts of Wackenhut that are not handling the Army base contracts. In addition, he said, Wackenhut was doing what it was told to do.

Vance International, a subsidiary of the SPX Corporation, a technology company in Charlotte, N.C., dismissed criticism of its ties to Republican political figures. The ties, said Nicolle Watson, a spokeswoman, "probably had little or no relationship" to its success in landing the Pentagon contracts.

Ms. Watson said Vance specialized in security for special events and had worked for both the Republican and Democratic national committees. "We're bipartisan," she said.

Federal procurement law requires "full and open" competition" for government contracts, with some exceptions for small contracts awarded to minorities and small businesses as well as in situations where there is insufficient competition and only two or three bidders exist.

Contracts for 10 other military installations, including Fort Campbell in Kentucky and the Anniston Army Depot in Alabama, were bid out competitively. In all, 17 companies, including Wackenhut and Vance, bid for the business. Both Wackenhut and Vance were among the losers on the contracts.

But in a growing number of cases, including Iraq, where Halliburton was awarded a no-bid contract to provide a range of services, the absence of competitive bidding has become subject to debate.

"What we are seeing with the no-bid Iraqi contracts is not an aberration, but is becoming the norm," said Dan Guttman, a procurement expert at the Washington Center for the Study of American Government at Johns Hopkins University. "They always cite a short-term need for no-bid contracts. But in the long run, you end up with no accountability, no oversight and no alternatives if the performance is not good."

The Alaska native corporations that Wackenhut and Vance are working with were created in 1971 to settle claims by Alaskan natives in the building of the Trans-Alaska Pipeline and to help improve standards of living.

Senator Ted Stevens, the Republican chairman of the powerful Senate Appropriations Committee, has long championed these corporations. After they fell into financial trouble in the 1980's, Mr. Stevens pushed through legislation giving the Alaska native corporations special benefits not available to other minorities — mainly no limits on the size of the contracts and no requirements that members of the minority group be hired. Most federal minority set-aside contracts have a $5 million ceiling.

As a result, the corporations have flourished, with the money flowing back to tribal accounts, where individual tribal members are the shareholders. The Anchorage-based Chenega, for instance, said it had revenue of $233 million a year and a broad array of federal contracts, from construction projects at military bases to information technology services for several agencies

Critics question the way no-bid contracts were awarded.

On the Army military base contracts, both Chenega-Vance and Alutiiq-Wackenhut have been hiring local residents near the military installations to be the guards. Under Pentagon rules, responsibility for overseeing the contract rests with the Alaska native corporation and the Pentagon has no legal relationship with either Vance or Wackenhut.

Federal rules require that 51 percent of the work be done by the Alaska native corporation. While profit-sharing deals may differ, Mr. Long of Wackenhut, said Alutiiq would receive more than 50 percent of the profit with his company taking the remainder.

Jeff Hueners, chief operating officer of Chenega, said: "We are well into executing our contract. Chenega had a security group as part of one of our core lines of business. We knew Vance in the marketplace and so we made a link with them.

"We are a professional services provider for the federal government," he added, "and we are providing a high level of service under the contract. It's good for Chenega and good for the government."

At the United States Military Academy at West Point, Alutiiq-Wackenhut has been hiring from the local community, including many retired New York City police officers, to protect the installation's 16,000 acres. According to a West Point spokesman, Lt. Col. James Whaley, the new guards were "quite talented" and "take pride" in their jobs.

At the Carlisle Barracks in Pennsylvania, home to the Army War College, a spokeswoman, Lt. Col. Merideth Bucher, gave similar high marks to the Alutiiq-Wackenhut guards.

"They are a very, very professional guard force," Colonel Bucher said. In one case, when local police were engaged in a high-speed chase, the security guards quickly installed barriers that prevented the vehicles from entering the barracks.

NATIONAL EDITION

Los Angeles Times

THURSDAY, AUGUST 12, 2004

Army Turns to Private Guards

The military is criticized for risking security at bases and for a process that awarded $1 billion in contracts without competitive bidding.

By T. CHRISTIAN MILLER
Times Staff Writer

WASHINGTON — Stretched thin by troop deployments in Iraq and Afghanistan and security needs at home, the Army has resorted to hiring private security guards to help protect dozens of American military bases.

To date, more than 4,300 private security officers have been put to work at 50 Army installations in the United States, according to Army documents obtained by The Times.

The work was awarded to four firms — two of which got the contracts without having to bid competitively. The contracts are worth as much as $1.24 billion.

The Army says the maneuver lets it free up more soldiers for military duty while quickly putting private guards in place to meet the need for additional security since the Sept. 11 attacks.

But the Army's action has drawn criticism on two grounds: that it compromises domestic military security, and that it amounts to abuse of a law intended to aid impoverished Alaska Natives.

Two five-year contracts worth as much as $1 billion went to two small Alaska Native firms with little previous security experience. The firms, which operate under special contracting laws enabling them to avoid competitive bidding, subcontracted part of the work to two of the country's largest security firms: Wackenhut Services Inc. and Vance Federal Security Services.

Thirty-six bases are covered by the Alaska Native contracts — including three in California: Ft. Irwin, the Sierra Army Depot and the Presidio of Monterey.

"I'm concerned about the protection of our military facilities," said Rep. Lane Evans, an Illinois Democrat who serves on the House Armed Services Committee and has called for hearings on the contracts.

"Some of these installations house chemical weapons and intelligence materials and should not be compromised with questionable contracting processes and poor security."

Democrats, watchdog groups and independent contracting experts said that the Army's contracting arrangement with the Alaska Native firms amounted to a back-door deal to send taxpayer dollars to Wackenhut and Vance, which lost out the only time they faced open competition against other companies for the security contracts.

"It's a total abuse of the intent of the law," said Danielle Brian, the executive director of the Program on Government

[*See Guards, Page A9*]

Big Firms Gain on Minority Contracts

[*Guards, from Page A1*]

Oversight, a watchdog group. "The law was designed to benefit companies that need a special boost. At the end of the day, if Wackenhut is benefiting, it's just a blatant abuse of the system."

The move is part of a larger trend of hiring private contractors to do many jobs previously done by the military. Since the war in Iraq, the shift toward private contractors has accelerated. Private companies now do everything from washing soldiers' laundry to protecting senior American officials from attack.

At Army bases in the United States, officials said that security requirements arising from the Sept. 11 attacks had forced them to use thousands of active duty and reserve units to set up additional patrols and guard posts.

Defense officials saw private security guards as a way to perform the additional security duties, free up more soldiers to fight in the field and make it possible for reserve units to return home when their service commitments expired.

Defense Department officials first had to lobby Congress to lift a nearly 2-decade-old federal ban on hiring private security guards at military bases. The ban was enacted after government unions said they feared losing nonmilitary Defense Department guard jobs to private companies.

Army officials said that by the time Congress acted, they didn't have enough time to mount a full and open bidding competition for the work.

The ability to award contracts to Alaska Native firms without any competition enabled the Army to quickly install private security guards. The Army decided in July 2003 to issue contracts to two firms, each with a cap of $500 million over five years.

Wackenhut's partner is the Alaska Native firm Alutiiq Security and Technology, based in Chesapeake, Va. The other Alaska native firm, Chenega Technical Products, based in Panama City, Fla., subcontracted to Vance.

At about the same time it awarded the Alaska Native contracts, the Army also decided to issue two more contracts to provide base security through typical open competition. The Army said it had more time for the second round of contracts, which were awarded in September 2003.

'Some of these installations house chemical weapons and intelligence materials and should not be compromised with questionable contracting.'

Rep. Lane Evans (D-Ill.), about military facilities guard by private security firms

In that competition, Wackenhut and Vance entered the bidding but lost to other companies, the Army documents showed.

The two winning companies, Coastal International of South Carolina and Akal Security of New Mexico, were given $74 million worth of contracts to guard 12 bases.

The Army said that the private guards have performed well, and were trained to the same standards as Defense Department civilian guards, who work at Army bases along with military police officers.

"The overall performance of the [security guard program] has been excellent and to the standards of the contract," the Army said in a written response to questions from The Times.

The private security firms also dismissed the complaints.

Wackenhut said the criticisms were part of a labor battle against the company involving one of the country's largest service unions, Service Employees International Union, which wanted to unionize Wackenhut guards.

Alutiiq said its performance rating justified the Army's decision.

The firm's previous security experience consisted of fielding a 120-man private police force for Kwajalein Atoll, a missile test site in the South Pacific.

"We are paying [our guards] a little higher. But we're getting quality performance as a result. You get what you pay for," said Bruce Swagler, the head of Alutiiq's security program. "Quality-wise and performance-wise, as far as the government is concerned, we're doing a great job."

After hearing about the Army's interest in hiring private security guards, company officials said Alutiiq and Wackenhut pitched their partnership: Alutiiq provided the contracting speed, and Wackenhut provided the experience. The two firms jointly recruit the guards, 51% of whom become Alutiiq employees and 49% Wackenhut employees as set out in the contract.

Alutiiq said that as far as it knew, one of its guards was an Alaska Native.

"When it was clear that the Army needed to do something and do it quickly, we believed it was headed toward Alaska Native corporations," said James L. Long, the president and chief executive of Wackenhut Services, a subsidiary of Wackenhut. "We made it clear to the Army that we had a relationship with Alutiiq and Alutiiq made sure that the Army knew they had a relationship with Wackenhut."

Alaska Native corporations — sometimes called "Stevens Act" corporations because the firms were strongly supported by Sen. Ted Stevens, the Alaska Republican who headed the chamber's Appropriations Committee — were created in 1971 as part of a settlement of land claims with Alaskan tribal groups.

Small businesses belonging to such corporations can receive no-bid contracts of unlimited value, an advantage not enjoyed by other types of businesses. And though Alaska Natives must own the company, tribal members do not have to do any of the work, meaning the firms can subcontract work to other companies.

The reasoning was that profit generated by the firms returned to impoverished Alaskan tribes, which could use the money to pay dividends or set up scholarship funds.

Although dividends in some years have been more than $50,000 per shareholder, they more typically amount to a few thousand dollars.

The military guard contracts awarded to Alutiiq and Wackenhut so far total $90.4 million to guard 16 bases, while Chenega and Vance have received contracts worth $89.9 million to guard 20 bases.

Because Wackenhut and Vance lost to other companies when faced with competitive bidding, contracting expert groups questioned whether the Army was paying too much for the no-bid contracts.

Steven Schooner, a contracting expert at George Washington University's Law School, said the Army's actions showed a lack of planning.

"If it's true that [Alaska Native corporations] are getting contracts of staggering volumes solely for the purpose of avoiding competition or being a funnel to the same firms that should be otherwise competing for the work . . . it's offensive," Schooner said. "It's ridiculous."

Unions and watchdog groups have raised concerns about Wackenhut's and Vance's performance on other contracts.

Unions have attacked Vance for acting aggressively against striking workers in situations where the company has been hired to protect factories and work sites.

Wackenhut has been accused by unions and government officials of allowing lapses in security at the nation's nuclear plants, many of which employ Wackenhut guards.

A Department of Energy report this year by the inspector general said current and former security guards at Oak Ridge nuclear weapons complex had complained that Wackenhut manipulated the results of drills by altering testing equipment and passing information to low-ranking guards prior to simulated attacks.

"It seems really irresponsible to have Wackenhut, which was found to have cheated on government security tests, doing security work at U.S. military bases," said Stephen Lerner, the director of the security division at the Service Employees International Union, which maintains a website critical of Wackenhut.

"This isn't about mowing the lawn. This is about guarding places that are potential terrorist targets."

Wackenhut defended its performance, noting that it continued to receive work from the government. It also said that the inspector general's criticisms were directed more at the Department of Energy than at Wackenhut.

"We do what we're told to do. We do what we're contracted to do," Long said.

The Washington Post

THURSDAY, NOVEMBER 25, 2004

Alaska Native Corporations Cash In on Contracting Edge

By ROBERT O'HARROW JR.
and SCOTT HIGHAM
Washington Post Staff Writers

In July 2002, U.S. Customs Service officials announced they were preparing to award a half-billion-dollar contract for maintenance of thousands of gamma-ray, X-ray and other scanning machines at the nation's ports and borders. Some of the nation's biggest defense contractors, including Lockheed Martin Corp. and DynCorp, were asked to consider bidding for the work.

But a year later, Customs officials issued a statement saying there would not be competition for the work, after all. Instead, they decided to give a no-bid contract to a little-known company owned by Native Alaskans.

Officials at the big companies were surprised to learn they had been bested by Chenega Technology Services Corp., which only recently had been receiving big contracts for the federal government. "I didn't even know how to spell their name," said Raymond Mintz, who had been hired by DynCorp to prepare its bid for the Customs contract.

Chenega had little experience maintaining high-tech scanning machines. So it ended up subcontracting much of the work to some of the big companies that had originally expressed interest in the contract, including San Diego-based Science Applications International Corp. and Massachusetts-based American Science and Engineering Inc., according to interviews and documents.

Chenega did offer Customs officials a unique opportunity. By hiring Chenega, Customs could avoid the slow and costly competitive bidding process for government contracts that is designed to ensure that taxpayers get the most for their money.

See CHENEGA, *A8, Col. 1*

Pulling in Federal Money

Certain corporations owned by Native Alaskans benefit from special laws approved by Congress to encourage minority contracting. In recent years, these Alaska Native Corporations have reaped billions of dollars in federal contracts for homeland security, intelligence and defense-related work.

1971 Congress passes the Alaska Native Claims Settlement Act, creating Alaska Native Corporations. Under the act, the corporations are given 44 million acres and nearly $1 billion in exchange for land used for the Alaska pipeline.

1974 Chenega Corp. is formed with 69 shareholders.

Stevens

1992 Sen. Ted Stevens (R-Alaska) introduces language to amend the settlement act to designate native corporations as "minority and economically disadvantaged business enterprises," qualifying them for U.S. Small Business Administration contracts.

2000 Stevens introduces language in the Defense Department's authorization act to ensure that companies owned by Native Americans can continue to receive no-bid work without undergoing time-consuming cost-benefit studies.

2001 Federal regulations are revised to exempt Alaska Native Corporations from certain Small Business Administration guidelines.

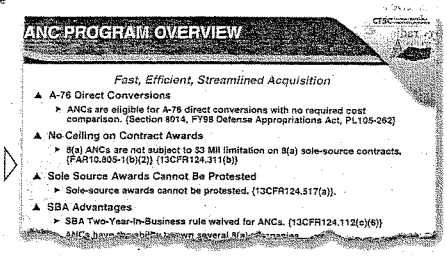
2001 Chenega and another Alaska Native Corporation, Arctic Slope Regional Development Corp., team up to win a $2.2 billion contract to develop and manage computer systems at the National Geospatial-Intelligence Agency, then the National Imaging and Mapping Agency.

August 2002 Chenega wins $300 million U.S. Army contract to maintain 700 buildings and the grounds at Fort Monmouth, N.J.

July 14, 2003 It is announced that Chenega wins a $500 million no-bid contract from the Department of Homeland Security to maintain scanning equipment for border and port security.

October 2004 Chenega lobbies the federal government to win a similar maintenance contract worth hundreds of millions of dollars for the Transportation and Security Administration.

Nov. 15, 2004 The TSA suspends sending out requests for bids on the contract while agency officials consider the Chenega proposal.



ANC PROGRAM OVERVIEW

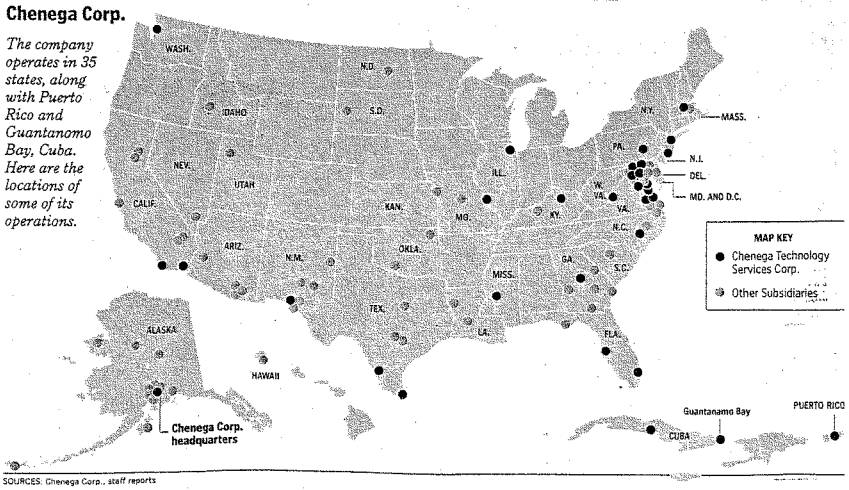
Fast, Efficient, Streamlined Acquisition

- A-76 Direct Conversions
  - ANCs are eligible for A-76 direct conversions with no required cost comparison. {Section 8014, FY98 Defense Appropriations Act, PL105-262}
- No Ceiling on Contract Awards
  - 8(a) ANCs are not subject to $3 Mill limitation on 8(a) sole-source contracts. {FAR10.805-1(b)(2)} {13CFR124.311(b)}
- Sole Source Awards Cannot Be Protested
  - Sole-source awards cannot be protested. {13CFR124.517(a)}.
- SBA Advantages
  - SBA Two-Year-In-Business rule waived for ANCs. {13CFR124.112(c)(6)}

A page from Chenega Technology's January 2003 presentation to the U.S. Customs Service, spelling out some of the advantages Chenega has over other companies.

Chenega Corp.

The company operates in 35 states, along with Puerto Rico and Guantanomo Bay, Cuba. Here are the locations of some of its operations.



SOURCES: Chenega Corp., staff reports

Native Alaskan Firms Get Edge In Contracting

CHENEGA, *From A1*

Chenega Technology Services Corp. is one of more than 200 privately held Alaska Native Corporations permitted to operate as disadvantaged small businesses as part of government efforts to encourage Native American participation in federal contracting. The corporations have benefited from legislation introduced by members of Congress, most prominently Sen. Ted Stevens (R-Alaska), the powerful chairman of the Senate Appropriations Committee.

Alaska Native Corporations can maintain their small-business status, even if their parent companies have millions of dollars in revenue and thousands of employees. They are exempt from the $3 million federal cap on no-bid service contracts that are in place for other minority small businesses. The corporations do not have to be run by Native Alaskans. And they can subcontract much of their work to other firms, but their employees must do at least 50 percent of the work.

Only 33 Alaska natives are among the 2,300 employees who work for Chenega Technology Services, its Anchorage-based parent company and other subsidiaries. The parent company, Chenega Corp., was begun 30 years ago in a remote Alaska village on Chenega Bay in Prince William Sound.

Chenega Technology is headquartered in a glass office building in Alexandria. Its revenue has increased since fiscal 2001, from about $43 million to an estimated $480 million today. This year, Chenega ranks No. 1 on a list in Washington Technology magazine, a Washington Post Co. subsidiary, of the top 25 small businesses getting government information technology contracts, joining seven other Alaska Native Corporations. Last year, Chenega did not make the list.

The trend has prompted some procurement specialists and government watchdog groups to question whether the corporations are really benefiting taxpayers and large numbers of Native Alaskans.

"We've made an affirmative decision that there is a reason to promote these companies, even though the contracts may cost more," said Angela B. Styles, President Bush's point person for federal procurement at the Office of Management and Budget from 2001 to 2003. "I firmly believe in promoting small businesses, but this is different.

"I don't think people realize the extent of what has happened," said Styles, who now represents corporations trying to secure federal contracts. "The problem is that it appears you have a couple of companies that are fronts, and that's not benefiting the native population."

In response to written questions submitted by The Post, Chenega Chief Operating Officer Jeff Hueners called the company an "American success story" that benefits from preferential laws "based upon the trust relationship the United States Government has with its indigenous, aboriginal people." Hueners said about $1 million a year is distributed to the 142 Native Alaskans who hold shares in Chenega Corp. and to educational and cultural preservation programs.

William Bickelman, a procurement analyst and small-business specialist at U.S. Customs and Border Protection, said Chenega is doing an excellent job, with a 94 percent favorable assessment from the agency for its first six months of work. Bickelman praised the no-bid contract for allowing officials to move quickly on a project vital to national security.

He said he was unsure whether Customs officials could have gotten a better price by using competitive bids. But he said he was certain the agency got good value and saved "an enormous amount of government people time" with Chenega.

"There are special rules of engagement that Alaska Native Corporations benefit from, and we took advantage of those benefits," Bickelman said.

In a recent interview, Stevens defended the Alaska Native Corporations, saying the Constitution allows Congress to provide special preferences to Native Americans. The senator said the legal framework he helped to create is geared toward aiding all Native-American-owned companies.

"It's an avenue for minority-type businesses to get experience," Stevens said.

Chenega's Hueners praised Stevens as "instrumental" to the process.

But Danielle Brian, executive director of the nonpartisan Project on Government Oversight, called the contracting preference for Alaska Native Corporations "a total manipulation of people's natural sympathy toward the history of exploited Native Americans to help further the profit-making of a very few."

Brian and other critics contend that procurement procedures designed to ensure that taxpayers get the best possible deals are being subverted and that the benefits go to relatively few oppressed Native Alaskans. "These appear to be shell companies fronting for the same old contractors who have been getting government business all along," Brian said.

Keith Ashdown, vice president of policy at Taxpayers for Common Sense, said allowing Alaska Native Corporations to sidestep procurement rules is "a horrible deal" for taxpayers.

"You are paying more and getting less when you go through a scheme like this," he said. "Any time we see something sole-sourced, they become magnets for mischief."

A Slow Start

Chenega Corp., the parent of Chenega Technology, was formed as an Alaska Native Village Corporation in 1974. Three years earlier, the federal government had settled historical land disputes under the Alaska Native Claims Settlement Act. The act created a network of 13 regional and more than 200 village corporations to handle $962 million and 44 million acres from the federal government. They were also given the right to operate as profit-making businesses.

Chenega Corp. originally had 69 shareholders, some of whom lived in the village of Chenega, which today has about 60 residents and a small boat harbor. It is accessible by floatplanes and a gravel airstrip. The company has 142 shareholders and operates in 35 states and seven countries. Its five-member board of Native Alaskans includes president and chief executive Charles W. Totemoff and three people with the last name Kompkoff. A company official said the Kompkoffs are distant cousins of one another.

The company and its subsidiaries have about 60 contracts, the majority of them no-bid, to supply 17 federal agencies with information technology, security, base operations, intelligence and other services.

In their first 20 years of operation, many of the Alaska Native Corporations struggled, with several teetering on the edge of financial ruin.

Then, in the early 1990s, Stevens and other lawmakers stepped in. Stevens, 81, a senator since 1968, has enormous clout on Capitol Hill as chairman of the Senate Appropriations Committee. He introduced language that changed the Alaska Native Claims Settlement Act in 1992 to enable the corporations to be treated preferentially as small businesses for federal contracting.

Stevens also introduced language that negated, for contracts awarded to corporations owned by Native Americans, a Defense Department requirement of elaborate cost-benefit analyses before government work could be outsourced to private companies.

In 2001, Chenega teamed with another Alaska Native Corporation, Arctic Slope Regional Corp., to win a $2.2 billion information technology contract at the National Imagery and Mapping Agency, now the National Geospatial-Intelligence Agency in Bethesda.

Then Chenega began pursuing homeland security contracts. After the attacks of Sept. 11, 2001, federal agencies began to purchase large gamma-ray machines and other kinds of screening systems to scan cars, trucks and cargo containers for bombs and weapons of mass destruction. In 2002, Chenega officials learned that the U.S. Customs Service was preparing to solicit bids for a $500 million contract to maintain the machines and train agents how to use them, interviews and documents show.

John Emelio, a marketing consultant for Chenega, approached Bickelman, the Customs procurement official. A former official at the Indian Health Service, Emelio had worked with Indian tribes for four decades, in and out of the government.

Bickelman said he listened as Emelio explained that the contract limits for small businesses did not apply to Chenega and that any sole-source award could not be protested.

"A whole new line of thinking emerged," Bickelman recalled in a recent interview. In the wake of the terror attacks, Bickelman said, he was under pressure to award a contract as quickly as possible. "They needed a solution and they needed it fast."

On Dec. 15, 2002, Bickelman convened a meeting of procurement and contracting officials on the 13th floor of the Customs building in Washington. Bobbie Walker, a Customs business manager and technology support official, had never heard of Alaska Native Corporations. Bickelman described Chenega and its special rights.

Walker said it was initially hard for her to believe that Customs could avoid the headaches of competitive bidding for the contract. Walker and other officials called Bickelman the next day and asked to meet with Chenega executives. On Jan. 2, 2003, Customs held a meeting in one of its offices in Lorton to prevent word from leaking to agency colleagues and contractors.

"We snuck them into our place," Walker said.

At the four-hour meeting, Chenega executives presented a marketing book graced with a cover photo of Prince William Sound, framed by glacier-covered mountains. The 49-page book began, "Who is Chenega?"

After describing the history of the company, Chenega officials made their pitch. In response to questions about their ability to do the work, Chenega said it would subcontract some work to an established firm called Anteon International Corp. in Fairfax County.

Customs officials said they spent several weeks examining Chenega's performance on at least six other federal contracts and were told that the company received top marks.

By the end of February 2003, Customs decided to hire Chenega in a no-bid deal. The contract would begin as a one-year arrangement, with an option for up to nine one-year extensions.

'An Alternative Approach'

Several weeks ago, Chenega representatives contacted staff members for Alaskan lawmakers to request a meeting with the Transportation Security Administration. Chenega wanted to persuade the TSA officials to piggyback on the Customs maintenance contract and give Chenega a potentially much larger sole-source contract to maintain TSA's scanning equipment at the nation's airports.

In addition to officials from Chenega, Customs and Border Protection, and the TSA, the Oct. 19 meeting, in the office of Jon DeVore, the chief counsel for Sen. Lisa Murkowski (R-Alaska), was attended by Kate Williams, a Stevens staff assistant. DeVore, who once worked for an Alaska Native Corporation, is a former Stevens staff member.

Several of the senator's former and current staff members have worked directly for or lobbied on behalf of Alaska Native Corporations. Lisa Sutherland, the deputy staff director on the Senate Appropriations Committee, worked as a legislative analyst for the Bristol Bay Native Corp.

Some of Stevens's former aides, including Ronald G. Birch, and Stevens's wife's brother, William H. Bittner, belong to Birch, Horton, Bittner & Cherot, a law firm that the corporations, including Chenega, frequently turn to when they are trying to win contracts, records show. In December, the Los Angeles Times reported on an arrangement in which an Alaska Native Corporation, Arctic Slope, pays $6 million a year to lease space in an office building partially owned by Stevens.

Chuck Kleeschulte, a spokesman for Murkowski, said the goal of the meeting in DeVore's office "was to make sure there was good communication between the two departments." When asked whether Stevens and Murkowski were trying to sway TSA to hire Chenega, he said, "U.S. senators never try to promote an individual company." As for the presence of Chenega at the meeting, Kleeschulte said the idea was simply to give the company a chance to "speak about the possibilities."

Last week, on Nov. 15, TSA announced it was delaying a plan to issue requests for proposals, which would have been a prelude to the bid process. The agency said it had been made aware of "an alternative approach."

Staff researcher Alice Crites contributed to this report.

A8 THURSDAY, NOVEMBER 25, 2004 NATIONAL NEWS THE WASHINGTON POST

At Fort Detrick, a Lesson in No-Bid Contracting

By ELIZABETH WILLIAMSON
Washington Post Staff Writer

When the Army's infectious diseases center at Fort Detrick decided a decade ago that it needed more contract workers to supplement military and civilian staff in its labs, it turned to companies that specialized in such work.

Then last year, those workers were surprised when officials at the Frederick base decided to shift the management of all their contracts to an Alaska Native Corporation whose parent company was best known at home for a failing cruise ship line.

In keeping with federal law granting special preferences to the Alaskan businesses, the new contract was awarded to Goldbelt Raven LLC without competition and could not be formally protested. But that did not stop private protests from many of the contract workers, who include virologists, laboratory technicians and administrative staff members working largely on the government's biological defense programs. Some worried that the company had little experience in biological research; others wondered if citing such an employer in their research papers would raise questions among their scientific peers.

"We work with the worst pathogens in the world," said a senior researcher, who spoke on condition of anonymity for fear of endangering his job. "This is how we're saving money?"

Scientists at the U.S. Army Medical Research Institute of Infectious Diseases work in highly secure containment laboratories and must submit to extensive security screening. After the Sept. 11, 2001, terrorist attacks, demands on the institute increased because of the threat of bioterrorism. The unit led efforts to identify the anthrax strain that was sent through the mail in 2001. Today, researchers work with the Department of Homeland Security, another Detrick tenant, on projects to protect U.S. troops and civilians from biological attack.

Demand for civilian labor is surging in the military. About one-third of the institute's 770 employees are contract workers.

Switching 160 of those workers to one contractor, Goldbelt Raven, was "for the general good," said Michael Younkins, an Army contracting officer involved in the process. "When it comes to meeting our goals for small businesses, it seemed like a really good opportunity."

Though he had never heard of Goldbelt Raven before 2003, Younkins said the company's $40 million, five-year contract was recently renewed for another year and its performance ranked "exceptional."

In mid-2003, in a regular meeting with the companies then representing the civilian employees—including California-based Science Applications International Corp., Anteon International Corp. of Fairfax, GeoCenters Inc. of Massachusetts and Ohio-based Clinical Research Management—Detrick officials said that to cut administrative costs, they would award the contract the firms shared to one company. Several weeks later, it became clear none of them would win.

"Internal issues arose," Younkins wrote in an Aug. 14 memo, and Detrick would turn to an Alaska Native Corporation.

Younkins said he first learned about the "simplicity" of working with Alaska Native Corporations from a Goldbelt Raven employee. A meeting with Goldbelt Raven followed.

Goldbelt Raven, with offices in Chantilly, is a subsidiary of Goldbelt Inc. of Juneau, one of more than 200 native corporations formed under the 1971 Alaska Native Claims Settlement Act. In recent years Goldbelt has created five subsidiaries certified by the Small Business Administration as socially and economically disadvantaged businesses and expanded into government contracting. The parent company has been struggling for most of its history, recently having to sell off its Glacier Bay Cruiseline at a heavy loss.

Goldbelt Raven Vice President Rob Robbins deferred all questions about the parent company to Juneau, except to say that all of Goldbelt Raven's profit returns there.

Some of the Detrick staff chose not to transfer to Goldbelt Raven, according to several staff members. David Jackson, who tested vaccines on animals, retired early. "We were very shorthanded," says Jackson, now 65. "When a man or woman gets that tired, mistakes are made."

Gurjinder Singh, Goldbelt Raven's chief financial officer, said the company worked to avoid such difficulties and that "our success rate for the transition has been exceptional."

Detrick's decision to go with Goldbelt Raven drew praise from Alaska Sen. Ted Stevens (R), who has been a prime mover behind regulations that grant special status to Alaska Native Corporations. "I am pleased that Goldbelt Raven is assisting your efforts to ensure the health and safety of our armed forces," he said in a letter to the infectious disease unit's commanding general, Maj. Gen. Lester Martinez-Lopez.

Goldbelt Raven "asked me to thank [Detrick], so I thanked them," Stevens said in an interview last week.

BY RICKY CARIOTI—THE WASHINGTON POST

Rob Robbins, vice president of Goldbelt Raven, speaks at a conference on bidding for

Corporate Office
1033 North Fairfax Street
Suite 400
Alexandria, VA 22314
Tel: 703.519.9901
Fax: 703.519.9930

6/20/2006

Honorable Tom Davis
Chairman, Government Reform Committee
Via: [redacted]
2157 Rayburn HOB
Washington, DC 20515

Subject: June 21, 2006 Hearings on Alaska Native 8(a) contracting

Dear Mr. Chairman:

I live in the Centreville, VA area. I have worked for one of the Alaska Native 8(a) contracting firms for over 10 years. I hope you will consider my comments for the referenced hearing and submit them for the record.

Our firm, ICRC, was the first operating subsidiary of Koniag Inc. that entered the federal contracting market. We received SBA certification in 1996 and have since graduated from the program. For Koniag and ICRC, I believe the program worked as it was designed. The program is designed to be a "hand up" not a "hand out" and that is what has occurred.

It was nearly three years after certification that ICRC received its first 8(a) contract. We had to show past performance and capabilities before any government customer would trust us with a contract of any notable size. After that, we began to grow and are now able to compete in the open market. We employee over 200 people; over 30 of those in Northern Virginia We are routinely commended by our federal clients on the excellent level of service and value we bring to them.

Back to Koniag. They represent the Kodiak Island region of Alaska and historically they made a living on the high seas fishing for crab, salmon and halibut. You may have seen the popular TV program that shows why it is the most dangerous work in America. What their ownership and management of ICRC has done is better prepare them for the modern business world and this is important because the Alaska fisheries industry is under constant threats from foreign fishing fleets.

Next, ICRC provides job opportunities to Koniag shareholders whenever and wherever possible. It provides dividends which is especially important to those still living in the remote villages where nearly everyone is below the poverty line. Also, ICRC provides scholarship funding to young Koniag shareholders so they can qualify for the jobs that become available.

As the GAO investigation revealed; the ANCs are in compliance with the regulations, their government customers are happy with them and no legislative fixes are recommended. The federal government is the largest, most experienced buyer in the world, which means they know how to negotiate an excellent price even without competition.

Thank you for your consideration of our views.

Sincerely,

Carl Williams
Chief Operating Officer

TEXAS MGT ASSOCIATES, INC.
9107 MARBACH ROAD, SUITE 225
SAN ANTONIO, TEXAS 78245

June 16, 2006

Honorable Tom Davis (VA)
Chairman Government Reform Committee
Via: [redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Chairman Davis,

I submit the following statement for inclusion in the U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record on June 21, 2006, concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

Texas Mgt Associates, Inc. is a small disadvantaged business that employs almost 100 Texas residents. As a corporate partner of Native-owned businesses, we have experienced first hand their ability to develop capabilities and produce and deliver timely, quality, and cost effective products and services. Along with Native Alaskan businesses we have worked to support the United States Air Force with research and testing in different Life Support areas. Accordingly, we know that the Native SBA 8(a) provisions for Native-owned firms have helped these businesses successfully enter and compete in the federal marketplace, regardless of how far those tribes and Alaska Native Corporations are located from major markets or industrial centers.

We believe that the Native 8(a) provisions are rare examples of federal policy successfully advancing federal procurement goals and simultaneously helping build self-sustaining businesses and economies for Native communities. Furthermore, we believe that alone or within mentor relationships with successful government contractors such as ourselves, Native-owned firms are competitive and real assets in the federal marketplace. Congress should continue to help Native-owned firms and preserve the benefits of these Native 8(a) provisions.

On behalf of Texas Mgt Associates, Inc., a native San Antonio business and award winning firm from the SBA, I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. If I may answer any questions or provide further information, please contact me at 210-673-8422.

Sincerely,

Anthony Arevalo
Vice President/COO

PHONE: 210-673-8422 **WWW.T-M-A.COM** **FAX: 210-673-3622**

EnDec
Environmental Decisions, Inc.

June 16, 2006

Honorable Tom Davis (VA)
Chairman Government Reform Committee
Via: [redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Chairman Davis,

I submit the following statement for inclusion in the U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record on June 21, 2006, concerning the Government Accountability Office (GAO) Report, Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).

Environmental Decisions, Inc. is a Service Disabled Veteran Owned Business that was founded almost 25 years ago. As a corporate partner of Native-owned businesses, we have experienced first hand their ability to develop capabilities and produce and deliver timely, quality, and cost effective products and services. Accordingly, we know that the Native SBA 8(a) provisions for Native-owned firms have helped these businesses successfully enter and compete in the federal marketplace, regardless of how far those tribes and Alaska Native Corporations are located from major markets or industrial centers.

We believe that the Native 8(a) provisions are rare examples of federal policy successfully advancing federal procurement goals and simultaneously helping build self-sustaining businesses and economies for Native communities. Furthermore, we believe that alone or within mentor relationships with successful government contractors such as ourselves, Native-owned firms are competitive and real assets in the federal marketplace. Congress should continue to help Native-owned firms and preserve the benefits of these Native 8(a) provisions.

On behalf of Environmental Decisions, Inc., a company that employs San Antonio Residents, I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. If I may answer any questions or provide further information, please contact me at 571-241-3048.

Sincerely,

Joseph E. Milligan, DVM, PhD
Executive Vice President
7800 IH 10 West, Ste 130
San Antonio, TX 78230-4765
Phone: 571-241-3048
Fax: 210-568-6122
Email: endec@att.net

indatatech, inc.

indatatech

Free
Phone
Fax

June 15, 2006

Honorable Tom Davis (VA)
Chairman Government Reform Committee
Via: [redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Chairman Davis,

I submit the following statement for inclusion in the U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record on June 21, 2006, concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

As the owner of a Service Disabled Veteran Owned Business employing many native Texans and a corporate partner of Native-owned businesses, we have experienced first hand their ability to develop capabilities and produce and deliver timely, quality, and cost effective products and services. Accordingly, we know that the Native SBA 8(a) provisions for Native-owned firms have helped these businesses successfully enter and compete in the federal marketplace, regardless of how far those tribes and Alaska Native Corporations are located from major markets or industrial centers.

We believe that the Native 8(a) provisions are rare examples of federal policy successfully advancing federal procurement goals and simultaneously helping build self-sustaining businesses and economies for Native communities. Furthermore, we believe that alone or within mentor relationships with successful government contractors such as ourselves, Native-owned firms are competitive and real assets in the federal marketplace. Congress should continue to help Native-owned firms and preserve the benefits of these Native 8(a) provisions.

On behalf of Instant Data Technologies, Inc. from San Antonio, TX, and myself, a veteran who fought for the United States of America I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. If I may answer any questions or provide further information, please contact me at (210) 344-0012.

Sincerely,

Bede Ramcharan, President

cc: Native American Contractors Association

Mystikal Solutions, LLC

"Bringing Order to Chaos"

June 15, 2006

Honorable Tom Davis (VA)
Chairman Government Reform Committee
Via: [redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Chairman Davis,

I submit the following statement for inclusion in the U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record on June 21, 2006, concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

As a SDV employer of natives of Texans and a corporate partner of Native-owned businesses, we have experienced first hand their ability to develop capabilities and produce and deliver timely, quality, and cost effective products and services. Accordingly, we know that the Native SBA 8(a) provisions for Native-owned firms have helped these businesses successfully enter and compete in the federal marketplace, regardless of how far those tribes and Alaska Native Corporations are located from major markets or industrial centers.

We believe that the Native 8(a) provisions are rare examples of federal policy successfully advancing federal procurement goals and simultaneously helping build self-sustaining businesses and economies for Native communities. Furthermore, we believe that alone or within mentor relationships with successful government contractors such as ourselves, Native-owned firms are competitive and real assets in the federal marketplace. Congress should continue to help Native-owned firms and preserve the benefits of these Native 8(a) provisions.

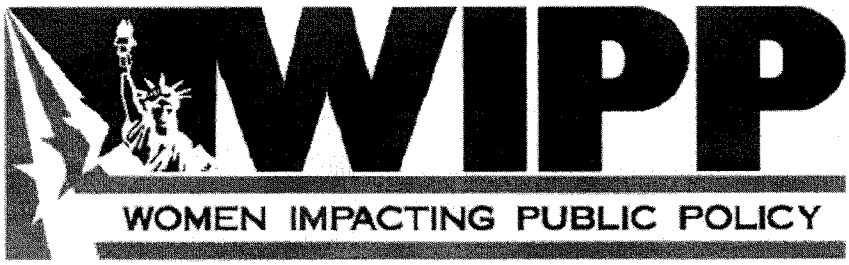
On behalf of Mystikal Solutions, LLC from San Antonio, TX, I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. If I may answer any questions or provide further information, please contact me at (210) 497-1779.

Sincerely,

Bob Bettis, Chief Operations Officer

cc: Native American Contractors Association

www.mystikalsolutions.com
20770 Hwy 281 No., Ste 108, #618, San Antonio, TX 78258-7500
Tel: 210-497-1779 Fax: 210-497-1170



Statement of Ms. Ann Sullivan

On Behalf Of
Women Impacting Public Policy

Submitted to
House Government Reform Committee
House Small Business Committee

"Northern Lights and Procurement Plights: The Effect of the ANC Program on Federal Procurement and Alaska Native Corporations"

June 21, 2006

Good afternoon, my name is Ann Sullivan. I represent Women Impacting Public Policy in Washington DC. Women Impacting Public Policy (WIPP) is a bipartisan women's business organization representing over 550,000 women and minorities nationwide. WIPP's umbrella includes 42 business organizations as well as individual members. Thank you for inviting WIPP to testify today.

As background, 10.6 million women-owned firms in the United States employ one out of seven employees in this country and generate $2.5 trillion in sales. Yet, the federal government has awarded only 3% of its contracts to women-owned companies as of 2004. Although the Congress set a 5% women-owned goal for the agencies, they have never met that goal. In addition, Public Law 106-554, which would allow contracting officers to restrict competition to women-owned firms, has yet to be implemented. That law was enacted in the year 2000.

For the past several years, WIPP members have felt the competitive pinch of increased federal programs for non-women-owned businesses. We have also felt the effects of contract bundling. Despite the President's initiative in 2002 which clearly stated that unbundling of contracts was a priority of this Administration, the trend has proven otherwise. In 2002, the Office of Management and Budget (OMB) reported that for every $100 awarded on a bundled contract, there is a $33 decrease to small businesses. They went on to say, that because these types of contracts "run longer and encompass a greater scope, competition is reduced in terms of frequency and number of opportunities" for small businesses.

Despite strong evidence that bundling is not good for small business or the government, a 2004 Government Accountability Office (GAO) Report No. 04-454 "Impact of Strategy to Mitigate Effect of Contract Bundling on Small Business is Uncertain" shows that federal agencies are confused over what constitutes "contract bundling" which results in poor accountability and disparity in reporting. While 928 bundled contracts were captured in the Federal Procurement Data System (FPDS), only 24 of those contracts were reported to the GAO.

According to a 2005 SBA Office of Inspector General Audit, the SBA reviewed only 13% of bundled contracts reported by the agencies (28 out of 220). The 192 bundled contracts not reviewed amounted to $384 million. SBA cited a lack of resources in reviewing the bundled contracts. With the retiring workforce and the decrease in the number of procurement officials, contracts have generally become larger and less accessible to small businesses.

The agencies have a challenge—meeting their small business requirements with larger contracts. One solution, according to the GAO report which is the subject of this hearing, is for procuring agencies to set aside the procurements under the 8(a) program for tribally owned enterprises, including Alaska Native Corporations (ANC s).

However, WIPP's members have lost opportunities to ANCs, both at the prime contract level and at the subcontract level. That is because they are not subject to the same affiliation rules and competitive thresholds to which other businesses participating in the 8(a) program adhere. Specifically, 8(a) businesses can receive sole source contracts for up to $5 million for manufacturing or $3 million for other contracts. In contrast, the ANCs have no threshold. For other 8(a) companies, procurements must be

competed whenever possible before being accepted on a sole-source basis, but procurements can be sole sourced to ANCs without the need to be competed. Neither are ANCs subject to the same small business affiliation standards as other small businesses.

It seems to us that Congress should consider treating all participants in the 8(a) program equally, and they should all adhere to the same rules. Perhaps this is not the right program for the ANCs and similar organizations, since the 8(a) program is a business development program but the ANC program is an economic development program for communities. While the economic goals for the ANCs seem appropriate, trying to fit them into the 8(a) program is like trying to fit a square peg in a round hole.

In the absence of Congressional changes in the 8(a) program, WIPP believes that the challenge is to find a way whereby the ANCs and tribes can coexist with the other women and minority owned small businesses. We believe that the following recommendations, which strengthen all programs, would be a helpful step forward:

1. Establish a subcontracting requirement for very large contracts -- such as $20 million awarded sole source to ANCs or tribes -- able to receive a sole source contract under small business programs;
2. Strengthen the 8(a) program for all participants by increasing the competitive thresholds and the personal net worth level which has not been changed since 1989.
3. Provide SBA with the tools necessary to review solicitations being placed into the 8(a) program to determine adverse impact on other 8(a) companies or other small

business programs. SBA is currently doing such analysis, but lacks the resources to do it in all instances.

WIPP members understand that although ANCs benefit from contract bundling and procurement workforce staffing issues, ANCs are not the source of these problems. Nor do ANCs dominate the overall small business market. In fact, their $1.1 billion in 8(a) contract dollars during 2004 is a fraction of the $69.2 billion awarded to all small business. The GAO report sheds light on contracting problems affecting all small businesses and SBA's lack of resources and staff to implement good oversight of the 8(a) program.

The goal should be for all groups to work together to increase the amount of awards to small businesses, regardless of race, ethnicity or gender, and to implement a meaningful women's business program. If the small business community moves forward collectively to increase the source of supply to the federal government, the result will be a stronger America.

Honorable Tom Davis
Chairman, Government Reform Committee
Via: [redacted]
2157 Rayburn HOB
Washington, DC 20515

6/14/2006

Subject: June 21, 2006 Hearings on Alaska Native 8(a) contracting

Dear Mr. Chairman:

I work in a leadership position at a Northern Virginia based Alaska Native-Owned 8(a) company. I am a Service Disabled Veteran and have been in the federal contracting industry for the past 11 years. Please take the time to read this letter and consider the information as appropriate for the hearing referenced in the subject line.

The firm I lead, Koniag Services, Inc. (KSI) provides information technology planning and integration services and solutions for the Bureau of Indian Affairs (BIA) and for the National Guard Bureau (NGB). These solutions and services 'high-end' – we provide sophisticated web-based solutions that the NGB is implementing nationwide and that are being considered for use by DHS, FEMA, OSD, and certain large municipalities. For the BIA we work directly for the Chief Information Officer, assisting him to accurately plan and substantiate information technology investments. In sum, KSI is building the 'legs' of a company that will thrive beyond the limitations of its 8(a) status – we are using the 8(a) program as it is intended – to provide advantages for a short time to allow a company to build enduring success.

KSI's recent report to the Alaskan Small Business Administration included information revealing that in the past quarter KSI has submitted 6 competitive proposals - we do not rely on the sole-source advantages that our Alaska Native-Owned 8(a) status allows. Instead, we build partnerships with other disadvantaged and small businesses with the same focus on integrity and client service, and collaborate to provide solutions that clients value.

Using government set-aside programs has, and will continue to encourage entrepreneurism and competition by creating new companies who will continue to present creative solutions for the government, at competitive pricing. I suggest that the weight of your Committee might better applied to the large contractors such as Lockheed Martin, Northrup Grumman, SAIC, Booz Allen, and others. The abuses these firms consistently foment on small and disadvantaged firms are numerous and severely restrict their growth.

Government program managers need an avenue to rapidly award contracts. The procurement process is extremely lengthy and onerous. In situations where the scope and scale of services being procured are totally foreseeable – IT technical support or help desk services for example – the process may be appropriate. However, it situations where the need is critical and immediate, a rapid sole-source avenue to award is necessary. Making it possible for small disadvantaged businesses to step up and meet these critical needs is not only a proper use of sole-source authority, but it also serves the dual purpose of providing the government what it needs and assists the growth of a small disadvantage businesses.

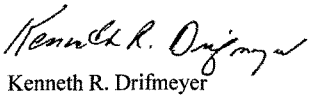
I suggest that you may also want to keep in mind the innate biases that many government program managers and contracting officers have against disadvantaged businesses. Due to recent incomplete and inaccurate media attention, Alaska Native-Owned firms have been a particular target and some overworked government contracting staff have chosen not to research the facts, but developed their biases from these inaccurate stories. During many marketing visits or procurement conferences I've heard contracting officers express the blanket opinion that "small disadvantaged businesses can't do this work." Such opinions are expressed without substantiation or research. Instead they are the result of reductions in government contracting staffs, with the subsequent result that they are overworked and will take the easy path – awarding to a mega-contractor. Mega-contractors abuse of their small disadvantaged subcontractors and overwork of government procurement staffs combine to exacerbate the difficulties faced by small disadvantaged businesses.

It is extraordinarily difficult to start and successfully grow a small business. Competition for talented employees is extreme and recruiting is a constant and expensive activity. Competing successfully against much larger firms with the very deep pockets to afford many marketing calls and business development activities as well as sophisticated and expensive internal proposal development operations is very difficult. Alaska Native Owned 8(a) firms, as well as other small disadvantaged firms need the currently provided sole-source advantages to enable them to compete. Removing those would reduce competition, stifle entrepreneurship, and reduce the opportunity for ANC's to continue to provide a dividend to our Alaska native shareholders.

KSI is owned by the Koniag regional corporation, whose shareholders are primarily on Kodiak Island in the Gulf of Alaska. Historically they've made a living fishing seasonally for crab, salmon and halibut. This is extremely dangerous work. The work of KSI and all of the Koniag 'family' firms has provided shareholders with educational opportunities through the Koniag Education Foundation, with free computers and software, and with employment opportunities nationwide.

The recent GAO investigation clarified that ANCs are in compliance with the regulations. They provide solutions and services valued by their clients. The government remains in control and can cancel contracts at will if any contractor's performance is inadequate, and negotiations on price are an integral element of sole source contracts. The contracting advantages of Alaska Native-Owned 8(a) firms serve the government and the shareholders and must be preserved.

Sincerely,



Kenneth R. Drifmeyer
President & CEO, Koniag Services Inc
Dir: 703 488 3484, Mob: 703 362 4789
kdrifmeyer@ksikoniag.com

Corporate Office
1033 North Fairfax Street
Suite 400
Alexandria, VA 22314
Tel: 703.519 9901
Fax: 703.519 9930

6/14/2006

Honorable Tom Davis
Chairman, Government Reform Committee
Via: [redacted]
2157 Rayburn HOB
Washington, DC 20515

Subject: June 21, 2006 Hearings on Alaska Native 8(a) contracting

Dear Mr. Chairman:

I am a constituent and campaign supporter of yours. I live in the Mount Vernon area. I also work for one of the Alaska Native 8(a) contracting firms. I hope you will consider my comments for the referenced hearing and submit them for the record.

Our firm, ICRC, was the first operating subsidiary of Koniag Inc. that entered the federal contracting market. We received SBA certification in 1996 and have since graduated from the program. For Koniag and ICRC, I believe the program worked as it was designed. The program is designed to be a "hand up" not a "hand out" and that is what has occurred.

It was nearly three years after certification that ICRC received its first 8(a) contract. We had to show past performance and capabilities before any government customer would trust us with a contract of any notable size. After that, we began to grow and are now able to compete in the open market.

Without the intimate experience of the 8(a) program, as a lifelong Republican (even worked at the RNC) I would most likely be suspect of the entire notion of "side aside" programs. I think that is where you tend to come down on this issue. What I realized from the program however, is that this actually saves tax dollars by constantly spawning new companies to compete for government work. If we do not help grow small companies that can compete in the federal marketplace, then we might as well just let Lockheed, NG and Boeing run the whole the government for us. Speaking of Republicans, remember, President Nixon initiated the 8(a) program and the Indian Self Determination policy that promoted self sufficiency.

One place the government did make a mistake is allowing the contracting shops in the government to be downsized. For that reason, agencies want to bundle contracts into very large procurements because they do not have the manpower to manage more than a few.

That means only the very large primes can be successful. Subcontracting goals and plans the primes give the government are, for the most part, a joke. They do not want to sub out work unless it is very low level, menial work. More federal contracting personnel would allow for more small businesses to participate, which would create more competition, which means the taxpayer gets the most for their dollar.

Back to Koniag. They represent the Kodiak Island region of Alaska and historically they made a living on the high seas fishing for crab, salmon and halibut. You may have seen the popular TV program that shows why it is the most dangerous work in America. What their ownership and management of ICRC has done is better prepare them for the modern business world and this is important because the Alaska fisheries industry is under constant threats from foreign fishing fleets.

Next, ICRC provides job opportunities to Koniag shareholders whenever and wherever possible. It provides dividends which is especially important to those still living in the remote villages where nearly everyone is below the poverty line. Also, ICRC provides scholarship funding to young Koniag shareholders so they can qualify for the jobs that become available.

Attached is a document on the ANC 8(a) benefits that might have been submitted by others as well.

As the GAO investigation revealed; the ANCs are in compliance with the regulations, their government customers are happy with them and no legislative fixes are recommended. The federal government is the largest, most experienced buyer in the world, which means they know how to negotiate an excellent price even without competition.

Thank you for your consideration of our views.

Sincerely,

Jim Lexo

Anchorage Office • 3900 C Street • Suite 801 • Anchorage • Alaska 99503-5963 • (907) 339-6000 • FAX (907) 339-6028 • 1-800-770-2772

arctic slope regional corp.

June 16, 2006

Honorable Donald Manzullo (IL)
Chairman Small Business Committee
via: [redacted]
2361 Rayburn House Office Building
Washington, DC 20515

Honorable Nydia Velazquez (NY)
Ranking Member Small Business Committee
via: [redacted]
B343-C Rayburn House Office Building
Washington, DC 20515

Honorable Tom Davis (VA)
Chairman Government Reform Committee
via: [redacted]
2157 Rayburn House Office Building
Washington, DC 20515

Honorable Henry A. Waxman (CA)
Ranking Member Government Reform Committee
via: [redacted]
B350A Rayburn House Office Building
Washington, DC 20515

Dear Chairmen and Ranking Committee Members:

On behalf of Arctic Slope Regional Corporation ("ASRC"), thank you for the opportunity to present the following written testimony, for inclusion in the June 21, 2006, U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399)*.

ASRC – Who We Are: ASRC is the largest of the 13 Alaska Native Regional Corporations, created by Congressional mandate under the Alaska Native Claims Settlement Act [43 USCA §1601 et seq.]. ASRC's nearly 9,500 shareholders are Inupiat (Eskimo) Natives of the northern most region of Alaska – one of the coldest and most remote areas on earth where 300 days a year the temperature is below freezing. ASRC has been charged by Congress with the task of providing economic development for our shareholders, which includes providing them with income, educational opportunities, jobs, career skills and training.

How ASRC Shareholders have benefited from the 8(a) Program: ASRC and its shareholders, like many of the Alaska Native Corporations ("ANCs"), have benefited from participating in the SBA 8(a) Program. The 8(a) Program has helped build our governmental revenue base and diversify our overall industry portfolio. The 8(a) Program has been particularly helpful to ASRC because federal contracting can occur anywhere in the United States and abroad and is not limited to the Arctic Slope Region, where more than half of our shareholders reside, thousands of miles away from major markets or industrial centers. The 8(a) provisions that are unique to ANCs and Tribes are

Corporate Headquarters • P.O. Box 129 • Barrow • Alaska • 99723-0129 • (907) 852-8533 or (907) 852-8633 • FAX (907) 852-5733

essential because, unlike other small businesses that are owned by and benefit a few individuals, ANC and Tribally owned 8(a) businesses generate revenue and benefits for hundreds and thousands of tribal members or shareholders who are their ultimate owners. The Native 8(a) provisions have resulted in just what Congress intended, facilitation of Native communities' economic diversification and self-determination while fulfilling governmental obligations to American citizens. ANC participation in the 8(a) Program also contributes to the development of new competition and efficiencies for the few large businesses that dominate certain procurement markets by diversifying the pool of suppliers. When our companies graduate from the 8(a) Program, they are better positioned to succeed in full and open competition for government contract awards within their respective markets.

ASRC is proud of the increased business capabilities and skills our shareholders have gained through the active participation of our subsidiary companies in the 8(a) Program. From 1999 to 2004, ASRC funded $5.3 million in scholarships to shareholders and descendants and paid $6.9 million in dividends to its shareholders. In 2004 alone, ASRC funded $750,000 in local shareholder assistance programs for medical related travel or funeral expenses and elder's programs; a significant portion (approximately one-third) of all the foregoing benefits can be traced to revenues generated from our 8(a) companies. Through the 8(a) Program we know we are building self-reliant communities for future generations that will end the centuries long cycle of Native poverty and economic dependence on the federal government.

A prime example of how the 8(a) Program directly benefits individual Native Americans can be found in ASRC shareholder Roberta "Bobbi" Quintavell. Bobbi obtained funding for her college education from Arctic Education Foundation, ASRC's non-profit affiliate. She then worked as an ASRC management intern to gain essential business experience before taking an executive position in subsidiary management. Three years ago, Bobbi's hard work and ingenuity brought her to the Presidency of ASRC Constructors, Inc. ("ACI"), an ASRC 8(a) company. Recently Bobbi was promoted to the President and Chief Executive position of the newly formed ASRC Construction Holding Company, LLC that will oversee ACI and a number of other non-8(a) construction entities. Bobbi's demonstrated leadership has also earned her a position on the ASRC Board of Directors where she co-chairs the ASRC Board Audit Committee. Bobbi is a living example of how the 8(a) Program is helping ANCs to nurture and harness the career development potential of their Native shareholders.

We Do Excellent Work For Fair Value: ASRC owns and manages eight (8) subsidiary companies that actively participate in the 8(a) Program. Our subsidiaries provide excellent service at fair value to the agencies they serve. We do top quality work and many of our 8(a) companies have received industry awards and agency commendations, including the following: consistently achieved "exemplary" ratings from NASA; BEALE Site Awards such as Key Contractor Contributor to Team Beale's Installation Excellence Award; 21st Space Wing Operational Group's Top Operator Maintenance & Supply Contractor; 100%X2 award fee (highest ever in history);

"Excellent" rating by Air Force Space Command Inspector General's Site Compliance Inspection; and 21 SW "Gold Knight" Team Award for outstanding contractor support.

ASRC Subsidiary Recognition & Awards: Specific examples of ASRC government contracting subsidiary recognition and awards include the following:

ASRC Aerospace Corporation -- NASA and Space Industry Awards

- 2006 Florida Space Authority – Florida Space Business Award
- 2005 Scientific & Technical Information Center – Federal Library of the Year Award (ASRC Aerospace provides 60% of staff)
- 2004 NASA Kennedy Space Center (KSC) Small Disadvantaged Business Contractor of the Year
- 2004 ISO 9001:2000 Registration at both Greenbelt Maryland and NASA Goddard Space Flight Center locations

ASRC Communications, Ltd.

- AFOTEC rated ASRC Communications Ltd., as "Outstanding" (5 on a scale of 1-5) on all items performed under a $3 million contract, including quality and timeliness of service, business relations, customer satisfaction and overall performance

Arctic Slope Airfield & Range Services (ASARS) -- U.S. Army Written Commendations

- From Headquarters, Multi-National Force, Iraq, a letter written by U.S. Army Colonel John C. Hudson, stating that ASARS team's training efforts would "...positively impact enhanced infrastructure security...and the delivery of goods and services to the citizens of Iraq..." The letter goes on "... the ASARS management staff has proven to be a valuable nation-building partner and team member that has been integral to implementing the United States Government's goals and objectives in this most troubled region of the world." He concludes by saying, ***"[ASARS] team and corporate partnering and responsiveness in a timely, efficient, and professional manner...has resulted in a flawlessly executed contact... "***

- Written commendation by U.S. Army Colonel Richard Lexvold, states that in the "...ongoing effort of the Iraqi populace to achieve independence [ASARS is to be commended for its] willingness to go beyond the normal; to face great risks and yet provide a quality program to train Iraqi guards." He ends his letter by making the sterling commendation that ASARS's "...management, operation and site team members have proven to be a valuable force... As a partner to this process implementing campaign plan goals and objectives ***ASARS has shown that it is a company that can be relied upon to complete agreed upon statement/scope of work related tasks in a timely, efficient, and professional manner. ASARS has much to be proud [of] in the completion of this project and I would highly recommend your team for future projects.***"

Draft Report by the Special Inspector General for Iraq Reconstruction (SIGIR): On April 28, 2006, the Special Inspector General for Iraq Reconstruction (SIGIR) released an Audit Report concerning certain Task Force Shield contracts. One of the contracts addressed in that report was a contract involving the building of a training facility for, and subsequent training of, Electrical Power Security Service (EPSS) guards that was held by Arctic Slope Airfield & Range Services (ASARS), an ASRC 8(a) company.

ASARS strongly believes that certain conclusions in the report concerning the EPSS contract are incorrect and/or based on incomplete or inaccurate information. ASARS has requested and obtained a meeting with SIGIR officials to address ASARS's concerns. ASARS has provided the SIGIR with additional documentation concerning the issues raised in the report which ASARS believes will resolve the issues discussed in the report. ASARS appreciates the SIGIR's willingness to consider this information, and remains firm in its belief that there have been no shortcomings, intentional or otherwise, in ASARS's performance of the EPSS contract. In fact, ASARS's construction, management and training performance prompted U.S. contracting representatives to dub the facility an "Iraqi Security Training Center of Excellence". Today, the training facility remains in use to prepare Iraqis in counterinsurgency techniques.

ASRC Urges Committee Support of the 8(a) Program for ANCs & Natives: In assessing both the SIGIR Audit Report and the GAO Report on ANC 8(a) Program participation, ASRC requests the Committee to disregard distorted media hype and look at the actual record of ASARS's strong performance in Iraq and the ANC's overall positive performance in the 8(a) Program. ASRC further notes that the GAO Report did not find ANC abuses. GAO indicated that SBA needs to exercise greater oversight over the 8(a) Program as it applies to ANCs so the program functions more effectively to accomplish what Congress intends: economic development for disadvantaged Natives. ASRC concurs. Congress should preserve the benefits of the Native 8(a) provisions as a significant method for reaching the desirable goal of Native economic self-sufficiency.

On behalf of ASRC and its nearly 9,500 Inupiat citizens, I respectfully urge you to continue supporting the SBA 8(a) Program and Native provisions. If I may answer any questions or provide further information about the content of this written testimony, please contact me by e-mail at: aupicksoun@asrc.com or telephone: 907.339.6000.

Sincerely,

ARCTIC SLOPE REGIONAL CORPORATION
An Alaska corporation

Alma M. Upicksoun
V.P. & General Counsel

cc: Congressional Delegation
Native American Contractors Association

Austin, Teresa

Nothing Attached

From: Karl Lehr [redacted]
Sent: Saturday, June 17, 2006 6:35 PM
To: [redacted]
Cc: [redacted]
Subject: GAO Report

Honorable Tom Davis (VA)
Chairman Government Reform Committee
Via: Teresa.Austin@mail.house.gov
2157 Rayburn House Office Building
Washington, DC 20515

June 17, 2006

Dear Chairman Davis:

I submit the following statement for inclusion in the June 21, 2006, U.S. House of Representatives' Small Business Committee and Government Reform Committee joint hearing record concerning the Government Accountability Office (GAO) Report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight (GAO-06-399).*

As you may know, the Native SBA 8(a) provisions are a rare example of federal policy promoting Native American government-to-government participation in the federal marketplace successfully. The 8(a) program has helped tribal communities build our governmental revenue base, diversify our economies and provide jobs, education, and services and community-wide benefits to a group of Americans historically far less able to access the American dream. The 8(a) program has been particularly helpful to those tribes and Alaska Native Corporations that are located far away from major markets or industrial centers because federal contracting can occur anywhere in the United States and abroad.

The Native 8(a) provisions have resulted in just what the Congress intended – facilitation of Native communities' economic diversification, self-determination and the ability to fulfill our governmental obligations to our citizens. The program has also been a good bargain for taxpayers by giving Native American companies a foot in the door in certain industries. It contributes to the development of new competition and efficiencies for the few large businesses that dominate certain markets by diversifying the pool of suppliers. We are proud of our increased business capabilities. We know we are building self-reliant communities for future generations. Congress should preserve the benefits of these Native 8(a) provisions.

On behalf of the citizens of the Kake Tribal Corporation, I respectfully urge you to continue supporting the SBA's Native 8(a) Program and Native provisions. If I may answer any questions or provide further information, please contact me at [redacted].

Sincerely,

Karl F. Lehr,
General Manager
Kake Tribal Corporation

cc: Congressional Delegation (Alaska)
Native American Contractors Association

the National Center for American Indian Enterprise Development

Board of Directors

Ronald J. Salmon (Laguna Pueblo)
Chairman

Kenneth E. Robbins (Sioux)
President

S. Timothy Wapato (Confederated Colville)
Vice Chairman

Urban L. Giff (Pima)
Treasurer

Joel Frank, Sr. (Seminole)
Secretary

A. David Lester (Creek)
David A. Powless (Oneida)
Derrick Watchman (Navajo)
Don Kelin (Caddo)
Ernest L. Stevens, Jr. (Oneida)
John Echohawk (Pawnee)
Larry Kinley (Lumme)
Mel Twist (Cherokee)
Michelle L. Garcia (Iowa of OK)
Raymond C. Brown (Washoe)

National Resource Council

Altria Group, Inc.
American Express
Arizona Public Service Company
AT&T
Bank of America
Bank One
ChevronTexaco
Cisco Systems, Inc.
Coors Brewing Company
Federated Department Stores, Inc.
Flintco, Inc.
Ford Automotive Operations
Hilton Hotels Corporation
Home Depot
Honda of America Mfg, Inc.
IBM
JPMorgan Chase
KeyBank
Lockheed Martin Aeronautics Company
Marriott International, Inc.
Mashantucket Pequot Tribal Nation
Motorola, Inc.
Nordstrom
Northrop Grumman Corporation
PCL Construction Enterprises, Inc.
Raytheon Company
Salt River Project
Sempra Energy
Southern California Edison
Southern California Gas Company
Southwest Gas Corporation
St. George Tomoq Corporation
TAMSCO
Time Warner
The Boeing Company
The Coca-Cola Company
The Walt Disney Company
Toyota Motor Sales, U.S.A., Inc.
Turner Broadcasting System, Inc.
UPS
US Bank
Washington Mutual
Wells Fargo Bank

STATEMENT

OF THE

NATIONAL CENTER FOR AMERICAN INDIAN ENTERPRISE DEVELOPMENT

FOR THE

JOINT OVERSIGHT HEARING

OF THE

HOUSE COMMITTEE ON GOVERNMENT REFORM

AND

HOUSE COMMITTEE ON SMALL BUSINESS

ON

JUNE 21, 2006

National Center Headquarters
953 East Juanita Avenue
Mesa, AZ 85204
(480) 545-1298
Fax: (480) 545-4208

Northwest Region
3327 N.E. 125th St., Ste. 101
Seattle, WA 98125
(206) 365-7735
Fax: (206) 365-7764

Pacific Region
11138 Valley Mall, Suite 200
El Monte, CA 91731
(626) 442-3701
Fax: (626) 442-7115

Southeast/Midwest Region
86 South Cobb Drive, MZ0510
Marietta, GA 30063-0510
(770) 494-0431
Fax: (770) 494-1236

STATEMENT OF THE
NATIONAL CENTER FOR AMERICAN INDIAN ENTERPRISE DEVELOPMENT
FOR THE
JOINT OVERSIGHT HEARING
OF THE
HOUSE COMMITTEE ON GOVERNMENT REFORM
AND THE
HOUSE COMMITTEE ON SMALL BUSINESS
ON
JUNE 21, 2006

The National Center for American Indian Enterprise Development ("NCAIED") is pleased to present this testimony for the Joint Oversight Hearing on government contracting activities of Alaska Native Corporations under Section 8(a) of the Small Business Act and the April 2006 report issued by the Government Accountability Office entitled "Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight" (GAO-06-399) (the "GAO Report").

Formed in 1969 as a non-profit 501 (c)(3) organization, the NCAIED has evolved into a network of centers that provide technical assistance and business development and management consulting services primarily to Indian Tribes, Alaska Native Corporations ("ANC"), Native Hawaiian Organizations, and businesses owned by Native Americans, Alaska Natives, and Native Hawaiians nationwide. It is the longest serving Indian business development assistance provider, having begun offering its services over 35 years ago as the United Indian Development Association. In fact, UIDA presented significant testimony at two important oversight hearings back in 1987 on the "Indian Financing Act and Buy Indian Act" and in 1988 on "Barriers to Indian Participation in Government Procurement Contracting."

It is essential that this Joint Hearing record include the historical foundation of the special 8(a) provisions at issue here, so that the Committees are mindful of the barriers and other issues that have prevented and still hinder economic development and diversification activities in our Native communities across the United States. This testimony reviews this background, comments briefly on the GAO Report, and makes several recommendations for future action.

Earlier Oversight Hearings on Indian Business Development

The NCAIED has always been instrumental in spurring the progress of Native businesses, particularly in the procurement arena. Its leadership supported the 1986 amendments to Section 8(a) that made Tribes eligible for the program, and was called upon to testify at subsequent 1987 and 1988 oversight hearings of the Senate Indian Affairs Committee. At the February 1988 oversight hearing on "Barriers to Indian Participation in Government Procurement Contracting," several Indian business leaders urged enactment of additional 8(a) provisions to assist contracting companies owned by Tribes and American Indian and Alaska Native individuals ("AI/AN") whose growth lagged far behind that of other groups. AI/AN businesses totaled 14,843 and generated gross receipts of just $646.7 million. *See* Oversight Hearing on "Barriers to Indian Participation in Government Procurement Contracting," Senate Select Committee on Indian Affairs, 100th Cong. 2d Sess. 80 (1988). These numbers represented only 1.8% of the

total number of small businesses, and with a mere 1.4% in gross receipts of all minority-owned businesses, combined. Comparative figures showed: 248,141 Hispanic-owned companies with gross receipts of nearly $15 billion; 339,239 African American-owned firms with gross receipts of $12.4 billion; and 240,799 firms owned by Asian American and other minorities with gross receipts of nearly $17.3 billion. *Id.* To reach parity with these other groups on a per capita basis, it was estimated that a 4,000% increase in Native business ownership would be needed. *Id.*

Ronald Solimon, now Chairman of NCAIED's Board of Directors, testified at the 1988 hearing as then CEO of Laguna Industries, Inc. about his collaboration with Raytheon Corporation, the Department of Defense ("DOD") and the Small Business Administration ("SBA"). Under a Memorandum of Understanding among Laguna, DOD and SBA, Laguna Industries was permitted to joint venture with Raytheon, and receive award of a DOD contract. So successful was this model that Mr. Solimon recommended that the Congress amend Section 8(a) to authorize 8(a) companies owned by Tribes or ANCs to joint venture with companies that could mentor them along the way.

The low level of federal (particularly defense) contract awards to Native-owned firms greatly concerned then Committee Chairman Daniel K. Inouye. He emphasized that "directing [the] purchasing power [of the U.S. Government] to accomplish social goals such as assisting disadvantaged members of society is well established" and acknowledged that "unfortunately, . . . this public policy goal has not been achieved with respect to the participation of businesses owned by [N]ative Americans." *Id.* at 2.[1] In keeping with federal Indian policies, he acknowledged that it is Native groups' "common trust relationship with the United States" that "allow[s] the Congress to legislate unique benefits and treatment for the Native Americans." *Id.*

Responding to these recommendations, the Congress passed the Business Opportunity Development Reform Act in late 1988 (as well as amendments authored by Congressman Rhodes in 1990) that added the special provisions in Section 8(a) now applicable to companies owned by Tribes and ANCs. Congress included these special 8(a) provisions recognizing that Tribes and ANCs, as representative organizations, are responsible for generating continuing income and jobs for and improving the livelihood of hundreds or thousands of tribal members and Native shareholders.

In parallel action in 1988, the Congress also amended the Procurement Technical Assistance Centers Program to target assistance to Indian Country. It authorized creation of American Indian PTACs, or AIPTACs, designed to serve multiple Bureau of Indian Affairs areas. Many of these AIPTACs now operate within the network of the NCAIED's centers, and help Native-owned companies learn how to navigate the complex federal procurement marketplace using the 8(a) program and other procurement and business development tools available to them.

---

[1] The public policy referenced in Chairman Inouye's 1988 statement derives from the U.S. Constitution's grant to Congress of the power "to regulate Commerce . . . with the Indian Tribes." Article I, § 8, ¶ 3. This Constitutional provision, and its interpretation in subsequent landmark Supreme Court decisions, gave rise to the federal government's special political relationship with and trust responsibilities to the Tribes. *See* Cherokee Nation v. Georgia, 30 U.S. 1 (1831); Worcester v. Georgia, 31 U.S. 515 (1832). Thus Congressional enactments bestowing special rights to Tribes and ANCs are based on this political relationship and trust obligation, not on a racial classification designed to remedy past racial discrimination.

NCAIED and Indian Business Development Today

For over 35 years, the mission of NCAIED, to *develop the American Indian private sector*, has been fulfilled through its headquarters and supporting non-profit centers across the country. Unlike the Small Business Development Centers, the NCAIED related centers have always targeted their services and other assistance to Tribes and individual Native entrepreneurs seeking to form or expand existing business ventures. Specifically, the NCAIED mission is fulfilled through federal cooperative agreements performed by:

- Five American Indian Procurement Technical Assistance Centers ("AIPTACs") funded by the Defense Logistics Agency, Department of Defense ("DOD");
- Three Native American Business Enterprise Centers ("NABECs") funded by the Minority Business Development Agency ("MBDA"), Department of Commerce; and
- A Tribal Technical Assistance Program funded by the Department of Transportation.

These centers operate in the following locations: Mesa, Arizona and El Monte and El Segundo, California serving the Southwest area; Seattle, Washington assisting the Pacific Northwest area and part of Alaska; Polson, Montana, serving the Northern Plains area; Denver, Colorado, serving states south of the Plains area; Marietta, Georgia through UIDA Business Services serving the Southeastern area; and Washington, D.C. through UIDA's service to the Northeastern area. These centers help the DOD, MBDA, SBA, the General Services Administration, and other federal agencies in implementing many programs, including the Mentor Protégé programs, the HUB Zone Program, the 5% Indian Incentive Program, Electronic Commerce/Electronic Data Interchange and myriad other defense requirements. The centers also provide training on how to register electronically with the Federal Government, how to identify marketing opportunities and market goods and services, and how to navigate various procurement requirements (including the acquisition of commercial products). More general business services include helping companies develop business plans, secure financing, find business partners, learn the federal procurement ropes, apply for 8(a) program certification, market their capabilities, identify contracting opportunities, prepare proposals, and win contracts.

In addition to their existing responsibilities, the NCAIED's centers are implementing new procurement assistance projects, such as a web portal, a call center, and an information clearinghouse of federal and private sector information on economic development and procurement opportunities for Tribes, ANCs, and individuals who are American Indians, Alaska Natives, and Native Hawaiians. With greater numbers of defense and homeland security procurement actions, and the corresponding increase in demands for procurement technical assistance from AIPTACs, the NCAIED and its supporting centers are playing vital roles in promoting greater use of contracting companies owned by Tribes, ANCs, and other Native entities and entrepreneurs.

As the above-mentioned cooperative agreements require the recipient organization to match the federal dollars with a significant amount (as high as 25 percent) of private funding, the NCAIED generally raises nearly 50 percent of its own funds. In addition to client work under these

cooperative agreements, the NCAIED produces various events that train, promote and market Indian enterprises to the public and private sectors. One such event is the phenomenally successful Reservation Economic Summit & American Indian Business Trade Fair. At RES 2006, over 2,300 individuals and 300 exhibitors attended, including Tribes, ANCs, federal and other government procurement officials, and corporate and Native business representatives.

The NCAIED estimates that its operations have assisted approximately 80% of the Tribes in the lower 48 states and more than 25,000 Native enterprises, and have trained over 10,000 tribal members trained. Furthermore, due to its centers' bid matching and other business assistance efforts, as well as the networking opportunities produced at the RES and other similar conferences, NCAIED clients have received over $1 billion in contract awards (translating to over 20,600 jobs) over the last 4 years.

The results of all these efforts demonstrate real progress. The U.S. Census Bureau reported in 1997 that its data (thought incomplete) showed 197,300 AI/AN-owned businesses in the United States, up 84% from 1992, employing 298,700 people and generating $34.3 billion in revenues. *See* 1997 Economic Census: *Survey of Minority Owned Business Enterprises*: Company Statistics Series (2001). By 2002, Census estimates were 206,125 AI/AN-owned firms, up 4% from the 1997, but total revenues down 23% to $26.3 billion. *See* 2002 Survey of Business Owners, U.S. Census Bureau.

Of the roughly 360 Tribes in the lower 48 states, about 60 have launched government contracting operations and applied for 8(a) program certification and many are very successful. The SBA's list of the top 8(a) firms include many owned by ANCs and Tribes, and many have appeared on the Top 25 8(a) list of information technology firms. *See* Wakeman, *8(a)s Still a hit with ANCs, tribally owned companies,* 20 Washington Technology (Sept. 26, 2005).

In short, after years of being encouraged by Congress to do so, and after seeing the success of other Native contractors, more Tribes as well as ANCs are pursuing government sector opportunities.

The GAO Report Confirms Native Business Successes

The NCAIED views the above-recited Congressional initiatives to spur Native economic development as remarkably successful, and is gratified that the findings in the April 2006 GAO Report on ANC 8(a) contracting confirmed this important point. The NCAIED leadership believes that the GAO's analysis was fairly thorough and balanced, and notes that the GAO reported no evidence of malfeasance. The NCAIED commends the GAO Report for including so much background information on the Alaska Native Claims Settlement Act and special 8(a) provisions that underpin the activities of the successful ANC 8(a) companies, and explaining how ANCs' participation in the 8(a) program has helped them generate revenues to return benefits to their Alaska Native shareholders. The NCAIED also commends the Native American Contractors Association ("NACA") for its insightful comments and helpful data, including the types of benefits that ANC contracting companies have returned to Alaska Native communities. Especially constructive were the NACA comments regarding the government-wide procurement challenges that stretch far beyond 8(a) contracting.

The year-long wait for the release of the GAO Report caused significant consternation, however. After experiencing first hand how long it had taken for the 8(a) program to make a difference in Indian Country, the NCAIED centers were exasperated. Rather than success breeding success, it seemed instead to breed jealousy and contempt. The rash of news articles early in 2005, leading to the Congressional requests for a GAO study of ANC 8(a) contracting, both concerned and affronted the NCAIED leadership. Native contractors were performing well in using the special 8(a) provisions as an effective development tool, just as Congress had intended. So why were critics on the attack?

Knowing how hard their clients have worked to do well and comply with myriad federal procurement requirements, the NCAIED leadership decided to launch its own review of 1) the motivations of the critics, and 2) the contracting experiences of 8(a) companies owned by Tribes and ANCs, and their record of working together. First, the NCAIED studied the critics' speculation but could find no supporting facts and figures in any of the critiques penned by other 8(a) contractors, or their associations, asserting that non-Native 8(a) companies were losing out to the ANC 8(a) companies. The NCAIED also saw evidence of a media campaign waged against an ANC for having subcontracted with a large company against which a disgruntled union had a long-standing labor dispute.

Second, to assess the track record of the special 8(a) provisions, the NCAIED looked back at the legislative history of the special provisions and reached out for progress reports from many of the 8(a) companies assisted by NCAIED and its supporting centers. The NCAIED found, as it expected, that the special 8(a) provisions have resulted in just what the Congress intended – facilitation of Native communities' diversification, self-determination and economic self-sufficiency. The Mentor-Protégé Programs of the various federal agencies (e.g., SBA, DOD) also have helped in strengthening Tribal- and ANC-owned companies. In addition, the NCAIED confirmed the success of its own information efforts to foster informal types of mentoring and partnering by helping Tribes and ANCs find teaming partners and subcontractors. As one example, the NANA Development Corporation and its subsidiaries have agreed to work with each of our centers to help fill the requirements of their contracts for various types of subcontractors.

To help expand such partnering, not only among Native contractors but also with other small business partners, the NCAIED has been conducting special 8(a) panel discussions at the various Indian business development and procurement technical assistance conferences hosted or co-hosted by its centers over the last year. These sessions have focused on the special 8(a) provisions, their history, purpose, and results. The CEOs of many 8(a) companies owned by Tribes or ANCs have described their 8(a) experiences as part of procurement training workshops. And, to memorialize the importance of partnering results, the NCAIED and NACA have negotiated and executed a Memorandum of Understanding. This joint effort has launched a partnering and subcontracting demonstration program to encourage greater collaboration among Native and other contractors in bid matching, joint venturing, teaming and performing federal contracts. The NCAIED is also reaching out to other organizations representing 8(a) and other small contractors to find common ground and agree on joint efforts that will succeed in persuading the federal agencies to meet (and possibly even exceed) their 23% small business contracting goals.

Addressing SBA's Oversight Responsibilities

The NCAIED concurs with the GAO Report's conclusion that the appropriate corrective actions are for the SBA and federal procurement agencies to strengthen their oversight of contracting activities under the special 8(a) provisions applicable to ANCs and Tribes. All of the recommended actions will require more personnel to determine, for example, how to define certain key terms (such as when an 8(a) company may gain a "substantial unfair competitive advantage in an industry"), or how to collect better, more complete data on an 8(a) company's revenues in its primary and secondary industry codes, or how to monitor compliance wit subcontracting limitations, etc. The SBA will need to allocate more staff time to implement the GAO's recommendations and involve other interested parties in the process. As the special 8(a) provisions apply to Tribes and ANCs, as do the consultation requirements of the Executive Orders on Tribal Consultation, the NCAIED and other national organizations representing Tribes and ANCs stand ready to work with the SBA as it begins its deliberations.

To help begin the discussions, the NCAIED offers the following recommendations:

1. Create an SBA Office of Native Entrepreneurship:

The NCAIED recommends the creation of an SBA Office of Native Entrepreneurship that would provide the additional administrative and procurement support and oversight that are becoming increasingly important as contracting companies owned by Tribes, ANCs and other Native entities expand in number. Such an office would enable the SBA to implement the GAO's recommendation that SBA tailor its policies and practices to deal more effectively with the complexities of ANCs' and Tribes' business structures, joint ventures and other partnering arrangements. This office also could coordinate the provision of business development assistance to Native entities. Although several legislative proposals have offered different approaches and grant funding for Native business development, statutory changes may not be necessary. The SBA could proceed on its own to form this office and specify the type of business assistance to be provided. The NCAIED recommends a collaborative approach that would involve AIPTACs, NABECs, SBDCs and tribal colleges working together to develop ways to expand services to Native communities (based on consultation with Tribes) most efficiently, and without duplication of efforts and costs. A joint pilot grant program requiring such collaboration would make most sense if legislation is considered. As the NCAIED and its network of AIPTACs and NABECs already have figured out how best to deliver business development services to Indian Country, we are prepared to help the SBA in figuring out best to fulfill its responsibilities to assist small businesses of all types, and exercise oversight of small business contracting, particularly 8(a) contracting, as recommended in the GAO Report.

2. Better Implementation of the Special 8(a) Provisions:

The NCAIED recommends, and will work with the SBA on, better implementation of the special 8(a) provisions by:

a) advising on needed improvements to the 8(a) certification process for Tribes, ANCs and other eligible applicants;

b) proposing more clearly defined terms and definitions, including the development of uniform definitions applicable to tribal- and ANC- owned 8(a) firms so that data collected will more accurately reflect the true levels of participation by these entities; and

c) assisting with the improvement and more comprehensive collection and submission of contracting data by 8(a) companies so as to help SBA and other federal agencies better fulfill their obligations to oversee 8(a) contracting. Such improved reporting could include, for example, data on 8(a) revenues in each primary and secondary industry codes, a company's mix of federal contracting versus commercial business, and benefits disbursed to Native communities.

3. Meeting (and Exceeding) Small Business Contracting Goals:

The ANCs, Tribes, NCAIED, NACA and the other national organizations representing 8(a) and other contractors must rally together to focus much more attention on the question of what can be done effectively to improve the record of all federal agencies in meeting both their prime and subcontracting goals for awards to small and minority businesses. With the significant growth in the federal market, there is no good excuse for the current, substantial decline in the percentage of contract awards to small businesses. The NCAIED recommends that all the key players in the small business community come together, meet, discuss openly their different perspectives, and reach a consensus on how best to ensure that all the federal procurement agencies develop, publish and implement more aggressive policies and procedures to meet, and possibly even exceed, their goals for contract awards to small and minority businesses. The two House Committees conducting this hearing can be the first in Congress to help by endorsing this approach.

The NCAIED thanks the Committee for the opportunity to present these remarks and recommendations.

REP. HENRY A. WAXMAN
RANKING MINORITY MEMBER
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
JUNE 21, 2006

Document Analysis

Problems with Alaska Native Corporation Contracts

On March 4, 2005, Chairman Tom Davis and Ranking Member Henry A. Waxman jointly requested documents regarding federal contracts with Alaska Native Corporations (ANCs) from the Departments of Defense, Homeland Security, and State.[1] In response, these federal agencies provided thousands of pages of documents. The documents obtained by the Committee highlight significant problems with no-bid contracts with ANCs, including political interference with the contracting process and serious performance deficiencies.

The discussion below summarizes some of the documents relating to two of the ANC contracts: (1) a Transportation Security Administration Contract for maintenance of airport screening equipment, and (2) a National Imagery and Mapping Agency contract for information technology services.

TSA Contract for Screening Equipment Maintenance

In late 2004, the Transportation Security Administration (TSA) planned to hold a competition for a contract for maintenance of airport screening equipment. The plan was for companies to submit informal "white paper" proposals before a formal "Request for Proposal" was sent to a smaller number of select contractors. An ANC named Chenega was among the contractors who made it to the second round.

Documents obtained from the Department of Homeland Security show that this ongoing competition was halted in response to political pressure. According to a November 1, 2004, email from Lee Kair, the Acting Assistant Secretary for Acquisition at DHS, the entire Alaska congressional delegation was pushing for Chenega to receive the work under an existing no-bid contract it had with the DHS Customs and Border Patrol Office. The email states:

> After the receipt of these white papers, we received inquiries by Senators Murkowski and Stevens and Chairman Young concerning an Alaska Native Corporation named Chenega. Staff from

[1] Letter from Reps. Tom Davis and Henry A. Waxman to Donald H. Rumsfeld, Michael Chertoff, and Condoleezza Rice (Mar. 4, 2005).

> these offices have been adamant that we evaluate an option using a [Customs and Border Patrol] contract with Chenega for similar services.[2]

A letter from Assistant Secretary of Homeland Security for TSA David M. Stone to Senator Stevens confirms that "on October 19, 2004, members of [Admiral Stone's] staff met with a member of Senator Murkowski's staff and Ms. Kate Williams from [Sen. Stevens'] office regarding the Airport Security Equipment Maintenance procurement."[3]

Following this meeting, Senator Murkowski's chief counsel and TSA officials discussed the outcome of the meeting in a series of emails. Senator Murkowski's staff clearly believed that they had successfully influenced TSA. According to an October 22, 2004, email from the chief counsel to the TSA congressional liaison:

> Senator Murkowski greatly appreciates the time and effort of TSA to come to our offices to met. Mr. Lee Kair was very understanding our the Alaska Delegations' concerns. ... As a result of that meeting our specific understanding is that TSA will not release the RFP until after Chenega has had a chance to make a presentation of capabilities using the procurement options including the use of the Customs mechanism. The cost savings in time and money are quite significant. If the agencies decided to consider fair and open competition, please let me know what analysis has been done to address the increased cost and time for the bid process.[4]

The congressional liaison replied, "In order to guarantee equal and fair opportunity for all companies competing for work on this project, TSA articulated in Monday's meeting that we would be unable to individually meet with Chenega."[5]

Senator Murkowski's staff was not satisfied with this response. A reply email from the chief counsel states:

> We strangely have very different recollection of the discussions. We were under the distinct understanding that TSA was going to confirm there were no impediments to meetings with Chenega but there was going to be an opportunity for Chenega to present what cost savings and technologies exist prior to the release of the RFP. ... It would appear TSA had a different agenda or conclusion from our meeting.[6]

---

[2] Email from Lee Kair (Nov. 1, 2004).
[3] Letter from Admiral David M. Stone, Assistant Secretary of Homeland Security for Transportation Security Administration, to Senator Ted Stevens (Jan. 31, 2005).
[4] Email from Jon DeVore, Chief Counsel to Senator Lisa Murkowski, to Congressional Liaison, Transportation Security Administration (Oct. 22, 2004). All spelling and grammatical errors in the original.
[5] Email from Congressional Liaison, Transportation Security Administration, to Jon DeVore, Chief Counsel to Senator Lisa Murkowski (Oct. 25, 2004).
[6] Email from Jon DeVore, Chief Counsel to Senator Lisa Murkowski, to Congressional Liaison, Transportation Security Administration (Oct. 25, 2004).

When Lee Kair, the Acting Assistant Secretary for Acquisition, saw this email, he wrote: "The only commitment I made was to ensure that there were no impediments in the language of the RFP around alternative proposals such that Chenega's alternative proposal would be evaluated fairly."[7] He also stated: "I'm not sure how we got to this point."

Nevertheless, TSA appeared to succumb to this political pressure and gave Chenega special access to present its no-bid plan to TSA. A November 29, 2004, letter from Mr. Kair to Chenega thanked the ANC for its "presentation to the joint DHS panel convened on November 19th 2004 to evaluate your alternative approach to TSA's solicitation for logistics support for security equipment at the nation's airports."[8]

Ultimately, Mr. Kair and TSA opted to proceed with the competition.

National Imagery and Mapping Agency IT Contract

In 2001, the National Imagery and Mapping Agency (NIMA), now the National Geospatial-Intelligence Agency, decided to transition its information technology and services functions to an Alaska Native Corporation. The company, NJVC, is a joint venture formed by two ANCs, Chenega and Arctic Slope Regional Corporation. It received a no-bid, 15-year contract worth up to $2.2 billion that began on January 1, 2002. By March 15, 2005, the contract was worth $550 million.[9] Under this cost-plus contract, NJVC can receive a fee of up to 9%.[10]

Documents obtained from the Department of Defense reveal that NJVC's performance has been seriously deficient with respect to security issues. In a March 2003 award fee evaluation, the ANC received a "poor" rating for its security performance.[11] Security incidents involved the misuse of computer resources, the improper securing of vault areas, and the lack of necessary security clearances. Despite these lapses, NJVC received 81% of the maximum award fee for the one-year period.

A September 2003 award fee evaluation resulted in a security score of 0 and a security rating of "poor."[12] In one case, a NJVC employee "traveled with un-marked, classified documents" and "took clearly marked, classified documents off base and to the motel with him."

An August 2004 award fee evaluation gave NJVC a "marginal" security rating.[13] The government found improper handling of bomb threats, improper handling of classified data, and improper securing of secure areas. However, NJVC received 87% of the maximum award fee.

---

[7] Email from Lee Kair, Acting Assistant Secretary for Acquisition (Oct. 25, 2004).
[8] Letter from Lee Kair, Acting Assistant Secretary for Acquisition, to Ken Ogden, Chenega Technology Services Corporation (Nov. 29, 2004).
[9] National Imagery and Mapping Agency, *Record of Modification — NJVC* (undated).
[10] National Imagery and Mapping Agency, *Award Fee Plan* (Dec. 14, 2001).
[11] National Imagery and Mapping Agency, *Award Fee Evaluation for Base Year Period 2* (Mar. 5, 2003).
[12] National Imagery and Mapping Agency, *Award Fee Evaluation for Option Year 1 Period 3* (Sept. 11, 2003).

PROBLEMS WITH ALASKA NATIVE CORPORATION CONTRACTS

A February 2005 award fee evaluation was the latest evaluation provided to the Committee. NJVC received another "poor" security rating due to a host of incidents involving failures to properly secure classified vaults, failures to properly handle classified information, and the misuse of computers to access "pornographic material."[14] Yet the ANC received 77% of the maximum award fee for this period.

The documents also reveal that over three years into the contract, NJVC employees were doing only a small portion of the work. This contract involved shifting approximately 600 NIMA employees from federal employment to jobs with NJVC.[15] The same employees would do the same work, but would be employed by the ANC instead of the federal government. But by March 15, 2005, NJVC was only doing 36% of the work.[16] The rest was being done by subcontractors and agency employees. In addition, the government evaluators found that "[t]here were government people who were under the impression that NJVC was directing what is to be outsourced rather than the Government."[17]

---

[13] National Geospatial-Intelligence Agency, *Award Fee Evaluation for Option Year 2 Period 5* (Aug. 12, 2004).
[14] National Geospatial-Intelligence Agency, *Award Fee Evaluation for Option Year 2 Period 6* (Feb. 15, 2205).
[15] National Imagery and Mapping Agency, *Program Summary Document* (July 6, 2001).
[16] National Imagery and Mapping Agency, *Fact Sheet — NJVC* (Mar. 17, 2005).
[17] National Imagery and Mapping Agency, *Award Fee Evaluation for Option Year 1 Period 3* (Sept. 11, 2003).

○