

December 2012

REGIONAL
ALASKA NATIVE
CORPORATIONS

Status 40 Years after
Establishment, and
Future Considerations



G A O

Accountability * Integrity * Reliability

Why GAO Did This Study

In 1971, the Alaska Native Claims Settlement Act was enacted to resolve long-standing aboriginal land claims and to foster economic development for Alaska Natives. This federal law directed that corporations be created under Alaska state law, which were to be the vehicles for distributing the settlement. As directed by the act, 12 for-profit regional corporations were established, representing geographical regions in the state. Later, a 13th regional corporation was formed to represent Alaska Natives residing outside of Alaska. Eligible Alaska Native applicants who were alive on December 18, 1971, became shareholders in the corporations. The Settlement Act, as amended, authorizes the corporations to provide benefits to shareholders and to other Alaska Natives.

GAO was asked to review these corporations. This report examines (1) governance practices of the regional Alaska Native corporations, (2) requirements for and oversight of the corporations' financial reporting practices, (3) benefits provided by the corporations to their shareholders and other Alaska Natives, and (4) questions to consider for the future. GAO reviewed relevant federal and state laws and regulations, as well as the corporations' annual reports, proxy materials, and other documents. GAO interviewed representatives from each of the 13 regional corporations and visited seven of the Alaskan regions.

GAO is making no recommendations in this report. Responses provided on behalf of the corporations made several points about their financial reporting and operations that are more fully discussed in the report.

View [GAO-13-121](#). For more information, contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov.

REGIONAL ALASKA NATIVE CORPORATIONS

Status 40 Years after Establishment, and Future Considerations

What GAO Found

Incorporated under Alaska state law, regional Alaska Native corporations share fundamental characteristics, although they have chosen a variety of governance practices. Like other Alaska corporations, the regional corporations are subject to the state's corporate laws (with limited exceptions) and are run by an elected board of directors. Nevertheless, each regional corporation has chosen its own organization and governance approach in terms of board operations, executive and board compensation, board elections, and shareholder involvement.

Alaska Native corporations are subject to some financial reporting requirements under federal and state law, but oversight of the reporting is limited. The Alaska Native Claims Settlement Act generally exempts the corporations from complying with federal securities laws while requiring them to annually provide a report to their shareholders that contains "substantially all the information" required to be included in an annual report to shareholders by U.S. Securities and Exchange Commission registrants. The Settlement Act does not provide for a federal role to monitor the corporations' compliance with this requirement, and oversight by the state of Alaska is generally limited to enforcement of state securities laws and proxy regulations.

GAO found that the corporations provide a wide variety of monetary and nonmonetary benefits to their shareholders and other Alaska Natives. Monetary benefits include shareholder dividends, elder benefits, scholarships, memorial benefits, shareholders' equity, and charitable donations. Nonmonetary benefits—often offered in partnership with village corporations, tribal organizations, and nonprofit organizations within the region—include employment opportunities, cultural preservation, land management, economic development, and advocacy on behalf of Alaska Natives and their communities.

During this review, GAO identified three questions regarding the ambiguity of existing federal financial reporting requirements, the role of the federal government in maintaining the corporations' solvency, and the implications of defining who is eligible to be a shareholder. These questions may warrant consideration and discussion by the federal government, the state, the regional corporations, shareholders, or a combination of these entities.

- *Should the "substantially all" federal reporting requirement be clarified and overseen?* GAO was unable to determine whether the corporations are meeting the "substantially all" requirement in the Settlement Act because the phrase is not defined.
- *What is the appropriate role of the federal government in maintaining the solvency of Alaska Native corporations?* The federal government has intervened in the past to help maintain the financial solvency of the corporations. The 13th Regional Corporation has been insolvent since 2007.
- *Who should be a shareholder?* As authorized by amendments to the Settlement Act, shareholders of 5 of the 13 regional corporations have voted to issue shares to Alaska Natives born after December 18, 1971, who meet certain criteria. In deciding to offer new shares to more people, corporations and shareholders face a number of considerations such as, potential effects on dividends and shareholder involvement.

Contents

Letter		1
	Background	3
	The Corporations Have Adopted a Variety of Governance Practices	16
	The Corporations Are Subject to Some Federal and State Financial Reporting Requirements and Limited State Oversight	29
	The Corporations Provide Diverse Monetary and Nonmonetary Benefits to Their Shareholders and Other Alaska Natives	38
	Questions to Consider for the Future	48
	Agency and Third-Party Comments and Our Evaluation	54
Appendix I	Objectives, Scope, and Methodology	58
Appendix II	Comments on Behalf of the 12 Regional Alaska Native Corporations	63
Appendix III	Comments from Volunteers for the 13th Regional Corporation	68
Appendix IV	GAO Contact and Staff Acknowledgments	71
Tables		
	Table 1: Characteristics of the Regional Alaska Native Corporations When Established in the 1970s	7
	Table 2: Size and Scope of the 12 Regional Alaska Native Corporations in Alaska	13
	Table 3: Regional Alaska Native Corporation Shareholder Demographics as Reported by the Corporations	16
	Table 4: Characteristics of the Boards of Directors, Regional Alaska Native Corporations	18
	Table 5: Election Information for the Regional Alaska Native Corporations, 2001-2011	24
	Table 6: Financial and Dividend Information as Reported by the Regional Alaska Native Corporations, 2010	39

Table 7: Scholarship Information as Reported by the Regional Alaska Native Corporations, 2010	41
Table 8: Employment of Alaska Natives by the Regional Corporations and Their Subsidiaries, as Reported by the Corporations	46
Table 9: New Classes of Shares Authorized by the Regional Alaska Native Corporations	53
Table 10: Regional Alaska Native Corporations and Communities Visited	59
Table 11: Regional Alaska Native Corporations' Fiscal Years Corresponding to the 2010 Reporting Period	60

Figures

Figure 1: The Twelve Geographic Regions for the Regional Alaska Native Corporations in Alaska	5
Figure 2: Examples of Benefits Supported by the Regional Alaska Native Corporations	44

Abbreviations

SBA Small Business Administration
SEC U.S. Securities and Exchange Commission

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product 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.



G A O

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

December 13, 2012

The Honorable Edward J. Markey
Ranking Member
Committee on Natural Resources
House of Representatives

The Honorable Mark Begich
United States Senate

The Honorable Lisa Murkowski
United States Senate

On December 18, 1971, the Alaska Native Claims Settlement Act was enacted to resolve long-standing aboriginal land claims and to foster economic development for Alaska Natives.¹ This federal law directed that corporations be created under Alaska state law, which were to be the vehicles for distributing the settlement's land and monetary benefits to Alaska Natives. The Settlement Act permitted the conveyance of about 44 million acres of land to the corporations, along with cash payments of almost \$1 billion, in exchange for extinguishing aboriginal land claims in Alaska. As directed by the act, 12 for-profit regional corporations were established representing geographical regions in the state, with each region composed as far as practicable of Alaska Natives who have a common heritage and share common interests.² In addition, a 13th regional Alaska Native corporation was subsequently formed to represent those Alaska Natives residing outside of Alaska.

The Settlement Act was intended to conform "with the real economic and social needs" of Alaska Natives, without establishing any permanent racially defined institutions and without creating a reservation system,

¹Pub. L. No. 92-203, 85 Stat. 688 (1971), *codified as amended at* 43 U.S.C. §§ 1601-1629h. By settling aboriginal land claims in Alaska, the Settlement Act permitted the development of the vast energy potential of the state to aid in meeting the energy shortage the United States faced in the 1970s.

²Under the Settlement Act, over 200 village, urban, or group Alaska Native corporations were also formed to participate in the settlement. This report discusses only the regional corporations.

among other aims.³ Toward these ends, the Settlement Act, as originally enacted, entitled certain Alaska Natives to be shareholders in the corporations and prohibited sales of the corporations' stock for 20 years. Subsequent amendments, however, have authorized issuance of stock to other Alaska Natives and their descendants, extended the prohibition on the sale of stock, and generally exempted the corporations from regulation by the U.S. Securities and Exchange Commission (SEC). Under the Settlement Act and state law, the corporations are required to provide certain information to shareholders, such as annual reports including the corporations' audited financial statements. The Settlement Act, as amended, also authorizes but does not require corporations to provide benefits to their shareholders and other Alaska Natives to promote their health, education, or welfare.

To inform your understanding of the financial information being reported by the regional Alaska Native corporations and how these corporations are addressing the needs of Alaska Natives, you asked us to describe various corporate practices. This report examines (1) governance practices of the regional Alaska Native corporations, (2) requirements for and oversight of the corporations' financial reporting practices, (3) benefits provided by the corporations to their shareholders and other Alaska Natives, and (4) questions to consider for the future.⁴

To conduct this work, we reviewed the Alaska Native Claims Settlement Act, as amended; the Alaska Corporations Code; and other federal and state laws and regulations relevant to corporate governance and financial reporting by regional Alaska Native corporations. We examined the corporations' annual shareholder reports from 2010 and proxy materials from 2011 (the most recent years for which consistent information was available across the corporations). We also asked SEC staff to provide observations on the corporations' 2010 annual shareholder reports. In this report, we define an SEC registrant as a corporation subject to the registration and reporting requirements of the Securities Exchange Act of 1934. We reviewed documentation provided by the regional corporations

³43 U.S.C. § 1601(b).

⁴We were also asked to determine shareholders' level of satisfaction with the regional corporations. To answer this question, we proposed surveying regional corporations' shareholders on their perspectives of the regional corporations. We were unable to conduct a systematic and independent survey of shareholders, however, because the regional corporations declined to provide us with their shareholder lists.

on their governance practices and on monetary and nonmonetary benefits provided to shareholders and others. Throughout this report, we refer to the corporations' 2010 reporting period to describe each corporation's fiscal year corresponding most closely to calendar year 2010. We report all dollar amounts as they were reported to us by the corporations for the period in question; none have been adjusted for inflation. We interviewed representatives from all 13 regional corporations and visited multiple locations across 7 of the 12 Alaskan regions. During our site visits, we met with corporate executives and board directors, tribal officials, representatives from nongovernmental organizations, and shareholders to discuss their perspectives on the regional corporations and benefits provided. In addition, from the Alaska State Division of Banking and Securities, we obtained information on inquiries and complaints received by the division, and steps the division took to investigate and act on these claims, including administrative orders issued by the state. Appendix I describes our scope and methodology in greater detail.

We conducted this performance audit from October 2011 to December 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Alaska Native Claims Settlement Act required the Secretary of the Interior to divide Alaska into 12 geographic regions, with each region, as far as practicable, composed of Alaska Natives having a common heritage and sharing common interests (see fig. 1).⁵ The Secretary of the Interior was also required to enroll into a region every Alaska Native alive when the Settlement Act was enacted on December 18, 1971, generally according to residence. As defined by the Settlement Act, an Alaska Native is a person with 25 percent or more of Alaska Indian, Eskimo, or Aleut blood or combination thereof (called a blood quantum requirement). Each region in the 1970s established a regional corporation as directed by the Settlement Act, and the Alaska Natives enrolled into the region

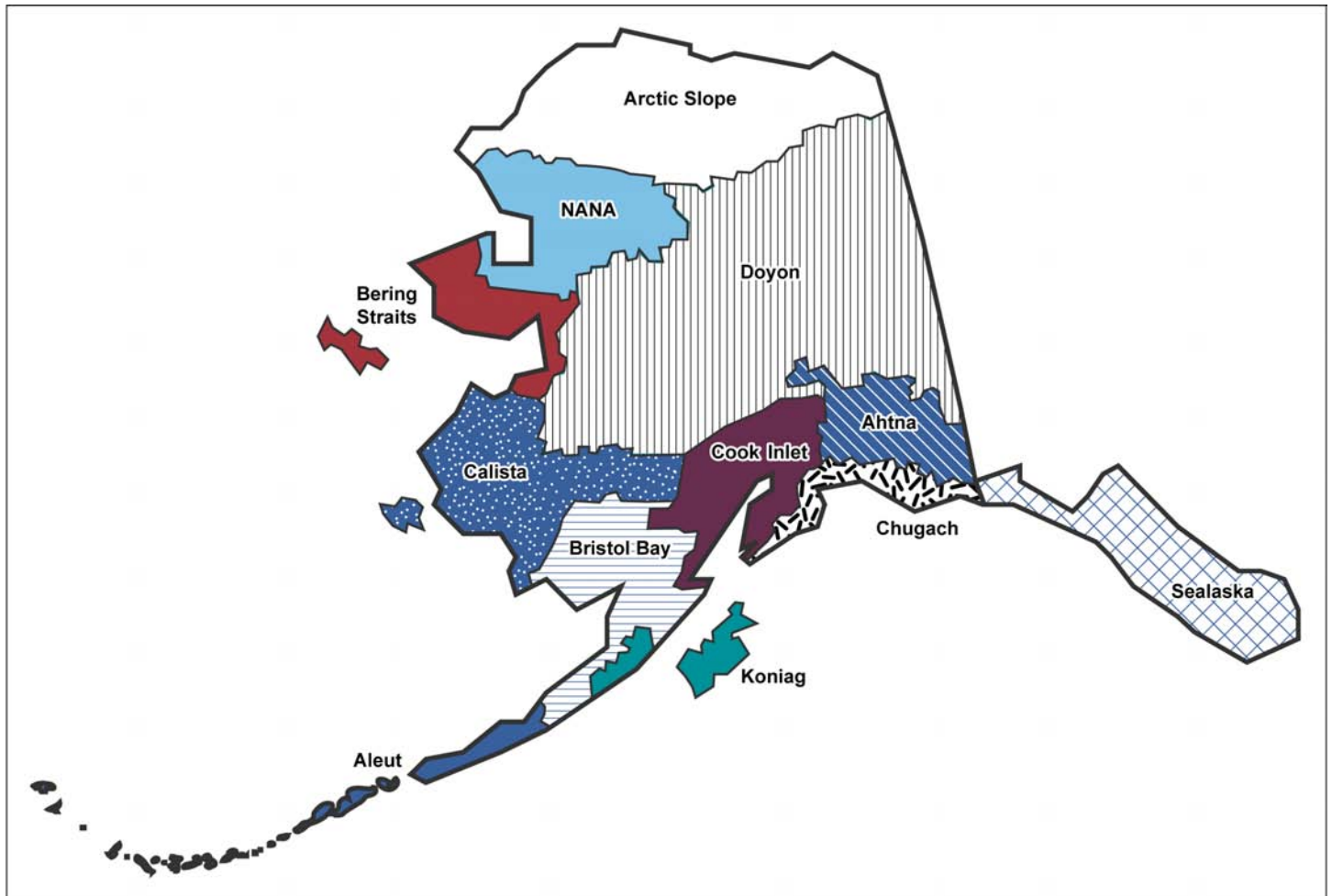
⁵H.R. Rep. No. 94-729 at 13 (1975).

became its shareholders. Certain Alaska Native villages were also eligible to form village corporations under state law. In addition, Alaska Natives who were not residing in Alaska could elect to enroll in a 13th region. Such a corporation, referred to as the 13th Regional Corporation, was established by a vote of nonresidents, and only those nonresident Alaska Natives who voted for the 13th Regional Corporation's formation were enrolled in that region and became its shareholders (nonresidents who did not vote for it were enrolled in another region and became shareholders of that regional corporation).⁶ Enrolled Alaska Natives received no more than 100 shares of their regional corporation's stock and, if they were enrolled in a village, no more than 100 shares of their village corporation's stock. Under the original Settlement Act, shares could be inherited upon a shareholder's death, but inherited shares entitled the new shareholder to vote only if the shareholder was an Alaska Native with a blood quantum of 25 percent or more.⁷

⁶Initially, the Department of the Interior determined that a majority of all eligible nonresidents had not elected to form a 13th regional corporation, but a federal court found that basic fairness and equity compelled the creation of the 13th Regional Corporation because Interior's handling of the election was marked by "bureaucratic inconsistency" and "lassitude." *Alaska Native Association of Oregon v. Morton*, 417 F.Supp. 459, 464-71 (D. D.C.1974).

⁷If a shareholder dies without a will or heirs, the shares revert back to the corporation. Additionally, the 1988 amendments to the Settlement Act permitted shareholders to transfer their shares to Alaska Natives or their descendants during the shareholder's lifetime by giving the shares as a gift to specified family members. Under the 1988 amendments, shares have voting rights if they are inherited, transferred, or gifted to an Alaska Native or descendant of an Alaska Native.

Figure 1: The Twelve Geographic Regions for the Regional Alaska Native Corporations in Alaska



Source: First Alaskans Institute.

The corporations established under the Settlement Act were to receive title to about 44 million acres of land in exchange for the extinguishment of Alaska Native aboriginal land claims.⁸ Specifically, the 12 regional

⁸In addition to extinguishing all aboriginal claims of the Alaska Native people, including any aboriginal hunting and fishing rights, the Settlement Act revoked all existing Indian reservations or reserves in Alaska except one, the Annette Island Reserve of the Metlakatla Indian community.

corporations received rights to the subsurface and some surface lands, and certain village corporations received title to surface lands.⁹ Under the act, the 13th Regional Corporation is not entitled to any land or subsurface rights. Under section 7(i) of the act, 70 percent of all revenues annually received by each regional corporation from the timber and subsurface resources conveyed to them under the Settlement Act is then divided among the 12 regional corporations according to the number of Alaska Natives enrolled in each region.¹⁰ The 13th Regional Corporation does not share in this natural resource revenue, known as the 7(i) distribution.

In addition, each of the regional and village corporations established under the Settlement Act received a portion of the nearly \$1 billion monetary settlement (see table 1). The portion of the settlement money given to each regional corporation was based on the relative number of Alaska Natives enrolled in the region. The 12 regional corporations in Alaska were required to distribute to shareholders each year until 1976 not less than 10 percent of the settlement money and all other net income, including the 7(i) distribution. After 1976, the regional corporations must distribute 50 percent of funds from such sources among the village corporations in the region and regional corporation shareholders who are not residents of those villages.¹¹ The 13th Regional Corporation was required to distribute to its shareholders not less than 50 percent of its settlement money. As a House committee report accompanying the Settlement Act stated, the money provided by the settlement was intended to provide the capital necessary to raise the

⁹In addition to regional and village corporations, the act allowed groups not qualifying to establish an Alaska Native village corporation to establish Alaska Native “group” corporations and Alaska Natives living in Sitka, Kenai, Juneau, and Kodiak to establish “urban” corporations. Both group and urban corporations were eligible to receive title to surface land.

¹⁰The 7(i) distribution was the subject of much litigation in the 1970s and is now governed by the “Section 7(i) Settlement Agreement” finalized in 1982 (and subsequently amended). Under this settlement agreement, the regional corporations share 70 percent of all net revenues received from timber and subsurface resources conveyed to them under the act.

¹¹43 U.S.C. § 1606(j). Specifically, the amount distributed as dividends to shareholders who are not village residents bears the same ratio to the amount distributed among the village corporations that the number of shares of stock registered on the books of the regional corporations in the names of nonresidents of villages bears to the number of shares of stock registered in the names of village residents. 43 U.S.C. § 1606(m).

standard of living of Alaska Natives—many lived in extreme poverty and underprivileged status—through their own efforts.¹²

Table 1: Characteristics of the Regional Alaska Native Corporations When Established in the 1970s

Corporation	Land entitlement (acres in millions) ^a	Total cash distributions (thousands of dollars)	Number of shareholders ^b	Number of village corporations ^c
Ahtna, Incorporated	1.78	\$13,365	1,074	8
The Aleut Corporation	1.43	40,537	3,249	13
Arctic Slope Regional Corporation	5.00	46,889	3,738	8
Bering Straits Native Corporation	2.28	80,067	6,333	17
Bristol Bay Native Corporation	3.07	67,443	5,401	29
Calista Corporation	6.52	166,100	13,306	56
Chugach Alaska Corporation	0.95	24,153	1,908	5
Cook Inlet Region, Inc.	2.41	77,797	6,264	7
Doyon, Limited	12.22	113,160	9,061	34
Koniag, Incorporated	1.16	41,675	3,342	9 ^d
NANA Regional Corporation	2.25	60,269	4,828	11
Sealaska Corporation	0.59	198,649	15,787	9
The 13th Regional Corporation	0	46,601	4,426	0
Total	39.66	\$976,705	78,717	206^e

Source: Department of the Interior.

^aApproximate totals include both surface and subsurface estates; surface amounts are generally owned by the village corporations within the region. Total acres do not include 4 million acres that villages elected to take title to as “revoked reserves” under section 19 of the Alaska Native Claims Settlement Act. Until late 1973, village corporations could elect to acquire title to the surface and subsurface estates in certain reserves established before the Settlement Act, reserves the Settlement Act revoked. Village corporations that elected to take title to revoked reserves were not eligible for any distributions from the regional corporation, and their shareholders were not eligible to become regional corporation shareholders. Seven village corporations elected to take title to five former reserves: Elim (Elim Native Corporation), Klukwan (Klukwan Corporation), St. Lawrence (Gambell Native Corporation and the Savoonga Native Corporation), Tetlin (Tetlin Native Corporation), and Venetie (Neets’ai Corporation and the Venetie Indian Corporation). The Klukwan Corporation, however, later chose to receive benefits from the settlement rather than taking title to the former reserve, and under section 16(d) of the Settlement Act, as amended, the Klukwan Corporation received settlement land after conveying title to its former reserve lands to the Chilkat Indian Village tribal government.

^bFigures represent the number of shareholders determined to be eligible after reopening eligibility as of December 31, 1982; the numbers do not include 1,522 eligible shareholders who were enrolled in village corporations that elected to take title to the revoked reserves.

¹²H.R. Rep. No. 92-523 at 5-6 (1971).

^cThese numbers do not include the seven village corporations that elected to take title to the revoked reserves, and they represent the number of village corporations before any village corporation consolidations or mergers with their regional corporation. For example, 10 of the 11 village corporations in the NANA region merged with NANA Regional Corporation.

^dThe 1980 amendments to the Settlement Act authorized seven additional village corporations in the Koniag region with modified settlement entitlements. Pub. L. No. 96-487, § 1427(e) (1980).

^eThere were a total of 220 eligible village corporations under the Settlement Act—the 206 included in the table, plus the 7 that elected revoked reserves, plus the 7 additional Koniag village corporations.

Alaska Native Claims Settlement Act Amendments

Although the Settlement Act's basic structure has not changed in the last 40 years, the act has been amended several times. Some of the amendments pertain to the expansion of eligible shareholders, extended restrictions on the sales of stock, exemptions from federal securities laws, and participation in the Small Business Administration's 8(a) program, as follows:

- *Expansion of eligible shareholders.* The Settlement Act was amended in 1988 to permit the addition of new shareholders under certain circumstances. Specifically, corporation shareholders could vote to amend the articles of incorporation to authorize the issuance of additional shares to (1) eligible Alaska Natives who missed enrollment, (2) Alaska Natives born after the Settlement Act's enactment, or both.¹³ A subsequent amendment in 1992 also permitted corporation shareholders to vote on amending the articles of incorporation to authorize the issuance of additional shares to descendants of Alaska Natives born after December 18, 1971. This provision allows corporations to issue stock to descendants of its original shareholders without regard to blood quantum—as long as shareholders vote to amend the articles of incorporation to authorize such action.
- *Restrictions on sales of stock.* The 1988 amendments also extended the prohibition on sales of stock unless and until the shareholders of the corporation decide to allow them. The Senate committee report accompanying the amendments recognized that by the end of 1991—

¹³The 1988 amendment also authorized shareholders to vote on amending the articles of incorporation to authorize the issuance of additional shares to Alaska Native shareholders who are 65 years old or older. In addition, the amendment authorized shareholders to vote to amend the articles of incorporation to authorize the issuance of other classes and series of stock to permit the corporation to raise equity capital by selling stock in traditional capital markets.

the date when stock could be sold under the original act—many Alaska Native shareholders would not have acquired sufficient experience dealing with corporate activities to sell their stock on the open market without risking the loss of continued Alaska Native corporate ownership.¹⁴ The amendment allows the shareholders to vote to amend the articles of incorporation to lift restrictions on stock sales.

- *Federal securities laws.* In 1976, the act was amended to exempt the corporations from certain federal securities laws during the 20-year prohibition on the sale or disposition of stock. Specifically, the amendment exempted the corporations from the Investment Company Act of 1940,¹⁵ the Securities Act of 1933,¹⁶ and the Securities Exchange Act of 1934.¹⁷ Because of this exemption, the corporations are also not subject to any amendments to these laws, including amendments in the Dodd-Frank Wall Street Reform and Consumer Protection Act¹⁸ and the Sarbanes-Oxley Act of 2002.¹⁹ These laws, and their implementing regulations, require certain corporations to register with and report periodically to the SEC, which regulates the securities industry. In 1988, when the act was amended to extend the prohibition on stock sales, the act was also amended to extend the exemption from securities law until after the corporation offers shares of its stock to the public, shareholders vote to allow stock sales, or the corporation registers with the SEC.

¹⁴S. Rep. No. 100-201 at 20 (1987).

¹⁵Investment Company Act of 1940, 54 Stat. 789, *codified as amended at* 15 U.S.C. §§ 80a-1 to 80a-64.

¹⁶Securities Act of 1933, 48 Stat. 74, *codified as amended at* 15 U.S.C. §§ 77a-77bbbb.

¹⁷Securities Exchange Act of 1934, 48 Stat. 881, *codified as amended at* 15 U.S.C. §§ 78a-78pp.

¹⁸Pub. L. No. 111-203 (2010). The purpose of the act is to promote the financial stability of the United States by improving accountability and transparency in the financial system, among other aims.

¹⁹Pub. L. No. 107-204 (2002). The act is intended to protect investors by improving the accuracy and reliability of corporate disclosures made under securities laws, among other purposes.

-
- *Small Business Administration's (SBA) 8(a) program participation.* In 1988, the Settlement Act was amended to designate Alaska Native corporations as minority and economically disadvantaged business enterprises owned and controlled by Alaska Natives if Alaska Natives and descendant shareholders represent a majority of both the corporation's total equity (shares) and voting power. Furthermore, the amendment designated any direct and indirect subsidiary corporations, joint ventures, or partnerships of these Alaska Native corporations as minority and economically disadvantaged business enterprises if Alaska Natives and descendant shareholders represent a majority of both the total equity and voting power of the subsidiaries, joint ventures, or partnerships. Alaska Native corporations' qualifying subsidiaries, joint ventures, or partnerships are eligible to participate in the SBA's 8(a) program—one of the federal government's primary means for developing small businesses owned by socially and economically disadvantaged individuals.²⁰ Under the 8(a) program, Alaska Native corporations, along with other tribal entities, have been afforded special advantages, which have come under congressional scrutiny in recent years.²¹ Some of the regional corporations generate a high percentage of their revenues from their subsidiaries' participation in the 8(a) program.

Regional Corporation Organization

The regional corporations are organized as for-profit corporations under Alaska state law and are separate and distinct from the Alaska Native tribal governments recognized by the federal government as Indian

²⁰43 U.S.C. § 1626(e).

²¹GAO, *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), and GAO, *Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention*, [GAO-12-84](#) (Washington, D.C.: Jan. 31, 2012). Special advantages include the ability to receive sole-source 8(a) contracts for any amount, whereas sole-source awards to other 8(a) firms must generally fall under certain competitive dollar thresholds (\$6.5 million for manufacturing or \$4 million for all other acquisitions). Section 811 of the National Defense Authorization Act for Fiscal Year 2010—enacted in October 2009—mandated changes to the Federal Acquisition Regulation to require a written justification of sole-source 8(a) awards over \$20 million. An interim rule amending the Federal Acquisition Regulation to implement section 811 was issued on March 16, 2011, and finalized on April 18, 2012. Previously, no justification was required for sole-source 8(a) awards of any amount.

tribes.²² Incorporated under Alaska state law, regional corporations share fundamental characteristics with other corporations in Alaska. For instance, to form a for-profit corporation, articles of incorporation—which contain basic information about the corporation and its structure—must be filed with the state and a fee paid. The articles of incorporation specify, for instance, how many shares the corporation is authorized to issue, whether the shares will be divided into classes, who is eligible to receive shares, and who serves on the initial board of directors.²³ Corporations are required to submit biennial reports to the state containing information about the current board of directors, number of shares issued, and other related information. The state can dissolve corporations involuntarily for several reasons, such as failure to file required biennial reports or pay a biennial corporation tax.²⁴

The Settlement Act confirms that management of the regional corporations is the responsibility of their boards of directors and generally subjects the Alaska Native regional corporations to state law, although the state does not have a role in overseeing any corporations' corporate governance or business decisions. According to the Settlement Act's legislative history, board members and officers were expected to avoid abuses of the act's intent; any unreasonable staff, officer, board member, consultant, attorney, or other salaries, expenses, and fees; and expenditure of funds for purposes other than those reasonably necessary in ordinary business operations.²⁵ State corporate law does not authorize

²²The term *recognize* means the federal government acknowledges that a particular Native American group is a tribe by conferring specific legal status on that group, establishing a government-to-government relationship between the United States and the tribe, imposing on the government a fiduciary trust relationship to the tribe and its members, and imposing specific obligations on the federal government to provide benefits and services to the tribe and its members. See H.R. Rep. No. 103-781 at 2-3 (1994).

²³Corporations also have bylaws—which contain the details of the corporations' internal governance arrangements—but bylaws are not filed with the state.

²⁴As of this report, Alaska had never dissolved a regional corporation involuntarily, although in 2010 the state did issue the 13th Regional Corporation a notice of potential involuntary dissolution. Before a final notice was issued by the state, however, a state official said that the corporation submitted necessary documentation and paid the required fees. Although not involuntarily dissolved by the state, the 13th Regional Corporation has largely been insolvent since 2007. The state has exercised its authority in the past to dissolve several village corporations involuntarily. However, Alaska state law contains provisions regarding reinstatement Alaska Native corporations. See Alaska Stat. § 10.06.960(i), (k).

²⁵H.R. Conf. Rep. No. 92-746 at 37 (1971).

the state to oversee such actions of any corporations' directors, and the act did not establish any oversight mechanism for the regional corporations.

Under state corporate law, a corporation's board of directors—who are fiduciaries of the corporation and owe it the duties of good faith, care, and loyalty—manages the corporation and makes business decisions. The board hires and monitors corporate officers, such as president and secretary. In contrast to the board of directors' role, shareholders have limited power to participate in management and control of a corporation. Shareholders do not make business decisions for the corporation, but they are responsible for electing the directors who do. Except for the initial board, directors are elected by shareholders at an annual meeting. The elections are usually conducted by an independent third party, such as an accounting firm. In order for a shareholder election (or other action) to be valid, a certain number of shares—specified in state law or the articles of incorporation and known as a quorum—must be voted in person or by proxy at the meeting. Voting by proxy means that a shareholder who cannot attend the annual meeting in person directs someone else—a proxy holder—to vote his or her shares. Shareholders and the corporation can solicit shareholders to serve as their proxy holders in what is known as a proxy solicitation. Proxy solicitations from a corporation generally consist of an annual report to shareholders, a proxy statement containing information on nominees for the board, and a proxy form, among other things. In addition, shareholders must vote to approve any amendments to the articles of incorporation and certain other actions proposed by the board. Shareholders can also make recommendations to the board on various matters by presenting and voting on resolutions at annual meetings.

Overview of the Regional Corporations

Over the past 40 years, the 12 regional corporations in Alaska have grown into diverse and often large businesses, important to Alaska's economy. Although many of the corporations struggled financially when they were first created and into the 1980s and 1990s—with at least 2 declaring bankruptcy—by 2011, the 12 corporations were ranked as top businesses in Alaska. For example, in October 2011, *Alaska Business Monthly* reported that the 12 regional corporations were ranked within the top 25 Alaska-owned businesses in Alaska on the basis of 2010

revenues.²⁶ Furthermore, the Arctic Slope Regional Corporation has been ranked as the number one Alaska-owned corporation for 17 consecutive years, with gross revenues of \$2.3 billion in 2010. Collectively, the 12 regional corporations' revenues in 2010 reached almost \$8.2 billion, and the corporations have extensive operations both within Alaska and around the world. For example, NANA Regional Corporation owns the land on which one of the world's largest zinc-lead mines is situated, and the Arctic Slope Regional Corporation is a major producer of oil on Alaska's North Slope. The regional corporations have multiple subsidiaries operating in Alaska, the lower 48 states, and several other countries. Specifically, the corporations reported to us that they collectively operate more than 330 wholly owned subsidiaries, ranging from fewer than 10 at one regional corporation to more than 50 subsidiaries at another.²⁷ Total employees as reported by the corporations ranged from more than 500 at one corporation to almost 11,000 at another. Table 2 summarizes the regional corporations' major business operations, gross revenues, and net incomes.

Table 2: Size and Scope of the 12 Regional Alaska Native Corporations in Alaska

Dollars in thousands

Corporation	Major business operations ^a	Gross revenue (2010)	Net income (2010)
Ahtna, Incorporated	Facilities management, construction services, environmental services, professional services and staffing, pipeline maintenance, range support and training, land management and protection services, land and natural resource development	\$243,430	\$1,739
The Aleut Corporation	Fuel oil distribution, commercial real estate, government services, mechanical contracting, oil field services, water quality testing	143,046	8,381
Arctic Slope Regional Corporation	Petroleum refining and marketing, government services, energy support services, construction, resource development	2,331,681	164,433
Bering Straits Native Corporation	Facility operations and maintenance, construction services, computer facilities support and information technology, supply logistics, administrative support, security equipment, aircraft services and maintenance	197,706	8,848

²⁶Debbie Cutler, "2011 Top 49ers: Superheroes of Success," *Alaska Business Monthly*, October 2011.

²⁷The regional corporations reported that collectively they are also involved as partial owners of, or in joint ventures or partnerships with, approximately 150 subsidiaries.

Dollars in thousands

Corporation	Major business operations ^a	Gross revenue (2010)	Net income (2010)
Bristol Bay Native Corporation	Petroleum distribution, oil field services, construction, government contracting services, natural resource management and development, tourism	1,667,200	43,017
Calista Corporation	Federal contracting, construction equipment and excavating, communications and media, real estate, energy, engineering and environmental services	234,866	18,301
Chugach Alaska Corporation	Base operation services, construction, information technology and telecom services, education, engineering, oil and gas services, mineral extraction	936,975	26,492
Cook Inlet Region, Inc.	Real estate, oilfield and construction services, environmental remediation, government contracting, tourism and hospitality properties and attractions, telecommunications, resource and energy development	188,357	16,535
Doyon, Limited	Oil and gas services, government contracting, tourism, natural resource development	280,268	15,678
Koniag, Incorporated	Marine construction, aerospace manufacturing, information technology services, resource development and extraction, naval marine services	131,052	8,654
NANA Regional Corporation	Government contracting, oilfield and mining services, professional services including engineering, hospitality, natural resources	1,592,826	41,173
Sealaska Corporation	Plastics manufacturing and molding, environmental services and remediation, construction services, information technology services, security services, timber harvest and forest management, freight management and logistics	\$223,823	\$15,154

Source: GAO analysis of information from the regional Alaska Native corporations.

Note: Gross revenue and net income amounts are as reported by the regional corporations for the 2010 reporting period.

^aListed are the major business operations of the regional corporations as provided to us by the corporations in October 2012; the corporations may also undertake many other business activities not listed here.

In contrast to the 12 regional corporations, the 13th Regional Corporation has experienced long-standing financial difficulties and has largely been insolvent since 2007.²⁸ In a 2009 letter to shareholders, the corporation's board of directors explained that a series of events—including litigation involving the corporation's former chief executive officer and changes in the construction and real estate markets where the corporation had operations—negatively affected the corporation to the point of insolvency.

²⁸In 1986, the 13th Regional Corporation filed for bankruptcy.

The last annual meeting held to elect board directors was in 2006; as of October 2012, advocates for the 13th Regional Corporation are working without compensation to explore options for bringing the corporation back into solvency. (We discuss this issue more fully in the last section of our report.)

Over time, the number and demographics of the regional corporations' shareholders have changed. For example, shareholders initially numbered around 79,000 and now exceed 111,000. In addition, in over half the regions, 25 percent or more of the shareholders now reside outside Alaska (see table 3), but throughout the regions, many shareholders reside in one of over 200 isolated villages in the state, often located near the sea or rivers. Most villages are accessible only by small planes, boats, or snow machines; 82 percent of the rural communities in Alaska have no road system. Costs are high in the villages, particularly for food, gas, and heating sources. Residents get much of their food from a subsistence lifestyle—hunting, fishing, and gathering wild plants for food—which remains a vital part of Alaska Native culture. Often, basic infrastructure such as housing and water are far below the standards of urban Alaska. For instance, some rural Alaskan homes lack running water and flush toilets and instead use washaterias that provide laundry, shower, and toilet facilities for a fee. In addition, employment opportunities are scarce, and gaining access to health care and educational opportunities is often challenging.

Table 3: Regional Alaska Native Corporation Shareholder Demographics as Reported by the Corporations

Corporation ^a	Number of shareholders	Number of shareholders residing in Alaska	Number of shareholders residing outside Alaska	Percentage of shareholders residing outside Alaska
Ahtna, Incorporated	1,751	1,430	321	18%
The Aleut Corporation	3,750	2,195	1,551	41
Arctic Slope Regional Corporation	11,090	9,052	1,620	15
Bering Straits Native Corporation	6,455	4,865	1,590	25
Bristol Bay Native Corporation	8,660	7,090	1,570	18
Calista Corporation	12,602	10,559	830	7
Chugach Alaska Corporation	2,520	1,380	1,010	40
Cook Inlet Region, Inc.	7,986	4,900	3,086	39
Doyon, Limited	18,536	13,891	4,645	25
Koniag, Incorporated	3,696	1,990	1,706	46
NANA Regional Corporation	12,923	11,155	1,768	14
Sealaska Corporation	21,263	11,159	10,104	48
Total	111,232	79,666	29,801	27%

Source: Regional Alaska Native corporations.

Note: These data represent the regional corporations' shareholder numbers as reported by the regional corporations as of dates occurring from December 2011 to October 2012.

^aCurrent shareholder numbers for the 13th Regional Corporation were not available. According to one of the corporation's shareholders, a former director, as of 2008, a total of 5,371 shareholders remained in the 13th Regional Corporation, of whom 695 resided in Alaska and 4,676 outside Alaska.

The Corporations Have Adopted a Variety of Governance Practices

Incorporated under Alaska state law, regional corporations share fundamental characteristics, although they have chosen a variety of governance practices. Like any other Alaska corporation, the regional corporations are subject to the state's corporate laws, with a few limited exceptions,²⁹ and are run by a board of directors elected by shareholders. Nevertheless, as allowed under state law, each of the regional corporations has adopted its own set of governance practices. In reviewing these practices for the regional corporations, we found a range of similarities and differences in terms of board composition and

²⁹Regional corporations are subject to Alaska corporate law with the exception of certain provisions relating to capitalization, issuance of shares, and other topics identified in Alaska Stat. § 10.06.960.

operation, executive and board compensation, board elections, and shareholder involvement; we did not review governance practices of the 13th Regional Corporation because it has largely been inactive since 2007.

Board Composition and Operation

Under the Settlement Act, all regional corporation board directors must be shareholders of their corporations and over the age of 18, but otherwise the corporations have taken various approaches in composing and operating their boards. For instance, board sizes range from 9 to 23 directors, and the corporations have established differing restrictions relating to the directors' employment with the corporation or their subsidiary companies. A few corporations specify that directors may not be employed by the corporation or any of its subsidiaries, while others specify that directors may not be employed by the corporation but may be employed by certain subsidiary companies. In contrast, several corporations do not restrict director employment with the corporation, but one restricts certain director involvement with entities that may compete with the corporation, and yet another requires that the position of corporate president be filled by a director. For those corporations that do not restrict director employment, we found several instances where board directors were also employed by the corporation or its subsidiaries.

We also found that the age, sex, professional business experience, and board tenure of the corporations' boards varied.³⁰ Very few directors were younger than 40, although directors' ages ranged from 29 to 82 years. Males made up a majority of all directors, but some boards were more evenly divided by gender than others (see table 4). The professional business experiences listed by the directors represented diverse fields and professions, including commercial fishermen, construction operators, medical doctors, school teachers and university professors, and business managers and executives. Similarly, a director's tenure on a board ranged considerably across and within the corporations, from less than 1 year to 39 years.

³⁰State regulation requires regional corporations to include certain information for board candidates and current board directors in their board proxy solicitations for director elections, such as name, age, and address; all positions and offices presently held with the corporation; and business experience during the past 5 years, including principal employment or occupation and employer. 3 Alaska Admin. Code § 08.345(b)(1)(A), (B), (F). In some of the proxy solicitations we reviewed, some of this information may not have been fully reported, in which case we referred the issue to the state.

Table 4: Characteristics of the Boards of Directors, Regional Alaska Native Corporations

Corporation ^a	Number of directors	Male:female ratio	Number of directors by total time served		
			Less than 10 years	From 10 to 20 years	More than 20 years
Ahtna, Incorporated	13	7:6	6	5	2
The Aleut Corporation	9	5:4	4	5	0
Arctic Slope Regional Corporation	15	9:6	6	8	1
Bering Straits Native Corporation	15	11:4	5	5	5
Bristol Bay Native Corporation	12	10:2	6	2	4
Calista Corporation	11	9:2	5	2	4
Chugach Alaska Corporation	9	5:4	5	4	0
Cook Inlet Region, Inc.	15	11:4	10	1	4
Doyon, Limited	13	7:6	8	4	1
Koniag, Incorporated	9	7:2	7	2	0
NANA Regional Corporation	23 ^b	13:9	12	7	3
Sealaska Corporation	13	9:4	6	2	5

Source: Regional Alaska Native corporations.

Note: The information on board directors reported here is based on the directors in place with each corporation before its annual shareholder meeting held in calendar year 2011.

^aThe 13th Regional Corporation has nine board director positions.

^bAt the time NANA held its 2011 annual shareholder meeting, there was one vacancy on the board because one director had passed away; the data presented in this row apply to the 22 directors then serving.

In terms of board operations, the corporations' boards are led by a chair and have designated committees, often with written charters spelling out their operating rules and procedures, although the types of committees and authority granted to each committee vary among corporations. Eleven of the corporations' boards have audit committees to oversee the corporation's financial reporting practices.³¹ Other common committees

³¹The Sarbanes-Oxley Act of 2002 requires companies listed on national securities exchanges and with national securities associations to have an audit committee that is directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that company for the purpose of preparing or issuing an audit report or related work. Because the regional corporations' shares are not listed on exchanges or with associations, they are not subject to this requirement.

include executive, lands, compensation, and shareholder relations.³² In some instances, committee membership is determined by a vote of the board, while in others, committee members are appointed by the board chair. Depending on the specific corporation and board committee, a particular committee's authority may be advisory, or it may have some decision-making authority granted by the board.

In addition, almost all of the corporations' boards have written codes of ethics outlining the directors' responsibilities, including legal duties and business practices, restricted activities (such as restrictions relating to individual contributions to political campaigns), and the avoidance or disclosure of potential conflicts of interest. Many of the corporations' codes of ethics discuss how conflicts of interest or the appearance of conflicts of interest should be avoided and what information is to be disclosed to the board in case of a potential conflict, such as when the corporation may be considering a business transaction with a member of a director's family. Additionally, in their annual proxy statements, the corporations generally disclose the family relationships of directors, board nominees, or executive officers of the corporation and its subsidiaries and certain financial transactions by the corporation with a director or director's family, as required by state regulation.³³

Executive and Board Compensation

The regional corporations report compensation information for certain corporate officers and board directors, although the type of information reported varies. Under Alaska state regulation, boards' proxy statements must contain certain information on compensation distributed to or accrued by corporate officers and directors over the previous fiscal year,

³²State regulation requires regional corporations' board proxy solicitations to list any board committees that perform audit, nominating, and compensation functions; briefly describe the functions actually performed; and indicate the membership of each committee and number of meetings held during the last fiscal year. 3 Alaska Admin. Code § 08.345(b)(7).

³³Specifically, state regulations for Alaska Native corporations' board proxy solicitations for director elections require the disclosure of any family relationship between (1) board nominees for director or incumbent directors and (2) any director, nominee, or executive officer of the corporation and its subsidiaries. 3 Alaska Admin. Code § 08.345(b)(1)(E). In addition, the regulations require a brief description of financial transactions by the corporation with any entity since the beginning of the last fiscal year and any presently proposed transactions if (1) the transactions in the aggregate exceed \$20,000 and (2) the nominee, director, executive officer, or a family member is employed by, is an officer or director of, or owns an interest in the entity. 3 Alaska Admin. Code § 08.345(b)(1)(H), (b)(3).

although the regulation does not prescribe the specific format to be used or require information to be included about the methods used to determine compensation.³⁴ We heard concerns from several shareholders that clear information about executive or director compensation was lacking.³⁵ Our review showed that the regional corporations' proxy statements provide varying levels of detail on compensation amounts and methods used to determine compensation.

For the regional corporations' 2010 reporting period, all the corporations reported in their proxy statements the total remuneration paid or accrued to their five most highly compensated officers or directors for services to the corporation and any subsidiaries, as required by state regulation.³⁶ The top reported compensation amount for any one officer or director ranged from \$137,578 to \$2,514,961. For seven of the corporations, corporate officers were generally the five most highly compensated individuals, while at the other five, officers of subsidiaries were commonly the five most highly compensated. Some corporations provided annual salary, bonus, or pension amounts, whereas others reported a total without specifying what made up the total or what amounts were distributed versus accrued during the time period.

Similarly, state regulation requires the corporations to report the total remuneration paid to or accrued by all their officers and directors as a group, as well as the number of persons in the group; the regulation does not, however, specify whether this group is to include officers and directors of any of the corporations' subsidiaries.³⁷ For the corporations' 2010 reporting period, total reported compensation ranged from

³⁴The state regulation defines executive officer as the president, secretary, treasurer, a vice president in charge of a principal business function, such as sales, administration, or finance, or any other person who performs similar policymaking functions for the corporation. 3 Alaska Admin. Code § 08.365(6).

³⁵Throughout this report we cite shareholder views that we obtained through four primary means: (1) our site visits to communities and villages in Alaska, (2) phone interviews we held with shareholders who contacted us or whom we contacted on the basis of referrals, (3) a feedback e-mail mailbox we set up, and (4) social media websites and other news sources. Because we were unable to conduct a systematic and independent survey of shareholders, we were limited to using these views, which are anecdotal and not generalizable to all shareholders.

³⁶3 Alaska Admin. Code § 08.345(b)(2)(A).

³⁷3 Alaska Admin. Code § 08.345(b)(2)(B).

\$1.4 million for 14 officers and directors to \$19 million for 115 officers and directors. Five corporations indicated that corporate and subsidiary officers and directors were included in their totals; two indicated they included corporate officers and directors only; and for the five others, it was not clear whether the totals included officers and directors of subsidiaries.

In addition, for their boards of directors, the regional corporations reported in their annual proxy statements general information on the fees directors were paid for their service on the board and the types of expenses for which they could be reimbursed. The way compensation was reported varied by corporation; the regulations do not specify a format for reporting. Three corporations provided the total amount they paid to each director for the reporting period (amounts reported ranged from less than \$17,000 to more than \$49,000). Five reported monthly or annual salaries for the directors, along with a description of other expenses for which directors could be reimbursed, such as travel and technology expenses. At these five corporations, salaries reported ranged from \$1,500 per month to \$48,000 per year. The other four corporations reported director compensation per day or per half day for attending board meetings (sometimes in addition to a monthly or annual fee), along with a description of expenses for which they could be reimbursed. These corporations did not report the total number of days the directors spent in meetings, however, making it difficult to estimate total compensation for the directors. Further, several corporations reported that directors serving as board chair, as chair of board committees, or on subsidiary board committees received additional compensation in varying amounts, depending on the corporation.

Although not required to by state regulation, several regional corporations provide additional information in their proxy statements about their executive pay practices. In the wake of public concern, executive compensation at private and publicly traded companies has received considerable scrutiny in recent years, and we heard similar concerns from several regional corporation shareholders, particularly about the transparency of compensation amounts or methods for determining such

amounts as reported to shareholders.³⁸ We found that several corporations detailed the process they used to make executive compensation decisions in their proxy statements, including how the corporations evaluated management performance. For example, one corporation reported in its 2011 proxy statement that its compensation committee recommended a compensation plan after reviewing national independent labor market studies of compensation paid by comparable companies, including other regional corporations. This corporation reported that it used independent compensation consultants to assist its compensation committee in developing a performance-based executive compensation plan, which included a base salary plus potential additional performance-based compensation. In contrast, although the other corporations did not include detailed information in their proxy statements, when we asked the corporations to describe their executive compensation policies, many of them reported that they rely on outside corporate salary surveys and studies; a few reported that they strive to set their compensation levels near the midpoint of the market for comparable positions. Similarly, several corporations reported that they had detailed methods in place to monitor and evaluate the performance of their executive officers and described incentive plans or bonuses available for meeting specific performance targets.

Board Elections

For each of the regional corporations, board directors' terms are 3 years and staggered, so that generally one-third of the director positions are up for election every year. Five corporations also require representation on their boards from specific geographic areas within the region (see table 5). For example, one corporation requires that at least one director come from each of the region's villages, whereas another established units corresponding to certain villages or communities and

³⁸In their annual proxy statements and other reports, SEC registrants must provide a comprehensive discussion and analysis of executive compensation policies, including (1) the specific items of corporate performance taken into account in setting compensation policies and making compensation decisions and (2) how specific elements of compensation are structured and implemented to reflect the company's performance and the executive's individual performance. In addition, under the Dodd-Frank Act, SEC registrants generally must conduct a shareholder advisory vote to approve executive compensation at least once every 3 years. This requirement does not apply to the regional corporations. According to one corporation, advisory resolutions regarding executive compensation are put forth by shareholders at most of the corporation's annual meetings.

specified a minimum number of directors who must come from each unit. In addition, the corporations have varied in how they evaluate and recommend candidates and conduct their elections. For instance, about half the corporations' boards have nominating committees to assess potential candidates and develop or recommend to the board a slate of nominees. These corporations often pay campaign expenses for their board slate, but most of them also provide information in their proxy statements on other candidates, known as independent candidates, and include the independents' names on their proxy at no cost to the candidates. Independent candidates may also run for election using their own proxy solicitations. Successful independent candidates may or may not be reimbursed by the corporation for their campaign expenses, depending on the corporation.

In contrast to those corporations with a board slate, five corporations' boards do not develop a board slate but, rather, generally include in their proxy statements all interested and qualifying candidates, as long as the candidates submit certain required information, such as biographical and conflict-of-interest information and, in the case of one corporation, petition signatures by at least 10 voting shareholders other than the candidate. These corporations pay for the proxy solicitations, but similar to those corporations with board slates, candidates may or may not be reimbursed by the corporation for other campaign expenses. A few shareholders we heard from said it is expensive to run for a board position. For example, they said, sending campaign information through the mail to all shareholders could cost thousands of dollars, given the shareholders' dispersed and often remote locations. We heard from a few shareholders that the corporations will share only mailing addresses and campaigning via e-mail or other electronic means may therefore not be an option for

interested candidates.³⁹ Several corporate officials we spoke with noted that their corporations do not use e-mail to solicit proxy solicitations and that they provide only shareholder mailing addresses to interested independent candidates because the corporations solicit proxies by mail.

Table 5: Election Information for the Regional Alaska Native Corporations, 2001-2011

Corporation	Number of board directors	Geographic representation requirements	Board slate	Number of 2001 directors serving in 2011
Ahtna, Incorporated	13	Yes	No	5
The Aleut Corporation	9	No	No	3
Arctic Slope Regional Corporation	15	Yes	No ^a	8
Bering Straits Native Corporation	15	No	No	9
Bristol Bay Native Corporation	12	No	Yes	4
Calista Corporation	11	Yes	Yes	6
Chugach Alaska Corporation	9	No	Yes	3
Cook Inlet Region, Inc.	15	No	Yes	4
Doyon, Limited	13	Yes	Yes ^b	5
Koniag, Incorporated	9	No	Yes	1
NANA Regional Corporation	23	Yes	No	5
Sealaska Corporation	13	No	Yes	7

Source: Regional Alaska Native corporations.

^aThrough its 2005 election, the Arctic Slope Regional Corporation identified board-endorsed candidates.

^bIn August 2010, Doyon, Limited's board voted to cease developing a board slate, starting with its 2011 elections.

³⁹Alaska corporate law requires a corporation to make its record of shareholders and books and records of account reasonably available for inspection and copying by a shareholder of the corporation, upon a written demand stating with reasonable particularity the purpose of the inspection. In 2011, the Alaska Supreme Court ruled that this statute provides shareholders with a right only to inspect and copy and not a right to have books, records, or documents delivered electronically, by mail, or otherwise. The court also ruled that this statute does not require corporations to keep phone and e-mail addresses in its shareholder records, so the law does not require corporations to permit shareholder inspection of them. *Henrichs v. Chugach Alaska Corp.*, 260 P.3d 1036, 1041-42 (Alaska 2011). A state trial court also ruled in 2011 that on the basis of the statute's language, case law, and statutory history, a regional corporation was not obligated to divulge information on individual executive compensation in response to a shareholder request. *Pederson v. Arctic Slope Regional Corp.*, No. 3AN-09-10971 CI (Alaska Superior Ct. Feb. 4, 2011) (order on reconsideration of motions for summary judgment).

All of the corporations use cumulative voting for their elections of directors. Cumulative voting means that each shareholder has a number of votes equal to the number of shares he or she owns multiplied by the number of directors to be elected. For example, if a shareholder owned 100 shares and four directors were up for election, the shareholder would have 400 votes and could cast all 400 votes for one candidate or divide his or her votes among the candidates. In addition, nine corporations allow their shareholders to return a discretionary proxy, meaning that shareholders may grant the board or other specified proxy holders discretion to cast their votes as the proxy holders see fit; for the three corporations that do not solicit discretionary proxies, any votes that are not directed to a particular candidate are counted only toward reaching a quorum.

Several corporations indicated that achieving a quorum for their annual elections can be challenging, but they have been successful over the last several years in obtaining the required participation of shareholders to elect directors for the board. To have a valid election, a quorum of shareholders must be represented at the meeting in person or by proxy. Four corporations' quorum is one-third of voting shares, and the other eight corporations' quorum is a majority of voting shares.⁴⁰ To encourage shareholders to vote, all 12 corporations offer monetary prizes or other incentives to shareholders voting in the annual election of directors.⁴¹ Seven corporations also allow shareholders to vote online; a few corporations said they have considered online voting but determined it may not be feasible or worthwhile, because, for example, many of their shareholders live in remote locations where Internet access is limited.

In reviewing the regional corporations' election outcomes during the 10-year period from 2001 to 2011, we found that more board-endorsed candidates or incumbents have won elections than independent

⁴⁰According to the bylaws of the 13th Regional Corporation, its quorum is one-third of voting shares.

⁴¹The Alaska Department of Commerce, Community, and Economic Development's Division of Banking and Securities' position is that prizes for shareholders returning proxies are allowable only when they are available to all voting shareholders regardless of the proxy chosen. In 2011, the Alaska Supreme Court ruled that a regional corporation's bylaws authorized the board to offer a prize as an incentive for shareholders to return their proxies by a specified deadline for any proxyholder or candidate and that the prizes were not illegal distributions or vote buying, since the incentive did not favor any candidate. *Heinrichs v. Chugach Alaska Corp.*, 260 P.3d 1036, 1044-45 (Alaska 2011).

candidates but that board director positions have also changed hands numerous times. Some shareholders we spoke with said that their corporation's use of a board slate and discretionary voting has made it difficult to elect independent candidates. We found that for the corporations with board slates, elections were won mostly by board slate nominees. We also found, however, that at least one independent candidate was elected during the 10-year period at all but one of these corporations; one corporation elected no independent candidates. Similarly, for the corporations without board slates, we found that incumbent directors who ran for reelection largely won, but it was not uncommon for at least one incumbent candidate to be unseated across these corporations during any one election cycle. In addition, in most elections across the 10-year period, candidates outnumbered the available seats on the board of directors, although we found that for the corporations with village-specific or other geographical restrictions on certain board seats, a specific seat went uncontested in several elections. Across the 12 corporations, director positions have turned over several times during the last 10-year period. Roughly half or fewer of the directors who were serving in 2001 were still serving in 2011 (see table 5). Turnover has occurred for a variety of reasons, including resignations, deaths, nominating committees not selecting incumbent board directors for reelection, and incumbents losing board elections.

Shareholder Involvement

Legally, the role of shareholders in a corporation is limited, although the regional corporations have developed a number of methods to seek feedback from and encourage the involvement of their shareholders. For instance, in addition to annual shareholder meetings, most regional corporations annually hold informational meetings in all or a portion of the villages located in their region and in other locations where significant numbers of shareholders reside, such as Anchorage or the Pacific Northwest. For these meetings, corporate officials or board directors travel to communities to update shareholders on the corporation's business activities and finances and to enable shareholders to ask questions, raise concerns, and offer comments and suggestions. The corporations also provide news, updates, and other information to their shareholders via corporate websites, electronic or printed monthly or quarterly newsletters, and online social media like Facebook. In addition, nine regional corporations stream their annual meetings online, allowing shareholders to participate remotely. Several corporations reported that they have received good online participation, allowing some shareholders to participate who might not otherwise be able to attend. For instance, one corporation reported to us that shareholders could view its 2012

annual meeting via webcast for the first time, and approximately 400 shareholders participated.

Three corporations have established shareholder advisory committees comprising volunteer shareholders—representing shareholders living both within and outside of Alaska—to learn about what matters to shareholders, hear how the corporations can improve communications and interactions with shareholders, and educate shareholders about corporate policies and procedures, among other things. For example, one corporation has established three shareholder committees to represent shareholders living (1) in Anchorage, (2) in Alaska but outside Anchorage, and (3) in the lower 48 states. Each committee consists of nine members who are chosen by a random drawing from the names of those who indicated interest in serving on the committee; chosen members serve 3-year terms. Two current directors from this corporation previously served on the shareholder advisory committee, one of whom told us that it was a great opportunity to learn more about the corporation and become interested in serving on the board.

Further, six of the corporations open at least a portion of their regular board meetings to shareholders. In a few instances, a request to attend must be made in advance; in others, any interested shareholders may attend. A few other corporations said they offered limited instances when shareholders are invited to attend specific board meetings, such as when the board may be meeting with visiting dignitaries or discussing a cultural artifact. Additionally, many corporate officials we spoke with said they have an “open door” policy, whereby shareholders can call or come to their corporate offices to directly express concerns or obtain information. Corporate officials also noted that many of the directors live in villages in their region, and they receive feedback on corporate matters from shareholders on a daily basis because their families, neighbors, and coworkers are also shareholders.

We found that most regional corporations have surveyed their shareholders for feedback over the past several years, although obtaining a high survey response rate has been a challenge. All but two corporations reported to us that they have surveyed their shareholders; a few reported that they survey their shareholders on a regular basis, such as every other year. Regional corporations have surveyed their shareholders to gauge their general satisfaction with the corporation or to obtain their views on specific topics, such as opening enrollment to Alaska Natives or descendants born after the law was enacted in December 1971, training or employment preferences, or special

payments to elders. In the survey results we reviewed for the handful of corporations that shared them with us, the corporations reported that most shareholders expressed satisfaction with their corporation. For example, in a survey conducted in 2008, 67 percent of shareholder respondents for one corporation expressed positive “overall feelings toward” their corporation, and 62 percent of the respondents said the corporation did a good job of telling shareholders what the company was doing. We also noted, however, that in many instances survey response rates were fairly low, ranging from 6 to 46 percent. A few corporate officials we spoke with acknowledged the participation challenge and said they typically offer incentives, such as prize drawings, to improve the response rate. We also spoke to several shareholders, who said they were generally satisfied with their regional corporation and stayed abreast of corporate activities by regularly reading corporate reports. On the other hand, we also heard concerns from several other shareholders that access to meaningful corporate information was lacking or that some shareholders do not participate in surveys or other corporate activities because they were frustrated or disappointed with the corporation.

In addition to participating in meetings and surveys, shareholders may submit resolutions for inclusion in a board proxy solicitation regarding corporate matters for a shareholder vote. Many corporations have specific requirements for including proposed resolutions, such as setting time frames for submission or limiting the number of resolutions that can be submitted during any one year, and shareholder resolutions have often been advisory. We found that from 2001 through 2011, shareholders from five corporations submitted 1 or more resolutions during any one year (for a total of 14 resolutions across the five corporations during this period).⁴² Examples of submitted shareholder resolutions included limiting terms for the board of directors to two consecutive terms, designating a specific location for the corporation’s next annual meeting, and establishing a settlement trust.

Another option available to shareholders if they are dissatisfied with corporate policies or activities is to file a lawsuit against the corporation. During our review, we identified several lawsuits that shareholders brought against regional corporations, including challenges to the

⁴²The corporations’ boards of directors may also include in the proxy board-sponsored resolutions for a shareholder vote. We found that from 2001 through 2011, 21 board-sponsored resolutions were put forward across eight corporations.

corporation's denial of shareholder access to corporate books and records,⁴³ the settlement agreement governing the 7(i) distribution,⁴⁴ and payments to elders made through a settlement trust or elder benefits program.⁴⁵ Shareholders lost the lawsuits we identified except one case that settled out of court and two cases that, as of this report, were still pending. Nevertheless, in a few of these cases, neither federal nor state law authorized shareholders to bring lawsuits challenging the corporation's action, and under state law, successfully challenging a corporate board's business judgment is difficult. A few shareholders we heard from expressed frustration that filing a lawsuit was their only recourse, which can be very costly.

The Corporations Are Subject to Some Federal and State Financial Reporting Requirements and Limited State Oversight

The regional corporations are subject to some financial reporting requirements under federal and state law, although oversight of the reporting is limited. The Settlement Act generally exempts the corporations from complying with federal securities laws while requiring them to annually transmit a report to their shareholders that contains "substantially all the information" required to be included in an SEC registrant's annual report to shareholders.⁴⁶ The act does not provide a federal role for monitoring the corporations' compliance with this requirement, and the state's oversight is generally limited to enforcement of state securities laws and proxy regulations.

Federal and State Financial Reporting Requirements for Alaska Native Corporations

Under federal law and state securities laws and regulations, the regional corporations are subject to some financial reporting requirements. At the federal level, the Settlement Act generally exempts the corporations from complying with federal securities laws. As explained in a House committee report accompanying an amendment to the Settlement Act,

⁴³Heinrichs v. Chugach Alaska Corp. 260 P.3d 1036 (Alaska 2011); Pederson v. Arctic Slope Regional Corp., 3AN-09-10971 (Alaska Superior Ct.). (In a trial held in September 2012, a shareholder challenged the corporation's denial of access to corporate documents concerning a business transaction and executive compensation.)

⁴⁴Oliver v. Sealaska Corp., 192 F.3d 1220 (9th Cir. 1999).

⁴⁵Notti v. Cook Inlet Region, Inc., Nos. 01-35521, 01-35569. (9th Cir. 2002); Bodkin v. Cook Inlet Region, Inc., 182 P.3d 1072 (Alaska 2008); Broad v. Sealaska Corp., 85 F.3d 433 (9th Cir. 1996).

⁴⁶43 U.S.C. § 1625(c)(1).

this exemption was based on the understanding that federal regulation of the corporations was not necessary to protect Alaska Native shareholders or the public during the period when Alaska Native-owned stock could not be sold.⁴⁷ The report also noted, however, that if this assumption proved invalid in light of experience, the committee was prepared to reimpose provisions of federal securities laws as necessary and that the 20-year exemption should be viewed by the Alaska Natives as an experiment which would be stopped if abused. In 1988, the act was amended to extend the exemption from securities law until after a corporation issued shares of its stock to the public, shareholders voted to terminate the restriction on sales, or the corporation registered with the SEC. As of this report, none of these events had occurred, and the 13 regional corporations therefore continue to be exempt from federal securities laws.

In discussing the federal securities exemption, the House committee report recognized that the Securities Exchange Act of 1934 was designed to inform the investing public about securities and also provided useful information to shareholders.⁴⁸ Accordingly, the Settlement Act was amended to require Alaska Native corporations to annually transmit a report to their shareholders that contains “substantially all the information” required to be included in an SEC registrant’s annual report to shareholders. In addition, the Settlement Act required that the accounts of the regional corporations be audited annually in accordance with generally accepted auditing standards and that the corporations provide shareholders with a copy, or a fair and reasonably detailed summary, of the audit report.⁴⁹

The SEC has characterized an annual report to shareholders as the “principal document used by most public companies to disclose corporate information to their shareholders.”⁵⁰ Regulations promulgated under the Securities Exchange Act of 1934 prescribe the information that SEC

⁴⁷H.R. Rep. No. 94-729 at 20 (1975).

⁴⁸H.R. Rep. No. 94-729 at 19 (1975).

⁴⁹43 U.S.C. § 1606(o).

⁵⁰See <http://www.sec.gov/answers/annrep.htm>.

registrants must provide in their annual reports to shareholders.⁵¹ These annual reports are to include, among other things, detailed information about the financial performance of the corporation, audited consolidated financial statements for the corporation and its subsidiaries, and a presentation of selected financial data highlighting certain significant trends in the company's financial condition and results of operations for each of the last 5 fiscal years. A management discussion and analysis of the corporation's financial condition and results of operations are also required. The SEC describes the management discussion and analysis as an opportunity for management to help shareholders see the corporation's financial performance through the eyes of management; to provide context within which the financial statements should be analyzed; and to provide information about the quality of, and potential variability of, a company's earnings and cash flow, so that investors can ascertain the likelihood that past performance is indicative of future performance.

At the state level, regional corporations are subject to financial reporting requirements included in the Alaska Securities Act and its implementing regulations. This act requires that copies of all materials related to a proxy solicitation must be filed concurrently with the state's Division of Banking and Securities if the solicitation has been made available to at least 30 Alaska resident shareholders of an Alaska Native corporation with 500 or more shareholders and total assets exceeding \$1 million.⁵²

Documents related to a proxy solicitation that must be filed with the state include annual reports to shareholders, proxy statements, proxies that are mailed to shareholders, as well as materials distributed by other means such as e-mail or websites. Proxy solicitation materials filed with the state are available for public review, although the state maintains only printed and not online copies.⁵³

⁵¹Specifically, Rule 14a-3(b) establishes requirements for the information that is to be included in annual reports to shareholders that must accompany or precede an SEC registrant's proxy solicitation for a shareholder meeting to elect directors. 17 C.F.R. § 240.14a-3(b). This required annual report to shareholders differs from the more detailed annual report (Form 10-K) that SEC registrants must file with the SEC.

⁵²Alaska Stat. § 45.55.139. This provision applies only to Alaska Native corporations. Although other corporations incorporated in Alaska are not required to file their proxy solicitations with the state, state regulations govern their issuance of securities.

⁵³On September 27, 2012, the state proposed changes to the proxy solicitation regulations to allow for electronic filing of annual reports and proxy solicitation documents relating to certain Alaska Native corporations, among other things.

Alaska Native corporations that meet the threshold requirement for filing proxy solicitation materials are also subject to specific state regulations governing the content of and process for proxy solicitation.⁵⁴ State documentation describes these regulations as intended to protect both the corporations and shareholders from “unscrupulous individuals,” by promoting transparency in the solicitation process and the fairness of elections. The regulations prohibit proxy solicitations from containing material misrepresentations—generally defined as a statement that is false or misleading with respect to a material fact or that omits a material fact necessary to make a statement not false or misleading—and also provide guidance and examples of what might constitute false or misleading statements. In addition, the regulations require proxy solicitations to be preceded or accompanied by a written proxy statement including certain information. What information is required depends on whether the solicitation comes from the boards of the regional corporations or someone else, such as an independent candidate running for a seat on the board, although the requirements overlap considerably. For example, both types of proxy solicitations must be preceded or accompanied by background information on board of director nominees, such as involvement in any adverse legal proceedings with the corporation, along with certain financial transactions between the corporation and any entity in which the nominee, a board director, or a member of the nominee’s or director’s family is employed or has an ownership interest. Proxy solicitations from a regional corporation’s board of directors must also contain detailed information about the corporation’s current directors and committees, among other information.

Federal and State Oversight of Alaska Native Corporations’ Financial Reporting

The Settlement Act does not provide a federal role in ensuring that the regional corporations comply with the act’s reporting requirements; there is limited oversight of the regional corporations’ financial reporting carried out at the state level. Although the Settlement Act requires the regional corporations to annually provide their shareholders with a report that contains “substantially all the information” required to be included in an SEC registrant’s annual report to shareholders, the act does not define what “substantially all” means. In addition, the act does not authorize any federal entity to monitor whether corporations are complying with this

⁵⁴3 Alaska Admin. Code §§ 08.300-08.365.

reporting requirement.⁵⁵ Although annual reports to shareholders are not required to be filed with or reviewed by the SEC, a House committee report indicated that Alaska Native leadership would comply fully with the intent of this provision and submit annual reports to their shareholders which are as effective in disclosing corporate activities as those prepared by SEC registrants, and that Alaska law would provide protection for Native shareholders from any corporate mismanagement and misrepresentations or omissions in connection with sales of securities.⁵⁶

Because regional corporations are required to provide “substantially all” the information required of SEC registrants in their annual shareholder reports, we asked staff of the SEC to provide observations on the extent to which the corporations’ 2010 annual shareholder reports include the information required to be disclosed by SEC registrants. The SEC staff’s observations were subject to a number of limitations, as follows:

- SEC staff did not evaluate the merits of any of the regional corporations’ investments or determine whether an investment was appropriate for any investor, consistent with the scope of its disclosure review program of publicly reporting companies.
- SEC staff did not interpret the Settlement Act’s requirement that regional corporations’ annual shareholder reports contain “substantially all the information” found in an SEC registrant’s annual report. Instead, in providing its observations, SEC staff assumed that the regional corporations were required to include *all* of the information required to be provided in an SEC registrant’s annual report to shareholders.
- SEC staff did not consider any information outside of what was contained in the annual reports or engage in a dialogue with corporate officials about any of their observations, as they normally would in their regular disclosure review program. According to SEC staff, this

⁵⁵The Settlement Act originally required the corporations’ audited financial statements, or a fair and reasonably detailed summary, to be transmitted to the Secretary of the Interior and to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. This requirement, however, did not authorize the Department of the Interior to take any action with respect to the financial statements and was repealed in 1988. See Pub. L. No. 100-241, §12(a) (1988).

⁵⁶H.R. Rep. No. 94-729 at 20 (1975).

additional information would have further informed their observations. Accordingly, SEC staff noted that they were unable to determine whether certain observations did in fact represent deficiencies or noncompliant accounting or disclosures or whether they were able to identify all material issues in providing us with their observations.

Nevertheless, SEC staff made a number of observations and raised several questions where the information contained in the regional corporations' annual shareholder reports differed from what they would have expected to see in an SEC registrant's annual report. For example, SEC staff noted that the management discussion and analysis disclosures in most of the corporations' annual reports did not fully explain material uncertainties reasonably likely to affect future trends and prospects, as they would have expected to see in an SEC registrant's report. SEC staff also noted that it was not clear to what extent certain generally accepted accounting principles applied to the regional corporations' preparation of their financial statements. SEC registrants are generally considered "public" and must follow accounting standards for public corporations, whereas nonpublic corporations may not have to follow certain accounting standards required for public companies. Since the regional corporations are exempt from SEC regulation but are required to produce annual shareholder reports containing "substantially all the information" found in a report prepared by an SEC registrant, SEC staff noted that it is unclear in some circumstances which accounting standards and disclosures the corporations should follow.

Under state securities law, the state has the authority to regulate various issues related to the regional corporations, primarily oversight of proxy solicitations. According to state officials, the state has received a number of inquiries about proxy solicitations from both shareholders and regional corporations over the years. For instance, according to state officials, the state received 59 inquiries about regional corporations—questions relating to proxy materials filed with the state—from July 2011 through June 2012. The inquiries covered a range of topics, including questions from shareholders on how to file proxy materials or what materials, including communications via social media, are considered to be proxy solicitations, as well as questions from corporate officials seeking clarification of the proxy solicitation regulations' requirements. The state also received inquiries about areas outside its jurisdiction, such as a shareholder contesting the results of an election, in which case the state advised the individual to seek legal counsel. According to state officials, they were able to respond to and resolve all the inquiries within their jurisdiction during this time period, and no further action was necessary.

The state has the authority to review all proxy solicitations but largely reviews only those solicitations for which a corporation or a corporation's shareholder has filed a complaint (i.e., a written request for the state to investigate). Specifically, the state does not investigate to determine whether all Alaska Native corporations meeting the threshold requirements for filing proxy solicitations with the state actually do so, but, rather, the state relies on self-reporting by the corporations. In addition, state officials we spoke with said they do not automatically review the proxy materials submitted by the regional corporations or their shareholders because they do not have the resources to routinely review proxy filings to assess compliance with the requirements.⁵⁷ Instead, the state mostly relies on the corporations or their shareholders to monitor filed proxy materials and to submit complaints if concerns of violations surface, such as proxy materials containing materially false and misleading statements.

According to information provided by state officials, from January 2010 through June 2012, the state received nine complaints involving four regional corporations. Of these, one was filed against a shareholder of a regional corporation by a corporate officer, seven were complaints filed against a regional corporation by a shareholder, and the other was an investigation initiated by the state into a regional corporation's use of social media. The state determined that four complaints involved matters outside the state's jurisdiction, and the state declined to open an investigation into two others because the complaints included allegations that were part of ongoing litigation between the parties; state officials told us that to the extent that litigation may occur over an issue for which they have also received a complaint, the state generally does not pursue its own investigation but instead defers to the courts. The state opened an investigation for the three other complaints but closed them without taking further action.

For investigations where the state determines that a violation has occurred, it has the authority to issue an administrative order to parties

⁵⁷The proxy solicitation regulations expressly state that the filing of proxy materials does not constitute a finding by the state that the filings are accurate, complete, or not false or misleading or that the state has passed upon the merits of or approved any statement in the solicitation; see 3 Alaska Admin. Code § 08.315(b).

found to be in violation.⁵⁸ According to information provided to us by the state, from 1978 through 2011, the state issued administrative orders in at least 29 investigations of a regional corporation's or a regional corporation shareholder's compliance with the state's proxy regulations.⁵⁹ Six of the investigations involved a regional corporation's board solicitation, and 22 were related to shareholder solicitations.⁶⁰ Administrative orders issued have generally found one or more of the following violations:

- Failure to file with the state proxy material that meets the requirements for filing.
- Failure to include in proxy material information required by the proxy regulations, the omission of which might also be materially false and misleading.
- Inclusion in proxy material of materially false and misleading statements. For example, the state found a solicitation to be false and misleading because it stated that the proxy holder was engaged in a lawsuit against the corporation involving the corporation's failure to provide a shareholder list in a timely fashion, even though at the time the solicitation was disseminated, the court had already ruled that the corporation had timely provided the list.

In almost all orders, the state ordered the violator to cease the violation; in many instances, the state ordered that any future proxy solicitations, either indefinitely or for a specified time period, be filed with the state before distribution to shareholders, and in some instances, the state imposed a fine on the violator, with most fines set at \$500.

⁵⁸The state notifies in writing the person who filed the initial complaint, the alleged violator, and the corporation at issue of its decision whether to issue an order or take no action. Before issuing any final orders, the state must provide reasonable notice of and opportunity for a hearing.

⁵⁹Five of the investigations were resolved through consent agreements whereby the alleged violator agreed to the sanctions.

⁶⁰One investigation involved a village corporation's failure to comply with state proxy solicitation requirements when it placed ads in a local newspaper requesting that shareholders vote for two candidates seeking election to a regional corporation's board of directors.

In addition, corporations or shareholders may file a lawsuit over their concerns about a proxy solicitation. During our review, we identified a few lawsuits brought by shareholders alleging that proxy solicitations distributed by their regional corporations violated the law or regulations. We also identified a number of lawsuits brought by regional corporations alleging that shareholder solicitations contained false and misleading statements. In the cases we identified brought by shareholders—who alleged that the corporations’ proxy solicitation did not include required information, contained false and misleading statements, or both—the courts ruled in favor of the corporations, that is, that the corporations’ solicitations were not false or misleading, although two cases were still pending as of this report, and one settled out of court.⁶¹ In contrast, in the cases we identified brought by regional corporations, the courts ruled that the shareholder solicitations contained false and misleading statements, although one case was still pending in an appellate court as of this report, and one settled out of court. For example, in one case, the court ruled that a shareholder’s solicitation, which claimed that board directors appointed themselves to top executive positions regardless of qualifications, was false and misleading.⁶²

⁶¹See *Henrichs v. Chugach Alaska Corp.*, 260 P.3d 1036 (Alaska 2011) (Appeal of 3AN-05-11014CI), and *Rude v. Cook Inlet Region, Inc.*, 3AN-10-09493CI (2012).

⁶²*Arctic Slope Regional Corporation v. Rodney S. Pederson*, 3AN-11-05733CI (AK Superior Court).

The Corporations Provide Diverse Monetary and Nonmonetary Benefits to Their Shareholders and Other Alaska Natives

The regional corporations provide a wide variety of benefits to their shareholders and other Alaska Natives. Under the Settlement Act, the corporations are authorized to provide benefits to promote the health, education, or welfare of shareholders and other Alaska Natives, but they are not required to do so.⁶³ As diverse as they are themselves, the corporations provide an equally diverse array of benefits depending in part on their financial means and on priorities related to shareholder needs.⁶⁴ The articles of incorporation and mission statements of the regional corporations establish their intent to provide economic, cultural, social, or all three types of benefits, which the corporations have chosen to do in both monetary and nonmonetary forms; benefits go to shareholders, shareholders' descendants, and others. We do not include the 13th Regional Corporation in our discussion because, without operating revenues, it has not provided tangible benefits to its shareholders for many years.

Monetary Benefits

The 12 regional corporations provide a variety of monetary benefits to their shareholders and others, including dividends, elder benefits, scholarships, memorial benefits, shareholders' equity, and charitable donations, as follows:

- *Dividends.* The most broadly dispersed monetary benefit consists of cash dividends paid per share to shareholders. Shareholders and officials from several regional corporations told us that dividends are often considered the most important benefit shareholders receive from the corporations. We heard from several corporations that dividend payments to shareholders provide a critical source of income to help

⁶³Amendments to the Settlement Act in 1998 confirmed the corporations' authority to provide benefits to promote the health, education, or welfare of shareholders and their family members and that such benefits may be provided on a basis other than pro rata based on share ownership. Pub. L. No. 105-333, § 12 (1998), *codified as amended at* 43 U.S.C. § 1606(r).

⁶⁴On February 11, 2011, SBA issued a final rule making changes to the regulations governing the 8(a) program, including a new requirement for Alaska Native corporations with subsidiaries participating in the program to annually submit information demonstrating how their participation has benefited Alaska Natives, the Native community, or both (76 Fed. Reg. 8222 (Feb. 11, 2011)). While the final rule took effect on March 14, 2011, SBA delayed implementation of the benefits reporting requirement until September 9, 2011. However, as of this report, SBA had not yet finalized its method for collecting the benefits information. SBA reported that in the absence of a finalized format, subsidiaries have submitted the information using their own formats.

defray living expenses, such as high heating costs during the winter. The total dividends per share paid by each of the 12 regional corporations during the 2010 reporting period varied considerably, ranging from \$2.35 per share at one corporation to \$64.26 at another (see table 6). The regional corporations' boards annually determine and approve dividend amounts on the basis of factors including the corporations' financial performance, and some have established formulas, such as a targeted percentage of net income, or a permanent fund out of which dividends are to be paid.

Table 6: Financial and Dividend Information as Reported by the Regional Alaska Native Corporations, 2010

Corporation	Gross revenue (thousands of dollars)	Net income (thousands of dollars)	Declared dividends per share (dollars) ^a	Actual dividends and distributions paid in total (thousands of dollars) ^b	Actual dividends and distributions as a percentage of net income
Ahtna, Incorporated	\$243,430	\$1,739	\$4.00 ^c	\$880	51%
The Aleut Corporation	143,046	8,381	21.00	7,670 ^d	92
Arctic Slope Regional Corporation	2,331,681	164,433	64.26	73,667	45
Bering Straits Native Corporation	197,706	8,848	2.35	1,488	17
Bristol Bay Native Corporation	1,667,200	43,017	13.80	7,307	17
Calista Corporation	234,866	18,301	2.75 ^c	4,161 ^d	23
Chugach Alaska Corporation	936,975	26,492	41.92 ^c	9,270	35
Cook Inlet Region, Inc.	188,357	16,535	35.42	22,236	135 ^e
Doyon, Limited	280,268	15,678	4.21	7,253 ^d	46
Koniag, Incorporated	131,052	8,654	10.50	3,903	45
NANA Regional Corporation	1,592,826	41,173	14.00	21,714 ^d	53
Sealaska Corporation	\$223,823	\$15,154	\$3.56 ^c	\$7,690	51%

Source: GAO analysis of data from the regional Alaska Native corporations.

Note: The regional corporations' financial information presented in this table reflects a single-year snapshot and may not be representative of past or future financial performance or dividends and distributions paid to shareholders. Unless otherwise noted, the numbers in this table represent amounts reported by the corporations in their audited consolidated financial statements and accompanying notes, both of which were contained within the corporations' annual reports to shareholders for the 2010 reporting period.

^aAmounts in this column represent the corporations' declared dividends per share during the 2010 reporting period, which are amounts authorized by the board of directors to be paid to shareholders. For corporations that issue more than one class of shares, these declared dividend amounts may or may not correspond to declared dividends for each class of shares.

^bAmounts in this column represent the total dividends paid by the corporations during the 2010 reporting period, including, for some corporations, distributions to elder shareholders.

^cDeclared dividend amounts for this corporation were contained in the corporation's annual report to shareholders but outside of its audited consolidated financial statements.

^dThese amounts were declared in the 2010 reporting period but were paid the following year.

^eCook Inlet Region, Inc., does not base its dividend payments on its net income but, rather, pays a dividend equal to 3.5 percent of shareholders' equity, that is, the monetary value of the corporation's assets minus its liabilities.

In analyzing the corporations' financial data for the 10-year period from 2001 through the 2010 reporting period, we found that not all corporations provided dividends every year. Each of the 12 corporations paid dividends in recent years, but a handful of corporations did not provide dividend payments in the early 2000s; some corporations struggled financially or declared bankruptcy in the past.⁶⁵ Our analysis showed that for the 10-year period, the cumulative total in dividends per share ranged from \$5.50 per share to over \$600 per share; for half the corporations, the cumulative total amounted to approximately \$34 to \$100 per share over the period. Thus, a shareholder owning 100 shares could have received from \$550 to as much as \$60,000 over the period; typically, however, shareholders would have received about \$3,400 to \$10,000.

- *Elder benefits.* In addition to dividends, almost all the regional corporations provide monetary payments to elder shareholders. Specifically, 11 corporations make cash payments, often quarterly or annually, to their elder shareholders, starting at age 60, 62, or 65, depending on the corporation. The regional corporations provide these payments—which ranged from \$300 to \$4,000 per individual during the 2010 reporting period—through various mechanisms, including from designated trusts, as a separate class of shares, or in cash payments authorized by the corporations' boards.⁶⁶ Several corporate officials we spoke with commented that these payments

⁶⁵Regarding the 13th Regional Corporation, one shareholder we spoke with, who actively tracked and maintained documentation on the corporation's activities, said that since the corporation was established, it twice provided dividends to its shareholders: once in 1989 at 11 cents per share and another in 2000 at 50 cents per share.

⁶⁶At least two corporations have established settlement trusts to provide cash distributions to elder shareholders. In 1988, the Settlement Act was amended to authorize Alaska Native corporations to establish a settlement trust under Alaska state law if shareholders approved a resolution to convey corporate assets, except subsurface estates, to the trust. The 1988 amendment also authorized shareholders to vote to issue additional shares to Alaska Natives who were 65 years old or older. Shareholders who voted to do so have voted to establish a separate class of shares known as elder shares.

often constitute an important source of income for elder shareholders, who may not otherwise have a retirement income.

- *Scholarships.* The 12 regional corporations support a variety of educational scholarships to their shareholders and, in some cases, to descendants of shareholders. In general, the corporations provide funding to closely affiliated nonprofit organizations, such as foundations endowed by the corporations, which then award scholarships to qualifying undergraduate, graduate, or vocational students. During the corporations' 2010 reporting period, each of the 12 corporations reported to us that they provided funding to support individual scholarship awards made by the nonprofit organizations, in amounts varying by corporation and by type of scholarship award (see table 7). In some cases, scholarships are competitive; in other cases, corporate officials said they try to provide funding to as many eligible applicants as possible.

Table 7: Scholarship Information as Reported by the Regional Alaska Native Corporations, 2010

Corporation	Scholarship provider	Scholarship support
Ahtna, Incorporated	Ahtna Heritage Foundation	<ul style="list-style-type: none"> • Higher education scholarships to shareholders • Students may receive \$2,000 each per semester for full-time study, \$1,000 each per semester for part-time study • Total of \$187,000 provided to foundation
The Aleut Corporation	Aleut Foundation	<ul style="list-style-type: none"> • Higher education and vocational scholarships to shareholders or shareholder descendants • Total of \$615,315 provided by foundation for almost 200 scholarships
Arctic Slope Regional Corporation	Arctic Education Foundation	<ul style="list-style-type: none"> • Higher education, training, and leadership scholarships to shareholders, shareholder descendants, or other Alaska Natives living in the region • Total of \$3.4 million provided to foundation, which awarded 425 scholarships
Bering Straits Native Corporation	Bering Straits Foundation	<ul style="list-style-type: none"> • Higher education and vocational scholarships to shareholders or shareholder descendants • Students may receive \$400 to \$1,000 per semester or quarter • Total of \$209,514 provided by foundation for 148 scholarships
Bristol Bay Native Corporation	Bristol Bay Education Foundation	<ul style="list-style-type: none"> • Higher education and vocational scholarships to shareholders • Students may receive \$1,500 to \$5,500 per year • Total of \$400,000 provided to foundation for 156 scholarships
Calista Corporation	Calista Scholarship Fund	<ul style="list-style-type: none"> • Higher education scholarships to shareholders or shareholder descendants with ties to the Calista region • Students may receive \$500 to \$1,000 per semester, depending on grade point average • Total of \$293,250 provided by fund for more than 200 scholarships

Corporation	Scholarship provider	Scholarship support
Chugach Alaska Corporation	Chugach Heritage Foundation	<ul style="list-style-type: none"> Higher education scholarships to shareholders or shareholder descendants Students may receive \$4,800 to \$6,000 per academic year for undergraduate study to \$12,000 per academic year for graduate study Total of \$851,632 provided by foundation to more than 200 recipients
Cook Inlet Region, Inc.	CIRI Foundation	<ul style="list-style-type: none"> Higher education and vocational scholarships to shareholders or shareholder descendants Students may receive up to \$5,000 per academic year for full-time study and up to \$4,500 per academic year for part-time study Total of \$292,592 provided to the foundation for 431 recipients
Doyon, Limited	Doyon Foundation	<ul style="list-style-type: none"> Higher education and vocational scholarships to shareholders or shareholder descendants Students may receive \$400 per semester to \$7,000 per year Total of \$482,771 provided by foundation to about 400 recipients
Koniag, Incorporated	Koniag Education Foundation	<ul style="list-style-type: none"> Higher education scholarships to shareholders or shareholder descendants Students may receive up to \$2,500 per year for general scholarships Total of \$153,450 provided to the foundation
NANA Regional Corporation	Aqqaluk Trust	<ul style="list-style-type: none"> Higher education and vocational scholarships to shareholders, shareholder descendants, or dependents of shareholders or their descendants Students may receive \$2,000 per term for full-time study and \$1,000 per term for part-time study Total of \$803,920 provided by trust to 275 recipients
Sealaska Corporation	Sealaska Heritage Institute	<ul style="list-style-type: none"> Higher education scholarships to shareholders or shareholder descendants Total of \$298,000 provided by the institute for roughly 400 scholarships

Source: GAO analysis of information from the regional Alaska Native corporations.

- Memorial benefits.** Most regional corporations provide financial assistance to their shareholders and, in some cases, to shareholder descendants or other family members to help with funeral-related expenses related to the death of a shareholder, spouse, or descendant.⁶⁷ Financial assistance can be used for burial or funeral-related expenses, including travel by family members, which may allow shareholders to maintain Alaska Native burial traditions and help offset the high costs of travel in Alaska. Most corporations reported that they set a cap on the amount of financial assistance available per individual or family, ranging from \$500 to \$3,000, depending on the corporation.

⁶⁷Memorial benefits may be provided directly from the regional corporations or through corporation-affiliated nonprofit organizations.

-
- *Shareholders' equity.* Shareholders' equity has been described by some of the regional corporations as a benefit, but because shareholders cannot currently sell their shares for a monetary return, they may not view such equity as a benefit. Shareholders' equity is the net assets of the company, that is, the value of a company's assets minus its liabilities. According to a Department of the Interior study on Alaska Native corporations, the values of the regional corporations are difficult to estimate in the absence of a market for their shares.⁶⁸ Moreover, absent a market value, shareholders cannot in effect express confidence or lack of confidence in the corporation's management of the shareholders' assets by buying or selling their shares. Nevertheless, in their 2010 reporting period, the 12 regional corporations reported total shareholders' equity values ranging from \$15 million to about \$1.1 billion (6 regional corporations reported equity per share, which ranged from about \$83 to nearly \$1,000 per share). In contrast to the corporations' view, a number of shareholders we heard from said that shareholders' equity has little real value to them since they cannot sell shares for a tangible monetary benefit.
 - *Charitable donations.* The regional corporations each make a variety of charitable monetary and in-kind donations to regional nonprofit organizations and other entities that offer services to corporation shareholders and others in the communities. For instance, most of the corporations reported that they provide funding or other support to housing authorities, health organizations, or vocational schools located in their regions. One corporation, for example, provides funding to a flight school that trains private and commercial pilots, a particularly useful skill given that many Alaska Native villages are accessible only by plane (see fig. 2). Flight school officials told us that a local airline hires nearly all of the school's graduates. Another corporation provides funding to a vocational facility in the region, which offers junior and high school students varied training, such as driver's education, metal welding, and small-engine repair. Representatives at some of the nonprofit organizations we visited stressed the importance of the regional corporations' support in maintaining their operations and programs. The corporations also make in-kind donations, such as firewood for winter heating, including

⁶⁸Department of the Interior, *Alaska Native Claims Settlement Act (ANCSA): ANCSA 1985 Study* (Washington, D.C.: 1985).

delivery to elders and others unable to haul it themselves, or gravel for village infrastructure from corporation-owned gravel pits.

Figure 2: Examples of Benefits Supported by the Regional Alaska Native Corporations



Flight school training aircraft.



Harvesting willow leaves on corporation-owned land.



Firewood ready for distribution.



A village wind turbine.



Protected historical mission site.

Source: GAO.

Nonmonetary Benefits

Nonmonetary benefits offered by the regional corporations—often in partnership with village corporations, tribal organizations, and nonprofit organizations within the region—include employment opportunities; cultural preservation; land management; economic development; and advocacy on behalf of Alaska Natives and their communities. Specific benefits may include, but are not limited to, the following:

-
- *Employment and related opportunities.* The 12 regional corporations or their subsidiaries may employ Alaska Native shareholders in preference over others (see table 8).⁶⁹ They may also offer internships and other employment support. Some regional corporation officials told us that employing shareholders is an important priority to them, and they actively train and employ shareholders in their businesses. For example, according to one regional corporation, 55 percent of the employees at its zinc-lead mine are shareholders. According to corporation officials, employment opportunities for shareholders living within the region were an important consideration in initially determining whether to develop the mine. Officials from a few other regional corporations, in contrast, told us that their corporations have not emphasized creating employment opportunities because it has not been a high priority for their shareholder base or that business and employment opportunities may not be readily available where shareholders reside. In addition to hiring shareholders and other Alaska Natives directly, the corporations have internship programs for shareholders and, in some cases, for shareholder descendants or spouses. Internships vary from 6- to 12-week summer internships to longer internships or apprenticeships that can lead to a permanent position with a regional corporation. Several corporations also offer other employment support to their shareholders, such as providing career counseling, job fairs, and leadership training to retain shareholders as managers and leaders within the corporation.

⁶⁹To facilitate Alaska Native shareholder employment programs, the 1988 amendments to the Settlement Act excluded Alaska Native corporations and some entities owned by the corporations from the provisions in civil rights laws prohibiting discrimination in employment. Pub. L. No. 100-241, § 15 (1988), *codified at* 43 U.S.C. § 1626(g); S. Rep. No. 100-201 at 39 (1987).

Table 8: Employment of Alaska Natives by the Regional Corporations and Their Subsidiaries, as Reported by the Corporations

Corporation	Number of employees			
	Corporation		Subsidiaries	
	Total employees	Shareholder employees ^a (percentage)	Total employees	Shareholder employees ^a (percentage)
Ahtna, Incorporated	29	11 (38%)	1,780	68 (4%)
The Aleut Corporation	14	9 (64)	523	33 (6)
Arctic Slope Regional Corporation	^b	^b	^b	^b
Bering Straits Native Corporation	63	22 (35)	1,031	46 (4)
Bristol Bay Native Corporation ^c	34	22 (65)	3,486	88 (3)
Calista Corporation ^c	53	30 (57)	1,351	52 (4)
Chugach Alaska Corporation	307	51 (17)	5,086	56 (1)
Cook Inlet Region, Inc.	79	40 (51)	1,276	51 (4)
Doyon, Limited ^c	74	51 (69)	2,761	438 (16)
Koniag, Incorporated	57	23 (40)	695	12 (2)
NANA Regional Corporation	102	97 (95)	10,846	1,147 (11)
Sealaska Corporation	71	56 (79)	1,309	67 (5)

Source: GAO analysis of data from the regional Alaska Native corporations.

Note: These data represent the regional corporations' employment numbers as reported by the corporations as of dates occurring from March to October 2012.

^aUnless otherwise noted, numbers of employees in this column include the regional corporation's own shareholders plus descendants of those shareholders; in some cases, these numbers may also include shareholders or descendants of shareholders of other regional corporations. Numbers in parentheses represent employees who are shareholders or descendants of shareholders as a percentage of all employees of the corporation or of its subsidiaries.

^bData not provided.

^cThis corporation does not track the number of employees who are descendants of shareholders.

- **Cultural preservation.** The regional corporations have supported numerous cultural activities focused on preserving and maintaining Alaska Native traditions and heritage. Nearly all of the corporations have established nonprofit organizations or heritage centers, many with the express purpose of administering cultural and educational programs to preserve and honor unique Native cultures. Cultural activities supported by regional corporations include programs for youth and elders, Alaska Native community events, and language and artifact preservation. For example, several corporations sponsor youth-elder camps, featuring activities such as language learning and gathering and preparing subsistence foods that help transmit Native

traditions from one generation to the next. Other corporations support groups or events centered on traditional art forms and languages, such as crafts, Native songs and dances, and the development of a compact disc teaching an Alaska Native language. Still other corporations have focused on protecting sacred and historical sites and Native artifacts. For example, one corporation helps protect more than 80 sacred historical sites located throughout the region on behalf of tribal entities that are the traditional owners of the sites, which include historical burial grounds, forts, petroglyphs, and villages.

- *Land management.* The regional corporations actively manage their surface lands for subsistence and recreation by their shareholders and other Alaska Natives, as well as for natural resource use and protection. Many corporations indicated that subsistence—which plays a key role in Alaska Natives’ livelihoods and traditional culture—is often a primary or highest-priority use of their lands; subsistence activities include hunting, trapping, fishing, and food gathering and camps associated with these activities. Natural resource use and protection include a wide variety of activities such as working with research partners to study topics related to sustainable management of corporate natural resources, including timber, wildlife, and renewable energy potential; harvesting and marketing of corporate natural resources; managing property leases, and easements; developing strategies to promote outdoor tourism; and patrolling corporate lands against trespassing, particularly for those corporations with road systems in the regions.
- *Economic development.* With their size and relative profitability, the regional corporations take actions to foster economic development in their regions, typically working in partnership with other regional or community organizations. For example, one corporation is working with a regional Native health association to build a 33,000-square-foot multidisciplinary health facility on corporation-owned land (which is leased to the association for 50 years at \$1 per year). The facility is to house dental and health clinics, as well as behavioral health, tribal community, and environmental health services. Another corporation has established a joint business venture with a village corporation to bring an out-of-use seafood plant back into production. The regional corporations are also involved in various ways—such as seeking funding or procuring physical resources—in infrastructure or energy development. Several regional corporation officials told us that energy development is a high priority for them, to help reduce the high costs of energy in Alaska Native villages. These corporations, for example, are exploring renewable energy development opportunities, including

wind power generation on varying scales, and others are exploring or investing in other alternative heating sources, such as solar power, geothermal heat, or wood pellet heating.

- *Advocacy.* Officials from several regional corporations said they serve as advocates for Alaska Natives and the communities they live in, partly because they have lobbying resources and legal expertise that local populations may not.⁷⁰ The regional corporations may lobby state and federal legislatures directly on behalf of their shareholders, or they may work through other Alaska Native advocacy organizations. One corporation, for example, successfully lobbied the Alaska state legislature to pass a bill in support of a commercial oyster industry in its region, which established a loan program for entrepreneurs wishing to engage in this industry. Officials from another corporation routinely attend meetings with the Alaska Department of Fish and Game to represent village interests in subsistence fishing and hunting rights. In addition, each of the regional corporations is a member of the Alaska Federation of Natives, the largest statewide Native organization in Alaska. The organization's mission includes, among other goals, advocating for Alaska Native people, fostering and encouraging preservation of Alaska Native cultures, promoting understanding of Alaska Natives' economic needs, and encouraging development consistent with those needs.

Questions to Consider for the Future

Over the last 40 years, the regional corporations have evolved along with the Alaska Native Claims Settlement Act, which has been amended several times. Given the evolution and growth of the regional corporations, we identified three questions that may warrant consideration and discussion by the federal government, the state, the regional corporations, shareholders, or a combination of these entities, as the corporations move into the future. We identified questions regarding the ambiguity of existing federal financial reporting requirements for the corporations, the role of the federal government in maintaining the corporations' solvency, and the implications of defining who is eligible to

⁷⁰Under Pub. L. No. 108-199 (2004), as amended, the Director of the Office of Management and Budget and all federal agencies are required to consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order 13175. This order directs the heads of federal agencies, other than independent regulatory agencies, to consult with Indian tribes on policies that have tribal implications, such as regulations or rulemakings that may directly affect tribal treaty rights, lands, or governments.

be a shareholder—this last question specifically for the corporations and their shareholders to consider. We pose these questions only for consideration and discussion and not to advocate a particular response or outcome.

Should the “Substantially All” Federal Reporting Requirement Be Clarified and Overseen?

Under the original Settlement Act, the corporations were to remain exclusively Native owned for a period of 20 years, and after a 1976 amendment, they were to be exempt from federal securities laws while they were Native owned. The 1988 amendments extended the Settlement Act’s prohibition on sales of stock and continued the corporations’ exemption from federal securities laws until certain events occurred. Nevertheless, the corporations are required to annually transmit a report to their shareholders that contains “substantially all the information” required to be included in an SEC’s registrant’s annual report to shareholders. We were unable to determine whether the corporations are complying with this reporting requirement because the phrase “substantially all” is not defined. As a result, it is not clear which information is required or the extent to which any required information must be included in regional corporations’ annual reports. Furthermore, the Settlement Act does not establish a mechanism for federal oversight of the corporations’ reporting.

Corporate officials we spoke with acknowledged that “substantially all” is not defined in the Settlement Act and that the phrase could be clarified. They also stated that they do not believe they should have to comply with all of the reporting requirements for SEC registrants because many of the requirements are not relevant to Alaska Native corporations. Specifically, corporate officials said, many SEC requirements are directed toward providing information to potential investors, which is not directly relevant to regional corporations as long as the corporations remain Native owned and closed to outside investors. However, in their observations about the corporations’ annual shareholder reports, SEC staff noted that additional information in the annual reports could inform shareholder voting on directors and resolutions and allow shareholders to better understand the regional corporations’ financial performance.

What Is the Appropriate Role of the Federal Government in Maintaining the Solvency of Alaska Native Corporations?

Over the past 40 years, some regional corporations have experienced periods of financial crisis, and legislation has been enacted to help ensure their continued financial solvency. For example, in the 1980s the corporations were authorized to sell their net operating losses, even though other corporations were generally prohibited from doing so,⁷¹ and more recently they were provided with special contracting advantages under the SBA's 8(a) program—advantages that have come under congressional scrutiny in recent years.⁷² At this time, the 12 regional corporations in Alaska are on relatively sound financial footing, and they also have both land holdings and natural resource revenue sharing through the 7(i) distribution to help contribute to their revenues. If, however, one of these 12 regional corporations became insolvent, it is not clear what would happen to its land holdings and shareholders.

On the other hand, given the insolvency of the 13th Regional Corporation, its advocates have sought assistance from the Department of the Interior and the Congress. Specifically, the Alaska Federation of Natives on behalf of the 13th Regional Corporation requested accounting, legal, and administrative assistance from the Department of the Interior's Bureau of Indian Affairs, as well as funding to assist the corporation in its efforts to reorganize, prepare for new elections, and pursue land claims. In response to questions about Interior's responsibility to shareholders of the Alaska Native corporations and specifically to shareholders of the 13th Regional Corporation, Interior's Assistant Secretary for Indian Affairs stated that the Bureau of Indian Affairs currently has neither a statutory nor a regulatory responsibility to Alaska Native corporations. The Assistant Secretary further stated that the bureau has no responsibility to ensure that Alaska Native corporations are meeting their legal obligations

⁷¹In 1984, an amendment to the tax code prohibited corporations, except for Alaska Native corporations, from selling net operating losses, a tax-sheltering device whereby a profitable company buys the losses of an unprofitable company and sets off those losses against its own taxable income. For example, an Alaska Native corporation could sell for \$100 timber valued for tax purposes at \$110. The Alaska Native corporation could then sell the \$100 loss to a profitable corporation, which could in turn apply the \$100 loss against its taxable income and thus lower its own tax burden. According to the legislative history of the 1984 amendment, sales of net operating losses could bring an infusion of capital to help many Alaska Native corporations that were in poor financial shape and had large net operating losses. By some accounts, 11 regional corporations sold around \$1.5 billion in net operating losses for \$425 million in revenue before the exception authorizing Alaska Native corporations to do so was repealed in 1988.

⁷²[GAO-06-399](#) and [GAO-12-84](#).

and that it does not have the authority to assist the 13th Regional Corporation (or any other Alaska Native corporation) in any reorganization efforts.

In addition, advocates for the 13th Regional Corporation have also sought assistance through Congress. Specifically, legislation was proposed in 2006 and 2008 that would have authorized the conveyance of over 1 million acres of land in Alaska to the 13th Regional Corporation for it to manage and required that it share a portion of natural resource revenue derived from the land with the other regional corporations.⁷³ More recently, representatives from the 13th Regional Corporation have promoted an alternative proposal they would like to see as a bill introduced in Congress. Under this proposal, the 13th Regional Corporation would receive over 1 million acres of land, which the other regional corporations would manage and share a larger portion of that land's associated natural resource revenue. As of this report, however, this proposal had not been acted upon.

Also, several shareholders we spoke with suggested that the 13th Regional Corporation's shareholders be allowed to become shareholders of one of the other 12 regional corporations. Amendments to the Settlement Act, however, would be necessary to authorize such an action. The debate about the future of the 13th Regional Corporation raises the question as to what role, if any, the federal government is to play in addressing solvency issues for Alaska Native corporations.

Who Should Be a Shareholder?

A question specifically for the regional corporations and their shareholders to consider is who should be a shareholder in the future, particularly given the implications that shareholder ownership of the corporations has on the corporations' future operations, benefits, and direction. Shareholder eligibility criteria have changed since the corporations were established and may continue to change under the 1988 and 1992 amendments to the Settlement Act. Under the original act, only those Alaska Natives with at least a 25 percent blood quantum who were alive on December 18, 1971, were eligible to become shareholders, and these restrictions were to end in 1991. The 1988 amendments, however, extended these restrictions until and unless a majority of a

⁷³H.R. 5617, 109th Cong. (2006), and H.R. 5403, 110th Cong. (2008).

corporation's shareholders voted to lift them and allow sales of stock to the public. As of this report, none of the corporations had voted to lift the restrictions on the sale of stock, and many of the corporate officials we spoke with expressed their strong desire to remain Alaska Native owned.⁷⁴

In addition, amendments to the Settlement Act allowed the corporations' shareholders to vote to amend the articles of incorporation to authorize the issuance of shares to Alaska Natives born after December 18, 1971, or to descendants of Alaska Natives; to eligible Alaska Natives who missed enrollment; or to Alaska Native shareholders who are 65 years old or older. Shareholders of 6 of the 13 corporations have voted to issue shares to some or all of these classes of shareholders, although who is eligible to receive the shares varies considerably among the corporations (see table 9). Some of the other corporations are still studying the issue of opening enrollment. For example, in 2011, Calista's shareholders approved a resolution calling on the corporation to "examine, formulate, and recommend for shareholders a program for approval of the issuance of a new class of stock to descendants of shareholders born after December 18, 1971." As result, the corporation has embarked on a 20- to 26-month process to examine, formulate, and recommend such a program. If the proposed timetable is adhered to, the recommendation could be voted on in 2013.

⁷⁴Critics of the stock-transfer restriction have suggested that the restriction prohibits shareholders from selling their shares in instances where they may not be satisfied with the corporation and that corporate management therefore has more leeway to pursue objectives that might not be in the best interest of the shareholders. See, e.g., Stephen Colt, *Alaska Natives and the 'New Harpoon': Economic Performance of the ANCSA Regional Corporations*, 25 J. of Land, Resources, and Env't'l Law 155 (2005).

Table 9: New Classes of Shares Authorized by the Regional Alaska Native Corporations

Corporation	Natives born after Dec. 18, 1971, or descendants ^a	Natives who missed the original enrollment ^b	Native shareholders who have attained the age of 65 ^c	Number of shareholders in 1982	Number of shareholders in 2011-2012
Ahtna, Incorporated	✓ ^d			1,074	1,751
Arctic Slope Regional Corporation	✓ ^e	✓		3,738	11,090
Doyon, Limited	✓ ^f	✓	✓	9,061	18,536
Koniag, Incorporated		✓ ^g		3,342	3,696
NANA Regional Corporation	✓ ^h	✓ ⁱ		4,828	12,923
Sealaska Corporation	✓ ^j	✓	✓	15,787	21,263

Source: Regional Alaska Native corporations.

^a43 U.S.C. § 1606(g)(1)(B)(i)(I). The eligibility requirements for these shares vary among the corporations. For example, most of the corporations have blood quantum requirements for these new shares, while one does not. In addition, all of the corporations issued these as life estate shares. The holders of life estate shares would receive the benefit of those shares during their lifetime, but the shares would revert back to the corporation upon their death because life estate shares cannot be passed to heirs through inheritance.

^b43 U.S.C. § 1606(g)(1)(B)(i)(II). Only one regional corporation (Sealaska) has issued these shares as life estate shares.

^c43 U.S.C. § 1606(g)(1)(B)(i)(III). These shares are issued as life estate shares.

^dAhtna, Incorporated, has issued a class of shares to descendants of Natives who were original Ahtna shareholders and are one-fourth degree or more Alaska Native and born after December 18, 1971.

^eThe Arctic Slope Regional Corporation issued Class C shares to Natives who (1) were born after December 18, 1971, to a parent who has been enrolled pursuant to the Settlement Act to the corporation or a parent who has received Class E shares from the corporation and (2) are, at the time of issuance, a resident of the United States. The Arctic Slope Regional Corporation has also issued Class D shares to descendants of an Arctic Slope Native (defined as someone who is not a Native but meets other qualifications) who (1) were born to or adopted by a parent who has been enrolled to the corporation pursuant to the Settlement Act and (2) are, at the time of issuance, citizens of the United States.

^fDoyon, Limited, has issued a class of shares to any Native or descendant of Native who is one-fourth degree or more blood quantum; who was born after December 18, 1971; who is the child of an original Class A, B, C, or D shareholder; and was neither issued nor holds stock in another regional corporation unless that stock was acquired through inheritance, *inter vivos* gift, or purchase.

^gKoniag, Incorporated, shareholders recently voted to amend the articles of incorporation to allow any Native who is not enrolled under the Settlement Act but who was eligible on December 18, 1971, for enrollment to the Koniag region; who is a citizen of the United States; and who submits or, if deceased, on whose behalf an application is submitted to the corporation prior to December 31, 2013, to receive shares.

^hNANA Regional Corporation issued a class of shares to any Native, as defined in the Settlement Act, who is a citizen of the United States; who was born after December 18, 1971; and is a child of a parent who was enrolled pursuant to the Settlement Act to the Northwest Alaska region, or which parent, if not originally enrolled under the Settlement Act, was issued Class C Settlement Common Stock, or is the child of a parent who was issued Class D Settlement Common Stock.

ⁱNANA Regional Corporation has issued a class of shares to any Native, as defined in the Settlement Act, who is not enrolled under the Settlement Act; who was eligible on December 18, 1971, for enrollment to the northwest region; who is a citizen of the United States; and who submits or, if deceased, on whose behalf an application to receive shares was submitted to the corporation prior to December 31, 1995.

^jThe Sealaska Corporation issued a class of shares to Natives who were born after December 18, 1971; are 18 or older beginning June 23, 2007; are lineal descendants of an original shareholder (meaning a direct descendant such as a child or grandchild); are one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood or combination thereof; are U.S. citizens; and are not shareholders of another regional Alaska Native corporation (except by gifting or inheritance).

In evaluating the decision whether to offer new shares in the corporation to more people, the corporations and their shareholders face a number of considerations and potential future challenges, including the following:

- *Reduced dividends.* Executives with several corporations told us that their shareholders have been reluctant to issue shares to new shareholders partly out of concern that, with more shareholders in total, each shareholder's dividend amount would be smaller.
- *Disenfranchising those born after December 18, 1971.* Some shareholders are concerned about disenfranchising the younger population by excluding those born after December 18, 1971. Others counter that issuing new shares is unnecessary because existing shares can already be passed through gifts or inheritance to those born after this date.
- *Decline in overall number of shareholders in each corporation.* Other shareholders we spoke with expressed concern that if shares were not issued to new shareholders, then over time fewer people would qualify as voting shareholders, and participation and engagement in the corporation might suffer.

Deciding whether to make changes to shareholder eligibility criteria will have implications for each corporation's future operations and direction.

Agency and Third-Party Comments and Our Evaluation

We provided the Department of the Interior, SBA, SEC, the state of Alaska, the ANCSA Regional Association, and volunteers for the 13th Regional Corporation a draft of this report for review and comment. The federal agencies and the state of Alaska responded that they had no comments. The ANCSA Regional Association provided written comments (reproduced in app. II) on behalf of the 12 regional corporations in Alaska. Volunteers for the 13th Regional Corporation also provided written comments, which are reproduced in appendix III. The ANCSA Regional

Association also provided technical comments, which we incorporated into the report as appropriate. In addition, the Cook Inlet Region, Inc., provided separate technical comments, which we also incorporated into the report as appropriate.

In its written comments, the ANCSA Regional Association made a number of points, including that our report gives “some voice to the suggestion to end the exemption from SEC oversight” and stating that the corporations do not feel an end to the exemption is warranted. We did not, however, review any advantages or disadvantages of the corporations’ SEC exemption from federal securities laws, and as the association noted, we are not making any recommendations in our report.

The ANCSA Regional Association went on to say that the corporations believe they are meeting “not only the ‘substantially all’ requirement,” but also the “spirit and intent of [the Settlement Act].” In particular, the association states, the corporations have chosen to adopt accounting policies and disclosures that “generally are the same” as those required of publicly traded companies (i.e., SEC registrants) by SEC regulations. The association also states that the corporations determined that they would provide the most relevant information that they have, given the nature of their shareholders. Our report notes, however, that because the “substantially all” reporting requirement in the Settlement Act, as amended, is not defined or overseen, it is not clear what information must be included in the regional corporations’ annual reports to shareholders. As a result, we could not determine whether the corporations are complying with the Settlement Act’s reporting requirement.

In addition, the association wrote that, under section 1606(o) of the Settlement Act, the corporations’ financial statements are audited and certified by independent public accountants.⁷⁵ Section 1606(o) of the Settlement Act requires the regional corporations’ accounts to be audited in accordance with generally accepted auditing standards. Under the Sarbanes-Oxley Act, however, SEC registrants are required to be audited in accordance with other standards, which differ, and may continue to

⁷⁵The association wrote that “the draft report makes the important point that, pursuant to 43 USC 1606(o), the accounts of the Corporations shall be audited annually in accordance with GAAP [generally accepted accounting principles].” Our report correctly notes that 43 U.S.C. § 1606(o) requires the regional corporations’ accounts to be audited annually in accordance with generally accepted auditing standards.

differ, from the generally accepted auditing standards that previously applied to SEC registrants and that section 1606(o) requires the corporations to use. According to SEC staff, at present, the generally accepted auditing standards and the standards SEC registrants are required to use are not contradictory but the standards for SEC registrants have some additional or supplemental requirements. These standards may continue to diverge more in the future, and, if so, the corporations' practices may also diverge more from what is required for SEC registrants.

The ANCSA Regional Association also raised concerns with the scope of the report, stating that three of our "questions to consider for the future" were beyond what we were asked to review. In our report, we state that we were asked to describe various corporate practices of the regional Alaska Native corporations. We added our questions to consider on the basis of the work we did during our review and believe the discussion provides information to Congress and the public about issues that may warrant consideration and discussion by the federal government, the state, the regional corporations, shareholders, or a combination of these entities. We chose to include a wide breadth of issues to be as comprehensive and informative as possible.

Written comments from volunteers for the 13th Regional Corporation focused on the question posed in our report regarding the appropriate role of the federal government in maintaining the solvency of Alaska Native corporations. They stated that the 13th Regional Corporation did not receive a fair and just settlement under the Alaska Native Claims Settlement Act and requested that Congress take action to address the issue.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of the Interior, the Administrator of the Small Business Administration, the Chairman of the U.S. Securities and Exchange Commission, the Governor of the state of Alaska, the ANCSA Regional Association, volunteers for the 13th Regional Corporation, the appropriate congressional committees, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or fennella@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Anne-Marie Fennell". The signature is written in a cursive style with a large initial "A" and a long horizontal stroke at the bottom.

Anne-Marie Fennell
Director, Natural Resources and Environment

Appendix I: Objectives, Scope, and Methodology

This report examines (1) governance practices of the regional Alaska Native corporations, (2) requirements for and oversight of the corporations' financial reporting practices, (3) benefits provided by the corporations to their shareholders and other Alaska Natives, and (4) questions to consider for the future.¹

To conduct our work, we interviewed officials from all 13 regional corporations by phone and in person. We also visited multiple communities, villages, and cultural or historical sites across seven of the regions (see table 10). We selected these locations on the basis of various factors, including the size of the regional corporation shareholder base; geographic location and number of villages in the region; characteristics of the regional corporations such as gross revenue, net income, and whether they have opened enrollment to those born after December 18, 1971; and regional corporations' availability. During our site visits, we met with corporate officials and board directors, shareholders, tribal officials, representatives from regional and community nongovernmental organizations, and others to obtain information about the regional corporations. We also visited a number of villages and cultural sites to identify the type of work undertaken by the corporation for the benefit of shareholders and others in the communities and to gain shareholder perspectives. In addition, we attended a shareholder information meeting held by one corporation in the Pacific Northwest. We assessed the reliability of the information provided to us by the corporations by interviewing corporate officials and cross-checking information across various sources; we determined that the information was sufficiently reliable for the purposes of our report. We report all dollar amounts as they were reported to us by the corporations for the period in question; none have been adjusted for inflation. We also researched and analyzed issues raised in private litigation between the regional corporations and their shareholders that we identified during the course of our review.

¹We were also asked to determine shareholders' level of satisfaction with the regional corporations. To answer this question, we proposed surveying regional corporations' shareholders on their perspectives of the regional corporations. We were unable to conduct a systematic and independent survey of shareholders, however, because the regional corporations declined to provide us with their shareholder lists.

Table 10: Regional Alaska Native Corporations and Communities Visited

Corporation	Community
Ahtna, Incorporated	Gakona Glennallen
Bering Straits Native Corporation	Nome
Bristol Bay Native Corporation	Dillingham Kokhanok
Calista Corporation	Akiachak Akiak Bethel Kwethluk
Cook Inlet Region, Inc.	Anchorage
Doyon, Limited	Fairbanks Minto
Sealaska Corporation	Hoonah Juneau Kake

Source: GAO.

We interviewed officials from the Department of the Interior’s Bureau of Indian Affairs and from the Small Business Administration. We also interviewed representatives from various organizations with interests in Alaska Natives, including the Alaska Federation of Natives, ANCSA Regional Association, First Alaskans Institute, Native American Rights Fund, and attended the October 2011 conference of the National Congress of American Indians. To obtain shareholder perspectives beyond those obtained through our site visits, we conducted phone interviews with shareholders who contacted us or whom we contacted on the basis of referrals, set up an e-mail “Alaska Native corporation feedback mailbox,” and reviewed corporate or shareholder social media websites and other news sources. The views we received from shareholders are anecdotal and not generalizable to all shareholders.

Throughout this report, we refer to the corporations’ 2010 reporting period, which was the most recent year for which consistent information was available across the corporations. Because the corporations’ fiscal years do not all begin or end on the same dates, we refer to the corporations’ 2010 reporting period as each corporation’s fiscal year corresponding most closely to calendar year 2010 (see table 11).

Table 11: Regional Alaska Native Corporations’ Fiscal Years Corresponding to the 2010 Reporting Period

Corporation	Beginning date	End date
Ahtna, Incorporated	Jan. 1, 2010	Dec. 31, 2010
The Aleut Corporation	Apr. 1, 2010	Mar. 31, 2011
Arctic Slope Regional Corporation	Jan. 1, 2010	Dec. 31, 2010
Bering Straits Native Corporation	Apr. 1, 2010	Mar. 31, 2011
Bristol Bay Native Corporation	Apr. 1, 2010	Mar. 31, 2011
Calista Corporation	Jan. 1, 2010	Dec. 31, 2010
Chugach Alaska Corporation	Jan. 1, 2010	Dec. 31, 2010
Cook Inlet Region, Inc.	Jan. 1, 2010	Dec. 31, 2010
Doyon, Limited	Oct. 1, 2009	Sept. 30, 2010
Koniag, Incorporated	Apr. 1, 2010	Mar. 31, 2011
NANA Regional Corporation	Oct. 1, 2009	Sept. 30, 2010
Sealaska Corporation	Jan. 1, 2010	Dec. 31, 2010

Source: Regional Alaska Native corporations.

To examine the governance practices of the regional Alaska Native corporations, we reviewed the Alaska Native Claims Settlement Act, as amended; the Alaska Corporations Code; other relevant federal and state laws and regulations; the regional corporations’ articles of incorporation, bylaws, and corporate proxy statements provided to shareholders during 2011 (the most recent year for which consistent information was available across the corporations); and other documentation from the corporations on their board composition and operations, executive and board compensation, board elections, and methods for involving shareholders. To further examine and describe board of director elections and shareholder resolutions, we analyzed corporate proxy statements provided to shareholders from 2001 through 2011.

To examine the requirements for and oversight of the regional corporations’ financial reporting practices, we reviewed relevant federal and state laws and regulations, focusing primarily on the Alaska Native Claims Settlement Act and federal and state securities laws. Because of the “substantially all” federal financial reporting requirement, we asked staff from the U.S. Securities and Exchange Commission’s (SEC) Division of Corporation Finance to provide observations on the extent to which the corporations’ 2010 annual shareholder reports included information expected from a corporation subject to the Securities Exchange Act of 1934 (we refer to such corporations as SEC registrants). We interviewed

SEC staff about their work and analyzed the written observations they provided for each corporation, as well as a summary of recurring themes.

We also interviewed officials from the Division of Banking and Securities within Alaska's Department of Commerce, Community, and Economic Development to determine any actions they take to monitor and enforce state financial reporting requirements. We obtained from the state of Alaska summary information on inquiries and complaints relating to proxy materials received by the state from the regional corporations from July 2011 through June 2012 and January 2010 through June 2012, respectively. In addition, the state provided administrative orders issued by the state from 1978 through 2011. We assessed the reliability of the inquiry, complaint, and administrative order information by interviewing state officials about their record-tracking system and determined that this information was sufficiently reliable for the purposes of our report.

To determine the benefits provided by the regional corporations to their shareholders and other Alaska Natives, we reviewed the corporations' articles of incorporation, mission statements, annual shareholder reports for the 2010 reporting period, and newsletters and other documentation from the corporations describing monetary and nonmonetary benefits. Specifically, to obtain financial information—including the corporations' gross revenues, net income, and dividends—we reviewed the regional corporations' audited financial statements from their annual reports for 2001 through the 2010 reporting period. In addition, we analyzed documentation from the corporations on other benefits, including benefits provided through trusts or permanent funds, and we identified other benefits through our interviews and site visits with the regional corporations, shareholders, tribal officials, and representatives from nongovernmental organizations.

Finally, on the basis of our analysis of federal and state laws and regulations; interviews with federal and state officials, regional corporation officials, and shareholders; and past congressional actions and bills addressing Alaska Native corporation issues, we developed questions that may warrant consideration and discussion by the federal government, the state, the regional corporations, shareholders, or a combination of these entities.

We conducted this performance audit from October 2011 to December 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for

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

Appendix II: Comments on Behalf of the 12 Regional Alaska Native Corporations



December 5, 2012

Ms. Anne-Marie Fennell
Director, Natural Resources and Environment
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Re: Comments on GAO Report, GAO-13-121

Dear Ms. Fennell:

On behalf of the twelve Alaska Native Regional Corporations created under the Alaska Native Claims Settlement Act ("ANCSA") I am submitting their collective response to the draft of the GAO's *Regional Alaska Native Corporations, Status 40 Years After Establishment and Future Considerations* report. This letter will provide some general observations as well as a few specific issues the GAO may find appropriate to restate in light of information provided herein.

I also enclose an attachment providing clarifications and corrections to specific errors or omissions in the draft.

We appreciate the countless hours GAO spent with representatives of the Regional Corporations, familiarizing the agency, once again, with ANCSA and the integral role Alaska Native Corporations have in our remote communities and within the lives of our shareholders. Your Report highlights that the passage of ANCSA has provided many benefits to Alaska Native people. Further, it acknowledges the diversity of each region and corporation, and of our governance structures, shareholder programs and benefits and shareholder bases. For example, your Report details that each region has adopted a governance structure that is fit for that respective region. We applaud that distinction, and feel that the Federal government is recognizing that a "one-size fits all" approach to Alaska Native Corporations does not work.

In addition to recognizing the unique nature of each region, we were pleased to see the Federal government acknowledge the challenges facing our communities and just how remote our people actually are as compared to the rest of the country. On page 16, the GAO acknowledges that over 200 of our communities are isolated, and that 82 percent of our communities are inaccessible by road, whereby reasonable access to these remote communities is available only by small planes (year round), boats (summer or ice-free

ANCSA Regional Association Comments on GAO-13-121

Page 1 of 5

PO Box 240766, Anchorage, AK 99524 • (907) 339-6052 phone • (907) 339-6178 fax

months) and/or snowmachines (winter). The remoteness of our communities poses significant daily challenges, like affordable energy and health care and modern amenities like running water and flush toilets, which many outside the state of Alaska take for granted. It is important to note that despite these challenges, Regional Corporations continue to provide meaningful benefits to their shareholders. It is also important to note that the success of Regional Corporations should not usurp the Federal, State and Local governments' responsibility for providing basic services to its Alaska Native constituents.

We applaud the GAO for further recognizing that while Alaska Native Corporations are not subject to the Sarbanes-Oxley Act, many standard practices of SEC-regulated companies, such as use of an audit committee, are employed by most Regional Corporations. This distinction of high ethical standards, as clearly referenced on page 18, is important to our membership because despite regional boundaries, integrity is a traditional value that is a common thread throughout all of our regions. This Report underscores the intent of Alaska Native Corporations to disclose information and adhere to ethical standards to preserve transparency with shareholders and the business veracity of our organizations.

Congress reaffirmed this approach in the enactment of PL 100-241 (the "1987 Amendments"). This major revision to ANCSA addressed the issues of greatest concern to Alaska Natives – the continuation of the prohibition on the sale of the stock and the determination of who could be shareholders. Section 2 of the 1987 Amendments reiterates the principles of self-determination set out in ANCSA. In Section 2(5), Congress acknowledges that ANCSA is being amended "to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs." Section 2(6) directs that the shareholders of each Native Corporation must be permitted to decide when the restrictions on alienation of the stock is terminated and whether Natives born after December 18, 1971 should become shareholders.

Nonetheless, the Report does raise a few issues that we would urge GAO to supplement or reconsider before publication. First and foremost, while no conclusions were reached or recommendations offered, the Report does give some voice to the suggestion to end the exemption from SEC oversight. We, of course, do not feel that is warranted. But to the extent it is being considered at all, the GAO should also evaluate the likely substantial cost of such a change as a diversion of substantial resources of the Corporations (as well as the federal government), oversight of which would ultimately reduce corporate net income otherwise available to provide shareholder benefits.

For example, the draft raises concerns regarding the financial statements of the Regional Corporations and in particular the extent to which generally accepted accounting principles ("GAAP") were followed in the preparation of the statements. On page 27, the draft Report makes the important point that, pursuant to 43 USC 1606(o), the accounts of the Corporations shall be audited annually in accordance with GAAP. However, the Report

**Appendix II: Comments on Behalf of the 12
Regional Alaska Native Corporations**

leaves out the remaining portion of 1606(o), which is that these GAAP-based audits must be conducted “by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of the State or the United States.” The omitted language is significant, because it bears directly on the question of whether the Regional Corporations need additional oversight. The Report should make clear that, as mandated by federal law, not only are the Regional Corporation financial statements audited per GAAP, but that the audits are conducted by an independent certified public accountant or independent licensed public accountants, who certify that the statements are fairly presented in accordance with GAAP. Certified financials assist Regional Corporations seeking to demonstrate maximal transparency with respect to the Corporations’ financial and operational reporting to their shareholders.

With respect to the financial statements themselves (which would be subject to Regulation S-X, which governs the issuance of financial reports for companies subject to the Security laws), the Regional Corporations have adopted accounting policies and provide disclosures which generally are the same as those required by public companies (e.g., two-year balance sheets and three years of operating statements). The provisions of the regulations that are not strictly followed by the corporations primarily relate to standards, the application of which are to public companies or organizations that have equity or debt securities that are traded on an exchange, or that are required to file with the SEC, neither of which is applicable to the Regional Corporations.

Following the passage of ANCSA, the Regional Corporations as a group, in reviewing the requirements of Regulation S-K (which applies to the filing requirements under the Security laws) determined that in order to comply with the requirements of the regulations, they would provide as part the Management Discussion and Analysis in their annual reports the most relevant information that they have, given the nature of their shareholders and that the provision of such information should satisfy not only the “substantially all” requirement, but would also meet the spirit and the intent of ANCSA.

Since the adoption of ANCSA, Regulation S-K has been modified to include additional disclosure items. However, the most substantial changes have been the result of high profile and significant financial reporting fraud and contingent exposure items that significantly impacted the trading value of specific companies and the market value of the exchanges as a whole. In light of the purpose of the regulation, the Regional Corporations are unique because their shareholders received their stock through Indian legislation and the transfer of that stock is restricted solely to inheritance and to inter vivos gifts of stock to certain family members. Thus, there is no ability to “sell” the stock – even to other shareholders. Likewise, the management of the Regional Corporations is not incentivized based on “market value of the stock” through equity awards or other ownership.

**Appendix II: Comments on Behalf of the 12
Regional Alaska Native Corporations**

As the Report recognizes, the Regional Corporations devote considerable resources to educating shareholders with respect to corporate operations through various meetings, publications and personal contact, which the Corporations believe are the most effective methods of reaching their shareholders. The results of the operations and other activities are disclosed in the financial statements provided to shareholders in the annual reports.

The Report also infers that there should be more uniformity in the governance of the Corporations and the approaches to adding new shareholders. The Report should be revised to recognize the mandate for self-determination that Congress adopted.

One other issue we feel should be mentioned concerns the scope of the Report. The Report indicates that its call is to examine four questions: (1) governance practices of the ANCs, (2) requirements for and oversight of the Corporations' financial reporting practices, (3) benefits provided by the Corporations to their shareholders and other Alaska Natives, and (4) questions to consider for the future. The GAO charge came directly from Rep. Markey's June 22, 2011, letter:

“In order to better understand how ANCs are complying with the reporting requirements of ANCSA and whether such disclosures are fulfilling the needs of the Alaska Natives who are shareholders in these Corporations, I request that GAO examine: (1) how and to whom the ANCs are required to report information regarding their financial and operating condition; (2) what federal or state laws and regulations are applicable to ANC disclosure and financial reporting, how compliance with such laws and regulations are monitored, and compliance is enforced; (3) whether GAO believes ANCs are providing full and complete disclosure of all material information to their shareholders regarding their ongoing activities, including profits, losses, spending, and affiliate transactions, and whether such disclosures are consistent with ANCSA and any other applicable laws and regulations; and (4) the integrity of the financial reporting system applicable to ANC spending and distribution of profits to shareholders compared to non-ANC Corporations that are subject to federal securities laws.”

Notwithstanding, the GAO examines three additional “Questions to Consider for the future, including “What is the appropriate role of the federal government in maintaining the solvency of the Alaska Native Corporations?” and “Who should be a shareholder?” These two inquiries do not appear responsive to Rep. Markey. Tellingly, the Report contains statements about how “the Corporations and their shareholders face a number of considerations and potential future challenges, including...” (see p. 48). Respectfully, the issues that are for the Regional Corporations and their shareholders to decide ought not be the purview of federal and general public inquiry.

**Appendix II: Comments on Behalf of the 12
Regional Alaska Native Corporations**

Please feel free to contact me should you have any questions regarding the comments.

Sincerely,



Kim Reitmeier
President

cc: The Honorable Don Young
The Honorable Lisa Murkowski
The Honorable Mark Begich
The Honorable Sean Parnell
Alyssa Hundrup, GAO
Michelle Anderson, Ahtna
Thomas Mack, The Aleut Corporation
Rex Allen Rock, Sr., Arctic Slope Regional Corporation
Gail R. Schubert, Bering Straits Native Corporation
Jason Metrokin, Bristol Bay Native Corporation
Andrew Guy, Calista Corporation
Sheri Buretta, Chugach Alaska Corporation
Margaret Brown, CIRI
Aaron Schutt, Doyon, Limited
William Anderson, Jr., Koniag, Inc.
Marie N. Greene, NANA Regional Corporation
Chris E. McNeil, Jr., Sealaska Corporation
Julie Kitka, Alaska Federation of Natives

Appendix III: Comments from Volunteers for the 13th Regional Corporation



13TH REGIONAL CORPORATION VOLUNTEERS
P.O. Box 110057
Anchorage, AK 99511-0057
Phone: (907) 227-2744 | Fax: (907) 345-6300 |

December 5, 2012

Ms. Anne-Marie Fennell
Director, Natural Resources and Environment
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Fennell:

The 13th Regional Corporation (hereafter known as the 13th) Volunteers appreciates the opportunity to review and comment on the draft document "Regional Alaska Native Corporations: Status 40 Years after Establishment, and Future Considerations" (GAO-13-121). The goal of this document is to provide a response to the question posed by this report, **"What is the appropriate role of the federal government in maintaining the solvency of Alaska Native corporations?"** This document represents the comments of those who have volunteered for the 13th over the past 6 years, to keep the intent of Congress alive as stated in the first sentence of the Congressional findings and declaration of policy of the Alaska Native Claims Settlement Act.

Congress finds and declares that
(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native Groups of Alaska, based on aboriginal land claims
(43 USC Sec. 1601, Sec. 1601.)

In this report "GAO-13-121", Congress will find ample evidence that "a fair and just settlement of all claims" did not in fact occur, despite the intent of Congress, a U.S. District Court Ruling, or the alleged vote of more than half of the 4,426 Alaska Natives, who initially voted to join other regions and are now trapped as shareholders of the 13th. The alleged vote on the creation of the 13th as conducted by the U.S. Department of Interior was characterized by the U.S. District court as "bureaucratic inconsistency" and "lassitude" (Page 4, Note 6 GAO-13-121). Eye-witness reports indicate that the overwhelming majority did not understand what they were being asked to vote on, by federal agents who did not understand either.

1 | Page

**Appendix III: Comments from Volunteers for
the 13th Regional Corporation**

13TH REGIONAL CORPORATION VOLUNTEERS
P.O. Box 110057
Anchorage, AK 99511-0057

As is already well known and restated in this report, Congress allowed for the creation of the 13th, separate and apart from the other 12, by withholding a land entitlement and hence withholding participation in the 7(i) provisions for 40 years. In spite of the fact that the 13th was tasked as the other 12 regions were, with the exact same mission of providing economic resources to our Alaska Natives members throughout the nation, ANCSA did not provide rhyme or reason why Congress denied Alaska Natives of the 13th these critical resources of land and 7(i) necessary to complete the mission.

What is clear is that for all intents and purposes ANCSA has served well as a successful economic development model for all ANCSA regions, with the sole exception of the 13th, the only one that was denied access to land and 7(i). The impact of this decision cannot be overstated. In the most explicit monetary terms, an analysis of all 12 regional corporations audited annual reports will document that from 1974 through to 2012, each region received a 7(i) economic benefit of \$24,165 per shareholder.

If the 13th were a full participant in ANCSA, it would have received \$107 million during that same period and would have distributed \$53.5 million to its shareholders. The 7(i) provision for 2012 alone would have represented \$13,428,000 in revenue to the Alaska Native shareholders of 13th. This is significant when compared to the \$2 million loss that terminated the 13th's corporate operations in 2006.

“What is the appropriate role of the federal government in maintaining the solvency of Alaska Native corporations?”

In respectful response to this question, we would offer that Congress consider allowing the Alaska Natives of the 13th to become full participants in ANCSA. The original argument that 4,426 Alaska Natives of the 13th lived outside of Alaska is now overshadowed by the fact that 29,801 Alaska Natives of the other 12 regions (27%), now also live outside of Alaska (Page 14, Table 4 GAO-13-121). Like the 12 Tribes of Israel, the 12 Regions have received their inheritance of land and 7(i) to sustain them. The Tribe of Levi received no land however received a title “7(i)” inheritance from the other 12 tribes to sustain them. It seems the Alaska Natives of the 13th have become the Levites of ANCSA without land and worse, without the title of 7(i) to sustain them. It is a wonder that the 13th survived 30 years on just the initial capitalization from ANCSA, half of which was immediately distributed as dividends by order of Congress. The 7(i) provisions, on the other hand, have allowed all of the other 12 regional corporations to effectively be recapitalized every year.

**Appendix III: Comments from Volunteers for
the 13th Regional Corporation**

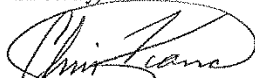
13TH REGIONAL CORPORATION VOLUNTEERS
P.O. Box 110057
Anchorage, AK 99511-0057

We would respectfully request that Congress take action to correct what has been 40 years of wandering in the political/economic wilderness for the Alaska Native of the 13th. There are not less than two solutions available to Congress including: 1) Repatriate the Alaska Natives of the 13th back into their original regions within the other 12 regional corporations, or 2) Allow the 13th to participate as a full member of ANCSA with full participation in 7(i) and land on par with the other 12 regional corporations.

We are what remain of the 13th Volunteers. Most of us are elders, who have seen too many of our relations pass on without resolution. Most recently we say farewell to our friend and colleague Mr. Mike Rawley, President of the 13th, who fought for the 13th and succumbed to cancer this past Sunday. For the record, it should be noted that we who send this to you are not original shareholders of the 13th. We're original shareholders of other regions who feel compelled to speak up for our relations and shareholders in the 13th. They are the lost grandchildren of our grandmothers, without the tribal access to health care, education and housing provided every member of the 12 regionals and we speak on their behalf. We can do no less. The 13th has become a lost tribe.

We respectfully request that Congress hold hearings on the issue of whether or not the Alaska Natives of the 13th received a "fair and just settlement of all claims by Natives and Native Groups of Alaska, based on aboriginal land claims;" as called for in the opening statement of ANCSA. We ask that, after 40 years, this burden of having no land and no 7(i) be lifted from the Alaska Natives of 13th. Only Congress has the authority to end this wandering. On behalf of the now 5,000 Alaska Native Shareholders of the 13th who live in every state in the nation, we ask for your kind consideration.

Sincerely,



Chris Kiana, Secretary
kiana@gci.net



Tom Harris, Vice President
atomharris@gmail.com

Cc: Julie Kitka, Alaska Federation of Natives

3 | Page

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Anne-Marie Fennell, (202) 512-3841 or fennella@gao.gov

Staff Acknowledgments

In addition to the individual named above, Jeffery D. Malcolm, Assistant Director; Ellen W. Chu; Clayton Clark; Emily Eischen; Cody Goebel; Ryan Guthrie; Alyssa M. Hundrup; Michael Meleady; Anu K. Mittal; Danny Royer; Jeanette Soares; Andrew Stavisky; and Tatiana Winger made key contributions to this report.

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 website (<http://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <http://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#). Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

