

# UNOFFICIAL TRANSCRIPT

1 CONTRACTING PREFERENCES FOR ALASKA NATIVE CORPORATIONS

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3 THURSDAY, JULY 16, 2009

4 United States Senate,  
5 Committee on Homeland Security and Governmental Affairs,  
6 Ad Hoc Subcommittee on Contracting Oversight,  
7 Washington, D.C.

8 The Subcommittee met, pursuant to notice, at 2:30 p.m.,  
9 in Room SD-342, Dirksen Senate Office Building, Hon. Claire  
10 McCaskill, Chairman of the Subcommittee, presiding.

11 Present: Senators McCaskill, Tester, Akaka, and  
12 Collins.

13 Also Present: Senators Begich and Murkowski.

14 OPENING STATEMENT OF SENATOR McCASKILL

15 Senator McCaskill. The hearing will come to order.  
16 Today's hearing will examine the contracting preferences for  
17 Alaska Native Corporations. Federal contracting laws create  
18 a limited privilege for economically and socially  
19 disadvantaged small businesses. Under the Small Business  
20 Administration's 8(a) program, these businesses can receive  
21 no-bid contracts for up to 3.5 million for services and  
22 5.5 million for manufacturing or goods.

23 In the 1980s and the 1990s, Congress created special  
24 preferences for the Alaska Native Corporations that allow  
25 them to participate in the 8(a) program in a way that is not

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1 identical to other small businesses. But Congress has said  
2 that Native corporations do not have to prove that they are  
3 socially or economically disadvantaged. They do not have to  
4 be small business, and they can receive no-bid contracts  
5 worth billions of dollars.

6 No one begrudges giving small, disadvantaged businesses  
7 a chance to win federal contracts. We have programs like  
8 8(a), HUBZone and the service disabled veteran-owned  
9 businesses because we want these small businesses to be able  
10 to get their foot in the door. But the Alaska Native  
11 Corporations have used their special preferences to bust the  
12 door down.

13 To get to the real facts at issue in this hearing, I  
14 requested detailed information from 19 Alaska regional and  
15 village corporations. The committee staff has prepared an  
16 analysis of this information and a separate analysis of  
17 publicly available contracting information. And without  
18 objection, I will enter both analyses into the hearing  
19 record.

20 [The information of Senator McCaskill follows:]

21 / COMMITTEE INSERT

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1           Senator McCaskill. The Subcommittee staff analysis  
2 shows that Alaska Native contract awards have skyrocketed  
3 since 2000. Alaska Native Corporations are now among the  
4 largest federal contractors with hundreds of millions in  
5 annual revenues and hundreds of subsidiaries and joint  
6 ventures. According to the information submitted by the 19  
7 ANCs, none of them would be classified as small businesses  
8 under SBA regs. The Alaska Native Corporations may also be  
9 passing work through to their subcontractors. They employ  
10 relatively few of their shareholders and rely heavily on  
11 non-Native managers.

12           We will hear today from representatives of the Alaskan  
13 Native people and the Alaskan Native contractors who will  
14 tell us that sole source contracting is needed to provide  
15 important benefits to impoverished people. But we must take  
16 a hard look at the numbers. Only about \$615 a year in  
17 money, scholarships and other benefits goes back to each  
18 member of the Alaskan Native community from this particular  
19 federal contracting effort.

20           The American people are looking to Congress to cut back  
21 wasteful spending and make sure that every single federal  
22 dollar is spent wisely. And there must be a strong bias in  
23 favor of competitive contracts that only compelling  
24 rationale should ever overcome, and then in very limited  
25 circumstances.

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1           As we hold hearings in the Subcommittee on waste, fraud  
2 and abuse in government contracts, we cannot give anyone a  
3 free pass. The Alaska Native Corporations have had, and I  
4 have seen firsthand over the last few weeks, a very vocal  
5 group of advocates. But our responsibility is to look out  
6 for the taxpayers, not these corporations and their profit  
7 margins or any other federal contractor or any other special  
8 interest. From the taxpayer perspective, it is hard to see  
9 why the Alaska Native Corporations should be able to receive  
10 enormous contracts with no competition.

11           When this Subcommittee was formed, we made a commitment  
12 to the taxpayer. Our priority would be promoting  
13 efficiency, transparency and accountability. Our goal is to  
14 make sure that every taxpayer dollar is spent wisely in the  
15 contracting arena. By taking a hard look at contracting  
16 loopholes like those for the Alaska Native Corporations, we  
17 can take the first step towards ensuring that our  
18 contracting system provides the best possible value for the  
19 taxpayer.

20           Eliminating waste, fraud and abuse in government  
21 contracting is not a partisan issue. And on this  
22 Subcommittee, I am particularly grateful to have Susan  
23 Collins as a ranking member. Susan Collins has a long  
24 record of working in the contracting and procuring arena.  
25 She shares my commitment to promoting competition in

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1 contracting and ensuring the best value for the taxpayer.

2 I yield to Senator Collins for her statement.

3 OPENING STATEMENT OF SENATOR COLLINS

4 Senator Collins. Thank you very much, Madam Chairman.

5 I very much appreciate your kind comments and your hard work  
6 and leadership as the chairman of this Subcommittee.

7 Today, as the chairman has indicated, the Subcommittee  
8 examines the benefits afforded Alaska Native Corporations,  
9 or ANCs, in the small Business contracting program for  
10 socially and economically disadvantaged small Businesses,  
11 known as the 8(a) program.

12 The recent report of the SBA's inspector general has  
13 raised several troubling issues concerning the ANC program,  
14 including whether other minority-owned small businesses are  
15 being treated fairly given the special benefits afforded  
16 ANCs. As we examine the ANC program, it is important that  
17 we recognize our commitment to the growth and prosperity of  
18 small businesses and to the well-being of our Native  
19 Americans, including Alaska Natives. In particular, we  
20 should consider how the 8(a) program has helped to support  
21 our Nation's minority-owned small businesses by giving them  
22 the opportunity to participate in federal contracts.

23 In 1978, Congress first established the current 8(a)  
24 program. Beginning with protections for black Americans,  
25 Hispanic Americans, Native Americans and other minorities,

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1 Congress has revised and expanded the program over time,  
2 including in 1986 when Indian tribes and ANCs were added.

3 Over the half century, the last half century, whether  
4 by executive order or by legislative action, the government  
5 has acknowledged the value in encouraging the growth and  
6 expansion of small companies and in promoting minority-owned  
7 small business participating in government contracting.

8 In passing the Alaska Native Claims Settlement Act in  
9 1971, Congress recognized Alaska Natives' aboriginal land  
10 claims to large portions of Alaska, and in return, permitted  
11 Alaska Natives to establish unique corporate structures, the  
12 ANCs, to manage their affairs. The ANCs were established to  
13 be stewards of the land and to help Native Alaskans.

14 The ANCs, whether they are large regional entities or  
15 the smaller village corporations, help to provide leadership  
16 for developing the land's natural resources, provide  
17 scholarships and offer employment opportunities to the  
18 members of the Alaskan tribes and villages. ANCs are a way  
19 for many Natives to continue to live in Alaska.

20 Today, however, the SBA's IG has produced some  
21 disturbing statistics that raise difficult questions  
22 regarding the scope of the protections afforded ANCs. These  
23 issues the chairman has outlined in her opening statement,  
24 but let me just touch on some of them.

25 First, the IG noted that the total value of 8(a) ANC

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1 awards soared from \$265 million in Fiscal Year 2000 to \$3.9  
2 billion in Fiscal Year 2008. Of additional concern, the IG  
3 found that 82 percent of these ANC contracts were awarded  
4 via sole source procurements; that is, without competition.

5 Second, the IG's report shows that the dollar value of  
6 the ANC's share of all 8(a) program dollars grew from  
7 13 percent in 2004 to 26 percent in 2008. Yet ANCs account  
8 for only 2 percent of the 9,500 businesses that participate  
9 in the 8(a) program. Third, the report reveals that 11 of  
10 the 20 largest ANCs receive approximately 50 percent of all  
11 the 8(a) funds that are awarded to all ANCs.

12 These statistics show a growing domination by ANCs,  
13 particularly of a few large ANCs, of the 8(a) program market  
14 share at the potential expense and exclusion of other  
15 minority-owned contractors and perhaps to the detriment of  
16 taxpayers given the lack of a cap on the dollar amount of  
17 the noncompetitive contracts.

18 While I do not question the fundamental proposition  
19 that ANCs provide critical services for an economically and  
20 socially disadvantaged group of Americans, we simply must  
21 consider whether the structure of the 8(a) program provides  
22 disproportionate benefits to one group.

23 Congress must carefully consider the following key  
24 questions. First, do the statutory advantages of the ANC  
25 program need to be reexamined within the context of a more

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1 competitive, fair and transparent overall 8(a) program?  
2 Second, should the ANCs continue to receive an exemption  
3 from the cap on awards of sole source contracts to program  
4 participants? Third, should ANCs continue to be exempt from  
5 the limitation on subsidiaries applicable to other 8(a)  
6 participants, which permits their indefinite participation  
7 in the program?

8 I recall when I was the regional head of the Small  
9 Business Administration in New England that we would have  
10 graduation ceremonies for our 8(a) participants. If you can  
11 have an infinite number of subsidiaries, ad infinitum, that  
12 raises a real question about the purpose of the program.

13 I look forward to hearing the testimony of the  
14 witnesses today. And as the chairman said, the final  
15 question we need to look at is what the impact on the value  
16 received by the American taxpayer is for the services  
17 provided under this program.

18 Thank you, Madam Chairman.

19 Senator McCaskill. Thank you.

20 I do not want anyone to think that I am skipping over  
21 our senators from Alaska, but I am going to--just for the  
22 record, we have done something a little unusual today in  
23 that we have invited the two senators from Alaska to attend  
24 the hearing to make opening remarks and even have gone so  
25 far as to allow them to ask questions of the witnesses, even



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1    though they are not members of this committee.

2           We are trying to bend over backwards to make sure that  
3    Alaska's representatives in the Senate have an ample  
4    opportunity to ask questions about this important topic to  
5    their state, and I am cognizant of their need to do that.  
6    So that is why they are here, and that is why they are on  
7    the dais. And we welcome both of them to the committee.

8           However, Senator Tester is a member of the committee,  
9    and so he will be recognized for any opening comments he  
10   would like to make as a member of the committee.

11                            OPENING STATEMENT OF SENATOR TESTER

12           Senator Tester. Thank you, Chairman McCaskill. I  
13    appreciate that. Sorry I missed your opening remarks. I am  
14    going to be very, very brief because I want to hear the  
15    testimony and get an opportunity to ask some questions.

16           I think that we all want to get the maximum bang for  
17    the buck when it comes to taxpayer dollars and when it comes  
18    to contracting. I do not think there is any doubt about  
19    that. I think we also want to give benefit to people who  
20    are in severe economic conditions when possible. And I  
21    think that is what this discussion will be interesting about  
22    for me.

23           I mean, I cannot speak to what goes on in Alaska as far  
24    as the unemployment rates. I can speak to the unemployment  
25    rate in Indian country in my state and the value of the 8(a)

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1 program itself in my state. When you have unemployment  
2 rates that rise well above 50 percent, in some cases  
3 80 percent, as one person said, it would be nice to give  
4 those folks fishing poles so they can do a little fishing.  
5 And I think that that is what program is meant to do.  
6 Hopefully, that is the same way as it is in Alaska, and  
7 hopefully, we can get some of those questions answered as we  
8 move forth.

9 I appreciate the opportunity. Thank you, Madam Chair.

10 Senator McCaskill. Thank you. And I would  
11 recognize--I believe Senator Begich was here first. We come  
12 in order of appearance here. So if you would take a couple  
13 of minutes, if you would like, to make a few comments and  
14 then we will recognize Senator Murkowski.

15 OPENING STATEMENT OF SENATOR BEGICH

16 Senator Begich. Thank you very much, Chairwoman  
17 McCaskill.

18 Thank you, Ranking Member Collins for allowing Senator  
19 Murkowski and I to be here today to participate in the  
20 hearing.

21 The issues we explore today are vitally important for  
22 my constituents and especially for the Native people of  
23 Alaska who comprise 20 percent of our state's population.  
24 For me, the well-being of Alaskan Native people is personal  
25 for two reasons. First, my father's greatest legacy in his

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1 short tenure here in Alaska as a lone congressman was to  
2 write the Alaska Native Land Claims bill. This landmark  
3 act, which has dramatically improved the status of Alaskan  
4 Natives passed Congress in 1971, just a year before he died.

5 The second reason, it is personal is because I have  
6 personally witnessed the struggle against formidable odds  
7 and the enormous success of the Alaska Native people. I was  
8 born in Anchorage barely three years after Alaska became a  
9 state. At that time, Alaska Natives had developed a rich  
10 culture in some of the harshest conditions on the globe. By  
11 Western measures, their status was bleak.

12 Census data for the post-statehood era is incomplete.  
13 But the data that is available tells a story of great need.  
14 In 1970, only 18 percent of Alaska Natives had a high school  
15 diploma and less than 1 percent had a college degree. Half  
16 lived below the poverty line. Fifty percent of Alaska  
17 Natives lived without indoor plumbing, collecting their  
18 waste in what we call the "honey bucket." And nearly  
19 two-thirds lacked what we define today as a job. Most  
20 hunted, fished and lived off the land and water.

21 Today, thanks to the Settlement Act and congressional  
22 action to permit Alaska Native Corporations to participate  
23 in the SBA's 8(a) program, the story of Alaskan Native  
24 people is one of unprecedented success. The numbers tell  
25 part of the story. Educational attainment has soared with

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1 about half of Alaskan Natives earning high school diplomas  
2 and nearly a third with at least some college. Less than 25  
3 percent now live below the poverty line. Three-quarters  
4 live in homes with basic clean water and sewer facilities we  
5 all take for granted.

6 For those of US who believe in the free market system,  
7 as I do, the transition to the private sector is especially  
8 admirable. In 1970, about half of Alaskan Natives worked  
9 for the government. Today, that number is just 29 percent  
10 as more Natives work for their corporations and other Alaska  
11 companies.

12 What is more impressive to me is the success of Alaska  
13 Native Corporations. After struggling in their early years,  
14 all twelve of Alaska's in-state regional for-profit  
15 corporations are profitable, generating about 4 billion in  
16 revenues for the Native shareholders.

17 ANCSA corporations are among the state's top employers,  
18 providing jobs for more than 30,000 people. And I submit  
19 that these companies are among the most socially conscious  
20 in the world. Their chief mission is to provide benefits to  
21 the Native people they were created to serve. They work  
22 hard and contribute enormously for education scholarship,  
23 cultural preservation, elder services, community  
24 development, and support the subsistence lifestyle that is  
25 such a vital part of the culture.

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1           The participation of the ANCs through the 8(a) program  
2 is another great success story. These amendments to the  
3 Claims Act were five years in the making, thoroughly  
4 discussed within both the Native community and Congress  
5 before adoption. The SBA IG report that there are now about  
6 203 ANCs that participate in the program.

7           Through their work across the Nation, they are  
8 generating billions of dollars in benefit to the ANC  
9 shareholders. This continues to raise the standard of  
10 living for thousands of Alaskan Native people who live in  
11 200 villages and communities across my state. There are  
12 scores of compelling stories we could document if time  
13 permitted.

14          Madam Chair, contrary to the spin generated off the  
15 various government reports, I believe Alaska Native  
16 participation in the 8(a) program overall has been one of  
17 the most successful programs this government has done.  
18 Certainly, there may be a few bruised apples that require  
19 attention. I agree with many of the IG recommendations that  
20 the SBA needs to clarify its procedures and fully staff its  
21 oversight mission.

22          Let us continue to be mindful of the continued needs  
23 among Alaskan Native people in my state and how ANCs working  
24 in part through their 8(a) subsidiaries are meeting those  
25 needs so that American taxpayers do not have to.

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1           Again, I look forward to working with the Subcommittee,  
2 hearing the testimony and being able to ask questions  
3 regarding the reports given.

4           Thank you, Madam Chair.

5           Senator McCaskill. Thank you, Senator Begich.

6           Senator Murkowski?

7                           OPENING STATEMENT OF SENATOR MURKOWSKI

8           Senator Murkowski. Thank you, Madam Chairman, and  
9 thank you for the courtesy that you have extended Senator  
10 Begich and I to participate. And to Ranking Member Collins,  
11 I truly do appreciate this.

12           Today the Subcommittee takes testimony on the question  
13 of whether a law intended to provide Indian tribes, Native  
14 Hawaiians and Alaska Native Corporations with the  
15 opportunity to establish viable business enterprises selling  
16 goods and services to the Federal Government, whether or not  
17 this has been a flawed concept. My views on this subject  
18 are informed certainly by the six years that I have served  
19 as a member of the Senate Committee on Indian Affairs,  
20 including a short stretch when I was vice chair of that  
21 committee.

22           I believe that the Indian 8(a) preferences are  
23 achieving important economic development objectives and are  
24 well worth preserving as a matter of federal Indian policy.  
25 Our Nation has a special relationship with its first

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1 peoples, which has been recognized since the founding of  
2 this country, and that special relationship is expressed in  
3 our Constitution. It is also well established that our  
4 great Nation has a long history of imposing ill conceived  
5 policies on Indian tribes and Native peoples, and the Senate  
6 acknowledged as much when it attached Senator Brownback's  
7 apology resolution to the Indian Health Care Bill back in  
8 2008.

9       As Senator Begich has noted, our Native people live in  
10 some of the poorest, most geographically and most  
11 economically isolated places in the country, some in  
12 conditions that resemble Third World countries. Our Native  
13 people struggle to maintain their traditional cultures in an  
14 era in which subsistence hunting, fishing and gathering  
15 simply do not generate sufficient resources to keep one's  
16 house warm in the winter.

17       As we begin this inquiry, we must keep firmly in our  
18 mind that the preferences that we are discussing today are  
19 an exercise of federal Indian policy to mitigate the impact  
20 of past ill conceived policies and to help our Native people  
21 maintain their unique cultures and identities and survive in  
22 the modern world.

23       Although today's hearing is labeled an inquiry into  
24 Alaska Native Corporation contracting, let me make clear  
25 that there is no such thing as an Alaska Native Corporation

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1 preference in government contracting. There is a preference  
2 for Indian tribes, which includes Alaska Native corporations  
3 as well as Native Hawaiian organizations. The opportunity  
4 was structured in a way that would be meaningful to the  
5 challenges of economic development in Indian country and  
6 provide financial benefits that could be shared among large  
7 numbers of tribal members. All of that is at risk today.  
8 While the hearing is labeled Alaska Native Corporations,  
9 nobody in Indian country believes that the consequences will  
10 not fall equally on all beneficiaries of the Indian 8(a)  
11 preferences.

12 Now, there are some who say that this program really is  
13 not important to anyone other than Alaskan Natives. But we  
14 will hear much today about how some Alaska Native  
15 Corporations have done well, perhaps too well in pursuing  
16 these opportunities. But that does not mean that they are  
17 less important to other Native corporations or to Indian  
18 country as a whole.

19 The history of economic development in Indian country  
20 suggests that Native leaders frequently look at which kinds  
21 of businesses are working in Indian country and adopt the  
22 successful business models of others, all in their own time.  
23 This has certainly been the case with Indian gaming, and all  
24 indications are that interest in government contracting  
25 among the tribes is rising.



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1           The sad truth is that there are very few business  
2 models that have provided any modicum for success in tribes  
3 and ANCs. From my conversation with Indian leaders, there  
4 seems to be unanimity that the 8(a) business opportunity  
5 holds great promise for Indian economic development and it  
6 is an opportunity worth saving. I expect that you will hear  
7 the same from the Native leaders that are testifying today.

8           But this senator does not believe that these  
9 contracting preferences undermine the integrity of all  
10 federal contracting. While the dollar value of some  
11 individual contracts may be substantial, taken together, all  
12 of the contracting under this preference accounts something  
13 on the order of 1 percent of the total federal contract pie.  
14 And I am deeply concerned by the suggestion that a victory  
15 for the Indians is a defeat for businesses enjoying  
16 preferences through other socioeconomic classifications.  
17 Surely, there must be a way to win for all.

18           Let me be clear about the stakes here. Congress  
19 enacted a law giving Indian-owned and controlled entities an  
20 opportunity to build federal contracting businesses. Many  
21 rose to the challenges and have fully committed their tribes  
22 and their business enterprises to these opportunities. Some  
23 of these businesses are maturing, and others are just  
24 starting. Our Native leaders have entered into contracts,  
25 they have hired people, they have created systems and

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1 focused all of their energies on learning the business. And  
2 now that same federal government threatens to pull the rug  
3 out from under them.

4 I fear that we are moving down the road to breaking yet  
5 another promise to the Indians. If we are not careful,  
6 policy changes prompted by this Subcommittee's inquiry will  
7 go down in history as another of the ill conceived policies  
8 that we in the Congress are later forced to apologize for.

9 I do thank the Chair for inviting me to participate. I  
10 look forward to the witnesses. And I ask, Madam Chair, our  
11 congressman, Don Young, Alaska's only House member, had  
12 requested an opportunity to appear before the subcommittee.  
13 And I understand that his request could not be accommodated.  
14 He has submitted written testimony in hope that it would be  
15 included within the record.

16 Of course, since I am not a member of your  
17 Subcommittee, it is inappropriate for me to offer a  
18 unanimous consent request. But I would like to submit the  
19 congressman's testimony and would hope that this request  
20 could be accommodated, and would also ask that the committee  
21 or the Subcommittee hold the record open to accommodate a  
22 statement from the governor of Alaska as well as any Alaska  
23 Native Corporations that may wish to submit their views, if  
24 that is appropriate.

25 Senator McCaskill. We certainly will take all of those

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1 statements, and as it relates to the congressman, certainly,  
2 and the governor, we will be happy to make a unanimous  
3 consent motion that their statements be included in the  
4 record.

5 [The information of Senator Murkowski follows:]

6 / SUBCOMMITTEE INSERT

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1           Senator McCaskill. We have had so many requests for  
2 statements to be included. For all other statements, we  
3 will receive them in the committee and review them, and then  
4 be happy to get back with the people who submit the  
5 statements as to whether or not they will be made part of  
6 the record.

7           Senator Murkowski. But we can encourage them to  
8 submit--

9           Senator McCaskill. Absolutely.

10          Senator Murkowski. --to the committee?

11          Senator McCaskill. We will take all the information.  
12 We have gotten so many requests in the last five days, we  
13 want to make sure that we are not overwhelmed if somebody  
14 wanted to submit 600 pages. We have a very small staff.

15          Senator Murkowski. I think everyone is anxious to tell  
16 their story.

17          Senator McCaskill. I understand. I understand,  
18 Senator. Thank you very much.

19          It is the custom of this Subcommittee that witnesses  
20 must be sworn in. Therefore, I would ask the first panel to  
21 rise, please.

22          Do you swear that your testimony that you are about to  
23 give will be the truth and nothing but the truth?

24          Ms. Britt. I do.

25          Mr. Jordan. I do.

1 Mr. Assad. I do.

2 Senator McCaskill. Thank you very much.

3 Senator Akaka has joined us.

4 Senator, as a member of the committee, would you like  
5 to make any opening comments?

6 OPENING STATEMENT OF SENATOR AKAKA

7 Senator Akaka. Madam Chairman, I thank you so much for  
8 your work on contracting, which is something that we really  
9 need to work on in this new period. And if you do not mind,  
10 Madam Chairman, I would like to make just my statement.

11 Senator McCaskill. Certainly.

12 Senator Akaka. Chairwoman McCaskill, thank you for  
13 conducting the hearing. I appreciate the opportunity.

14 As chairman of the Subcommittee on Oversight of  
15 Government Management, I recognize the need and importance  
16 of ensuring appropriate oversight measures are in place for  
17 federal contracts. Failure to have skilled contract  
18 officers in place at federal agencies can negatively impact  
19 the process and risk the loss of billions of taxpayer  
20 dollars due to inefficiencies and, in some cases, fraud.  
21 That is why I am pleased by your efforts to review federal  
22 contracting practices.

23 Today we are here to examine just one aspect of federal  
24 contracting, federal contracts with Alaska Native  
25 Corporations. In our review, it is appropriate that we

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1 acknowledge the federal trust relationship the United States  
2 has with Native Americans, including Alaska Natives. The  
3 U.S. Constitution under the Indian Commerce Clause vests  
4 Congress with the ability to regulate commerce within Indian  
5 tribes. Congress has utilized its well established authority  
6 to enact policies that address the unique circumstances and  
7 needs of Alaska Natives.

8 For the past 19 years, I have worked with Senator  
9 McCain, Senator Murkowski, Senator Dorgan and others as part  
10 of the Senate Indian Affairs Committee to protect and  
11 advance this unique trust relationship with our Nation's  
12 first Americans. From experience, we know that successful  
13 federal Indian policy enables American Indians and Alaska  
14 Natives to be a full partner with the Federal Government.  
15 We have seen more enduring and meaningful results when  
16 Native people are allowed to maintain their culture,  
17 commerce and local political systems to adapt and address  
18 the impact of an America that has rapidly changed around  
19 them.

20 As we review the experience of ANCs in the Small  
21 Business Administration 8(a) program, we must be mindful  
22 that Congress deliberately established this corporation  
23 structure to empower Alaska Natives to develop sustainable  
24 economies that benefit their communities.

25 Under the Alaska Claims Settlement Act, Alaska Natives

1 were required to establish corporate vehicles quite similar  
2 to tribal corporations with vital differences. To promote a  
3 more robust commerce, it provided control of a portion of  
4 their aboriginal lands at fee simple title, rather than the  
5 establishment of reservations, and required the engagement  
6 of commerce and enterprise to be separate for their tribal  
7 government.

8 Congress established the SBA 8(a) business development  
9 program to connect the growth of American business  
10 enterprise directly to the needs for goods and services of  
11 our Federal Government. It has shown success and great  
12 promise for the growth of women-owned, veteran-owned and  
13 minority-owned firms and has changed the socioeconomic  
14 standing of thousands of Americans.

15 Recognizing the success achieved with individually-  
16 owned firms, in the 1980s, Congress established provisions  
17 within the 8(a) program to include the unique corporate  
18 vehicles of American Indian and Alaskan Native enterprises.  
19 And today, ANCs are responsible for providing more than just  
20 profits but are responsible for the welfare and long-term  
21 survival of their people and indigenous culture.

22 As proposals may come forward to address oversight  
23 issues relating to ANCs, I am hopeful we will proceed  
24 honorably in a manner that respects and strengthens the  
25 government-to-government relationship between the United

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1 States and Alaska Natives. The United States and Alaska  
2 Natives are partners, and development of any policy should  
3 be a collaborative effort.

4 Again, thank you, Chairman McCaskill for holding this  
5 hearing. I look forward to the hearing and the witnesses  
6 who will offer their expertise on this important matter.  
7 Thank you.

8 Senator McCaskill. Thank you, Senator Akaka.

9 Our first panel has three witness. Our first witness  
10 is Debra Ritt, and she is the Assistant Inspector General  
11 for Auditing at the Office of Inspector General for the  
12 Small Business Administration, and we welcome your  
13 testimony.

14 Let me tell all the witnesses that we would like you to  
15 try to limit your statements to five minutes, but, please,  
16 we will put your entire statements in the record, so do not  
17 worry that we will not take all of the information. But if  
18 you can try to limit it to five minutes, we have five people  
19 on the second panel, and I have a feeling there will be a  
20 lot of questions. So if you could limit it to five, that  
21 would helpful. Thank you very much.



1 TESTIMONY OF DEBRA RITT, ASSISTANT INSPECTOR  
2 GENERAL, AUDITING, OFFICE OF INSPECTOR GENERAL,  
3 U.S. SMALL BUSINESS ADMINISTRATION

4 Ms. Ritt. Thank you.

5 Chairwoman McCaskill, Ranking Member Collins, and  
6 members of the Subcommittee, we appreciate the opportunity  
7 to testify on our recent audit. As requested, my statement  
8 today will focus on procurement advantages enjoyed by ANCs  
9 in the 8(a) program and the benefits derived from those  
10 advantages, the growth of ANC 8(a) activity and SBA's  
11 oversight of ANC participants.

12 ANC companies enjoy special procurement advantages  
13 beyond those afforded most other 8(a) businesses. The most  
14 significant is their exemption from statutory dollar limits  
15 on the amount of individual awards that may be sole sourced  
16 and the regulatory cap on sole source awards once \$100  
17 million in total 8(a) contracts has been received. This has  
18 allowed some ANC companies to receive 8(a) sole source  
19 awards as large as a billion dollars and is the major reason  
20 for the explosive growth in ANC 8(a) activity.

21 Further, unlike other 8(a) businesses, ANC companies  
22 are considered small even if they are affiliated with other  
23 large businesses. Consequently, ANC companies that are  
24 large through affiliation with their parent companies are  
25 allowed to compete for 8(a) awards against other small

1 disadvantaged businesses. While federal law permits these  
2 large businesses to participate in a small business program,  
3 it is an anomaly that impacts the small disadvantaged  
4 business community.

5       Although ANC contracting advantages were intended to  
6 provide economic opportunities for impoverished Alaskan  
7 communities, ANC companies are not required to report to SBA  
8 how they use their 8(a) share of their profits. We have  
9 found that ANC profits are generally used to fund  
10 shareholder dividends, cultural programs, employment  
11 assistance, scholarships and numerous other services for  
12 their communities.

13       ANC companies have unquestionably prospered under the  
14 8(a) program. In Fiscal Year 2007, the 12 regional  
15 corporations had combined revenues of \$5.8 billion and  
16 profits of 484 million, much of which was generated from the  
17 8(a) program. Moreover, from Fiscal Years 2000 to 2008,  
18 obligations to ANC-owned participants increased by  
19 1,386 percent and more than tripled in recent years from  
20 1.1 billion in 2004 to 3.9 billion in 2008. While some of  
21 the increase was due to the growth in federal contracting as  
22 a whole in 2008, ANC companies received 26 percent of total  
23 8(a) obligations even though they constituted just 2 percent  
24 of the companies performing 8(a) contracts.

25       Also, 50 percent of the 8(a) dollars obligated to ANC

1 companies in 2007 went to just 11 or 6 percent of the ANC  
2 participants. One company, which accounted for nearly  
3 20 percent of these obligations, had only 750 shareholders  
4 or less than 1 percent of total ANC shareholders.

5 Finally, sole source contracts continue to be the major  
6 contracting mechanism for obligating 8(a) funds to ANC  
7 businesses. In 2007, the top 11 ANC companies received  
8 82 percent of their 8(a) obligations through sole source  
9 awards. While such awards provide an expedient means of  
10 meeting federal procurement goals, reports by IGs and GAO  
11 have shown that noncompetitive contracts have been misused  
12 and do not always provide the government with the best  
13 value.

14 Despite these concerns, SBA has not evaluated the  
15 impact of ANC growth on other 8(a) participants or tailored  
16 its oversight practices to account for ANC's unique status  
17 and growth in the program. SBA has also not fully addressed  
18 oversight weaknesses identified by prior GAO and IG audits.  
19 Specifically, SBA does not monitor whether ANC subsidiaries  
20 are obtaining their primary revenue from the same industry.  
21 The agency is developing a system to collect information on  
22 ANC companies, but this capability will not be developed  
23 until a later phase.

24 Also, SBA has had difficulty monitoring ownership  
25 changes involving ANC companies to ensure that they remain

1 majority owned by ANCs. While SBA plans to increase the  
2 size of its Alaska district office to address this issue,  
3 the office currently only has three employees to oversee the  
4 200-plus ANC companies in the program.

5 SBA does not determine whether ANC companies or their  
6 affiliates have a substantial unfair competitive advantage  
7 in determining size for 8(a) awards and has not clearly  
8 articulated in regulation how it will comply with existing  
9 law. Further, SBA cannot readily identify and is not  
10 monitoring partnerships between ANC companies and large  
11 businesses to ensure that such businesses are not exploiting  
12 ANCs for their 8(a) status.

13 Finally, SBA is not adequately reviewing financial  
14 information reported annually by ANC companies to identify  
15 unreported management agreements related to their 8(a)  
16 contracts.

17 In conclusion, while ANC participation in the 8(a)  
18 program has undeniably benefited Alaska Natives, ANC  
19 companies are receiving a disproportionate share of the 8(a)  
20 obligations. Also, the procurement advantages that they  
21 enjoy and their ability to access capital and credit through  
22 their parent companies may be working to disadvantage other  
23 8(a) participants.

24 Consequently, Congress may wish to consider whether ANC  
25 companies should continue to be exempt from statutory limits

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1 on sole source awards and whether procurement goals should  
2 be revised to account for the significant growth in ANC 8(a)  
3 activity. It may also wish to consider further clarifying  
4 SBA's role in monitoring ANC 8(a) activity and requiring  
5 ANCs to report how they are using their 8(a) revenues.

6 Madam Chairwoman, this concludes my prepared statement,  
7 and I would be happy to take questions at this time.

8 [The prepared statement of Ms. Ritt follows:]

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1           Senator McCaskill. Thank you.

2           Our next witness is Joseph Jordan. He is the Associate  
3 Administrator for Government Contracting and Business  
4 Development at the SBA.

5           Welcome, Mr. Jordan.

1                   TESTIMONY OF JOSEPH JORDAN, ASSOCIATE  
2                   ADMINISTRATOR, GOVERNMENT CONTRACTING AND BUSINESS  
3                   DEVELOPMENT, U.S. SMALL BUSINESS ADMINISTRATION

4           Mr. Jordan. Thank you very much.

5           Chairwoman McCaskill, Ranking Member Collins and  
6 members of the Subcommittee, thank you for inviting the SBA  
7 to testify regarding the participation of Alaska Native  
8 Corporations in the 8(a) business development program. My  
9 name is Joe Jordan, and I am the Associate Administrator for  
10 the SBA's Office of Government Contracting and Business  
11 Development.

12           The 8(a) program, authorized by Section 8(a) of the  
13 Small Business Act, seeks to remedy discrimination by  
14 helping eligible small businesses compete in the American  
15 economy through business development. Participation in the  
16 8(a) program is generally restricted to businesses owned and  
17 controlled by socially and economically disadvantaged  
18 individuals. Individual applicants must demonstrate both  
19 social and economic disadvantage.

20           Socially disadvantaged individuals have been subjected  
21 to racial or ethnic prejudice or cultural bias within  
22 American society. Economically disadvantaged individuals  
23 are socially disadvantaged individuals whose ability to  
24 compete in the free enterprise system has been impaired.

25           In addition to management and technical assistance, the

1 government is able to award contracts to participating 8(a)  
2 firms without competition below certain dollar thresholds.  
3 The government can also limit competition for federal  
4 contracts to only 8(a) certified firms.

5 Congress has enacted legislation that allows ANCs,  
6 Native Hawaiian organizations, community development  
7 corporations and tribally-owned firms to participate in the  
8 8(a) business development program. The Alaskan Native  
9 Claims Settlement Act was enacted by Congress to settle  
10 claims to land and resources while also exploring an  
11 alternative to the reservation system. General goals  
12 included self determination and participation in a U.S.  
13 capitalist society.

14 In 1988 and 1992, ANSCA was amended to remedy evidence  
15 that Alaska Natives were not receiving all the intended  
16 benefits. So Congress designated ANCs, where Natives hold  
17 majority ownership, to be minority businesses and  
18 economically disadvantaged.

19 ANCs have twofold missions of being competitive  
20 businesses accountable to many thousands of shareholders as  
21 well as providing a mechanism for self sufficiency.  
22 Generally, they support cultural, societal and community  
23 activities on behalf of their people while providing  
24 economic benefit to shareholders and their families.

25 The 8(a) BD program's regulations anticipate that



1 organizational-owned firms, including ANCs, use the 8(a)  
2 program to provide economic development to their communities  
3 even though all other 8(a) participants use the program only  
4 for individual business development assistance. ANC-owned  
5 8(a) firms, tribally-owned companies and program  
6 participants owned by Native Hawaiian organizations are not  
7 subject to the same rules as other individually-owned  
8 companies participating in the program.

9 First, subsidiaries can participate in the 8(a) program  
10 without being considered affiliated with one another. This  
11 allows several subsidiaries to participate in the program at  
12 the same time and for each to be considered a small  
13 business. Secondly, these firms are able to receive a  
14 federal contract in any amount without competition. In  
15 2003, Congress authorized Native Hawaiian organizations to  
16 receive 8(a) contracts in any amount for Department of  
17 Defense procurements.

18 Lastly, these companies do not have a restriction on  
19 the participation by non-disadvantaged individuals. For  
20 traditional 8(a) firms, the individual claiming disadvantage  
21 must control the day-to-day operations of the company and  
22 traditionally must be the highest compensated. As it is  
23 currently operating, the 8(a) program is simultaneously  
24 providing business development opportunities to  
25 disadvantaged individuals and to firms owned by

1 organizations, including ANCs.

2 It is also important to recognize that as a business  
3 development program, sole source contract awards continue to  
4 have an important role in 8(a). However, competition also  
5 plays an important part and has been used effectively in the  
6 8(a) program.

7 The SBA has worked diligently to ensure that oversight  
8 of these programs is strong and that SBA programs are  
9 operating free of waste, fraud and abuse. To this end, in  
10 the past six months the administration has taken four main  
11 actions.

12 First, we sent a team to review the Alaska district  
13 office which handles the interface and caseload of ANCs.  
14 Second, we have begun the hiring process for two additional  
15 staff devoted to the 8(a) business development program in  
16 the Alaska district office. Third, we have funded  
17 initiatives to better track ANC participation in the 8(a)  
18 program. And fourth, we have submitted a package of  
19 regulatory changes to ensure more effective administration  
20 of the 8(a) program for all participants. These changes  
21 were driven by the SBA as well as concerns expressed in the  
22 GAO report from 2006.

23 Thank you for allowing me to share the SBA's view with  
24 you today, and I will be happy to answer any questions you  
25 may have.

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1 [The prepared statement of Mr. Jordan follows:]

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1           Senator McCaskill. Thank you, Mr. Jordan.

2           Our next witness is Shay Assad. He is the Acting  
3 Deputy Under Secretary of Defense for Acquisition and  
4 Technology at the U.S. Department of Defense.

5           Mr. Assad.

1           TESTIMONY OF SHAY ASSAD, ACTING DEPUTY UNDER  
2           SECRETARY OF DEFENSE, ACQUISITION AND TECHNOLOGY,  
3           U.S. DEPARTMENT OF DEFENSE

4           Mr. Assad. Thank you, Madam Chairman McCaskill,  
5           Ranking Member Collins, members of the Subcommittee and  
6           senators. My name is Shay Assad. I am the director of  
7           Defense Procurement. I am also presenting serving as the  
8           Acting Deputy Under Secretary of Defense for Acquisition and  
9           Technology. I want to thank you for the opportunity to  
10          appear in front of you today to participate in today's  
11          discussion.

12          As you know, the Small Business Administration manages  
13          the 8(a) program. ANC firms along with the tribally-owned  
14          firms participate in the 8(a) program, but like Indian  
15          tribes and Native Hawaiian organizations, they receive  
16          unique procurement advantages not available to  
17          individually-owned 8(a) firms. You have touched on several  
18          of these advantages already.

19          You asked me to address the adequacy of the Department  
20          of Defense's management and oversight of contracts with  
21          ANCs. Consistent with my recently expanded responsibilities  
22          following my appointment as the Acting Deputy Under  
23          Secretary and as part of a general review of contract  
24          oversight across the Department, I am currently attempting  
25          to determine the management and adequacy of our contracting

1 oversight. I have asked my staff to work with the Defense  
2 Contract Audit Agency as well as the Defense Contract  
3 Management Agency to ascertain the extent to which ANCs  
4 receive the same audit and oversight as other DoD contracts.

5 Further, I have directed my Deputy Director for  
6 Strategic Sourcing to initiate a detailed review of all of  
7 the Department's awards to 8(a) ANC firms for Fiscal Years  
8 2008 and 2009. Through this review, we will gain a detailed  
9 understanding of what we are buying and procuring from these  
10 firms, and in those instances where we are not competitively  
11 procuring, the rationale for that sole source approach. It  
12 will also give us an opportunity to further expand  
13 opportunities for ANC firms as we gain a better  
14 understanding of exactly what the capabilities and skills of  
15 those companies are collectively.

16 My purpose here today is not to challenge the  
17 assistance provided to 8(a) participants or specifically to  
18 ANC businesses. Again, I reiterate my support for the 8(a)  
19 program. My concern is with competition in this particular  
20 context and the benefits of that to the American taxpayer.

21 While we have authority to use sole source procedures  
22 with ANC contractors, we do, in fact, compete sometime. In  
23 2008, it is approximately 35 to 40 percent of the time.  
24 That is well below our average for competition. We need to  
25 significantly improve that. On many occasions, I have

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1 stressed the importance of fair competition, which I believe  
2 is the cornerstone of our procurement system. It is  
3 important to obtain the best value for our warfighters and  
4 the best use of taxpayer dollars. GAO has repeatedly  
5 reported that some sole source procurements to ANCs have  
6 resulted in paying significantly more for services and  
7 products than were warranted.

8 I respect the need to provide economic opportunities  
9 for 8(a) ANCs. However, based on the Department's  
10 experience with the 8(a) program, I think there may be ways  
11 to promote additional competition in appropriate  
12 circumstances. The Department has used competition  
13 successfully to achieve best value in the 8(a) program, and  
14 I would welcome the opportunity to work with SBA in  
15 exploring appropriate options for the application of  
16 competition for ANCs.

17 Taxpayers would benefit. All procurement agencies  
18 would benefit, as their prices they pay for their  
19 requirements would be competitively determined. Small  
20 business would benefit as well because of greater  
21 opportunities. In short, the appropriate use of competition  
22 could provide economic opportunities for 8(a) ANCs and  
23 further help agencies to obtain best value for the  
24 government and for the taxpayers.

25 Finally, I would like to emphasize the important role

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1 that small business plays in the industrial base. Fostering  
2 an environment that is conducive to small business is  
3 critical in helping us maintain our competitive procurement  
4 system. A strong and vibrant small business program which  
5 includes ANCs is one that will allow its small businesses to  
6 not only provide goods and services that are essential to  
7 our national security but will also enable them to develop  
8 over time so that they can meet the future needs of our  
9 Nation's warfighters in a competitive marketplace. Our  
10 warfighters deserve no less, and our taxpayers demand that  
11 we do so.

12 [The prepared statement of Mr. Assad follows:]



1 Senator McCaskill. Thank you, Mr. Assad.

2 Mr. Jordan, let me start the questioning. We will do  
3 five-minute rounds, and we will go to the committee members  
4 first and then allow our guests from Alaska to question  
5 some, also.

6 I will be honest with you that your responses to the  
7 audit I found troubling and dismissive. I am a former  
8 auditor, and so I always go to the responses first because  
9 that is where you are going to determine if the audit is  
10 going to make a difference. And reading your responses, I  
11 was concerned that the audit was not going to make a  
12 difference.

13 Let me start by stating for the record that this is  
14 confusing. The 8(a) program is confusing, and you can get  
15 into the weeds because there are so many different  
16 requirements and rules and thresholds and determinations.  
17 But I want to make very clear for the record one thing, and  
18 that is that there is a difference between Alaska Native  
19 Corporations and the rules for them and for any other Native  
20 corporation, Hawaiian and the lower 48.

21 Would you explain that to the committee, Mr. Jordan,  
22 what the difference is between the rules for an Alaska  
23 Native Corporation versus a lower 48 Native corporation or a  
24 Hawaiian corporation?

25 Mr. Jordan. Yes, Madam Chair, I will.

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1           So ANCs and Indian tribes both have statutory exception  
2 to affiliation. Native Hawaiian organizations also enjoy  
3 the exception to affiliation privilege; however, that is  
4 regulatory. Indian tribes and ANCs both have sole source  
5 authorized above the thresholds. They both have exception  
6 to the \$100 million sole source cap, and they both have  
7 statutory authorization to own more than one company, 8(a)  
8 company, at a time as long as no two companies are in the  
9 same primary NAICS code.

10           Native Hawaiian organizations also enjoy the authority  
11 to own more than one company, but that is regulatory. They  
12 do not have the exception to the \$100 million cap. And for  
13 the sole source above the thresholds for Native Hawaiian  
14 organizations, that only applies to the Department of  
15 Defense.

16           The one area in which Alaska Native Corporations are  
17 different from Indian tribes is the presumption of economic  
18 disadvantage. ANCs are presumed economically disadvantaged  
19 whereas tribes are not. However, to the best of my  
20 knowledge, there has not been a case where a tribe was  
21 rejected from the 8(a) program based on that.

22           Senator McCaskill. But don't you lose your status as  
23 economically disadvantaged once you get to a certain  
24 threshold, Mr. Jordan?

25           Mr. Jordan. You do as a--Senator McCaskill, as you

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1 said, there are differences between ANC's tribes and Native  
2 Hawaiian organizations and the traditional 8(a) business  
3 development program participant. The way the--

4 Senator McCaskill. Including the Indian tribes.

5 Mr. Jordan. Yes, but the larger difference is between  
6 ANC's tribes, Native Hawaiian organizations and community  
7 development corporations and the individual socially and  
8 economically disadvantaged business owner. And so when you  
9 are looking at the net income, net asset threshold over  
10 which you become no longer presumed economically  
11 disadvantaged, the process by which Indian tribes are  
12 evaluated is obviously more complex than the process for  
13 evaluating one individual small business owner.

14 Senator McCaskill. Well, but it is my understanding,  
15 Mr. Jordan, that the law carves out a permanent economic  
16 disadvantage status for ANCs.

17 Mr. Jordan. You are correct.

18 Senator McCaskill. And it does not do that for Indian  
19 tribes.

20 Mr. Jordan. You are correct, yes.

21 Senator McCaskill. Okay. And that is a huge  
22 difference because if you get a \$100 million contract for  
23 four years running, then you are no longer economically  
24 disadvantaged under the rules of SBA, correct?

25 Mr. Jordan. Correct, but--

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1 Senator McCaskill. --unless you are an ANC--

2 Mr. Jordan. Well, that is not--

3 Senator McCaskill. --and you are permanently  
4 economically disadvantaged regardless of how big the  
5 contract is.

6 Mr. Jordan. That is not necessarily correct because it  
7 is not the size of--I will get back to you with the exact  
8 definition, but it is not the size of the contract that  
9 would necessarily--

10 Senator McCaskill. It is the revenues.

11 Mr. Jordan. Well, yes, it is the net income and the  
12 total assets and the revenues, yes. But it depends what  
13 flows to the individual business owner, the socially and  
14 economically disadvantaged business owner.

15 Senator McCaskill. Well, I am not talking about the  
16 socially--I am not talking about the business owner. I am  
17 talking about--I am talking about Indian tribes versus ANCs.  
18 And I believe--

19 Am I correct, Ms. Ritt, with what I am saying, that  
20 there is a special status for the ANCs that provide  
21 permanent economic disadvantage regardless of how big they  
22 get, regardless of how large the corporation is, regardless  
23 of how many subsidiaries they have, and that is simply not  
24 true for Indian tribes?

25 Ms. Ritt. You are absolutely correct.

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1           Senator McCaskill. Let me also talk about the audit in  
2 this context. There is an exception that allows the ANCs to  
3 create subsidiaries and there have been almost 250  
4 subsidiaries created in the last nine years and still count  
5 as a small business along truly small businesses like a  
6 start-up disadvantaged business. And it says the SBA has  
7 the ability to count those subsidiaries if it determines it  
8 creates an unfair competitive advantage.

9           In your audit, Ms. Ritt, you pointed out that the SBA  
10 had not--both you and the Inspector General--excuse me--both  
11 you and the GAO said that SBA is not really making that  
12 determination. They are making no effort to determine  
13 whether or not there is an unfair competitive advantage.

14           Ms. Ritt. Right. There is a statutory requirement  
15 that they make those determinations when considering size  
16 and they are not doing that.

17           Senator McCaskill. And I want to make sure I get this  
18 correct. The SBA told GAO that the statute was confusing  
19 and you were not sure how to implement.

20           Is that accurate, Mr. Jordan?

21           Mr. Jordan. I would have to look at our response. I  
22 was not with the agency at the time of the 2006 report.

23           Senator McCaskill. Well, do you think that language,  
24 "unfair competitive advantage," is confusing?

25           Mr. Jordan. I do not believe that I am in a position

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1 to declare it confusing one way or not confusing right now.

2 But I do want to get back to the--so I do not have to  
3 get back to you later on the tribes versus the ANCs.

4 So under the regulations, tribes have a one-time  
5 determination of whether that tribe is economically  
6 disadvantaged. So this happens with the first 8(a) firm  
7 from that tribe. For every other 8(a) firm owned by the  
8 tribe, they do not have to establish that economic  
9 disadvantage.

10 Senator McCaskill. The point is not establishing it,  
11 Mr. Jordan. The point is that they do not get to keep it  
12 forever. That is the point. The point is that Indian  
13 tribes, after they get to a certain size, no longer can  
14 participate on a sole source basis. That is simply not true  
15 for ANCs.

16 Mr. Jordan. Well, it would not be the tribe so much as  
17 the tribally-owned company that is a 8(a) participant.

18 Senator McCaskill. Maybe I am not being clear. I  
19 thought that I was being very clear. There is a difference  
20 in the law as to how an Indian tribe is treated and an  
21 Alaska Native Corporation is treated as the determination of  
22 economic disadvantage is made. And one is permanent and one  
23 is not permanent; is that correct?

24 Mr. Jordan. There is a difference in the law. That is  
25 correct. In terms of how that difference plays out over

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1 time, I would have to get back to you.

2 Senator McCaskill. Okay. Thank you.

3 Senator Collins?

4 Senator Collins. Thank you.

5 Mr. Jordan, to follow up on this line of questions, it  
6 is my understanding that other 8(a) firms have to every  
7 single year prove that they are still economically  
8 disadvantaged; is that correct?

9 Mr. Jordan. Yes, that is correct.

10 Senator Collins. But with an ANC, no matter how big or  
11 how successful it becomes, it is presumed to be economically  
12 disadvantaged; is that accurate?

13 Mr. Jordan. That is accurate. Just like with the  
14 individual businesses being developed, there is no  
15 presumption of them giving a community development or  
16 shareholder benefit, per se. So, again, I view them as  
17 separate, you know, contexts operating on the--

18 Senator Collins. I am just wanting to make sure we  
19 understand how the process works.

20 Mr. Jordan. Yes, ma'am.

21 Senator Collins. Ms. Ritt, current law provides a  
22 5 percent bonus if you subcontract with an ANC or an Indian  
23 organization or an Indian-owned economic enterprise. I was  
24 surprised to learn that this bonus applies even with an ANC  
25 that contracts with its own subsidiary.

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1           Is that your understanding?

2           Ms. Ritt. I am sorry, Senator Collins. I cannot  
3 answer that question.

4           Senator Collins. Mr. Jordan, can you answer that  
5 question? Can an ANC get a 5 percent bonus for contracting  
6 with its own subsidiary?

7           Mr. Jordan. I do not know. I will have to get back  
8 with you.

9           Senator Collins. Mr. Assad, do you know?

10          Mr. Assad. I do not believe the law distinguishes  
11 amongst that and probably allows that to happen.

12          Senator Collins. It is my understanding that the law  
13 does allow that to happen.

14          Ms. Ritt, can you think of any rationale for giving a  
15 bonus to an ANC that contracts with its--that subcontracts  
16 the work to its own subsidiary?

17          Ms. Ritt. No, I cannot. And my staff just confirmed  
18 that what you said was true, that they can get a 5 percent  
19 bonus.

20          Senator Collins. Do you believe that that incentive is  
21 needed to encourage ANCs to do business with the Federal  
22 Government or to help direct more work to ANCs?

23          Ms. Ritt. No, I do not. I think the exemption from  
24 the sole source caps is a huge incentive by itself.

25          Senator Collins. Mr. Assad, do you think there should



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1 be an incentive where an ANC gets a 5 percent bonus if it  
2 contracts with one of its own subsidiaries?

3 Mr. Assad. No, I do not.

4 Senator Collins. Mr. Assad, you said in your opening  
5 comments that you were concerned about the lack of  
6 competition in the award of ANC contracts. A subsequent  
7 witness today is going to say that there is informal  
8 competition, that a contracting officer can informally call  
9 up other ANCs and see if they are interested and do an  
10 informal price competition.

11 Do you view that as being equal to the requirement for  
12 full and open competition under the Competition and  
13 Contracting Act?

14 Mr. Assad. No, I do not, Senator. I actually have  
15 some personal experience along these lines.

16 Senator Collins. Could you share that with us?

17 Mr. Assad. Yes, ma'am. When I was the director of  
18 contracting for the Marine Corps, we had a procurement come  
19 to me that, in fact, was determined on the basis of one of  
20 these informal determinations that a specific company should  
21 do the work. When that was presented to me, I just would  
22 not buy it because I had actually been contacted by a couple  
23 of other Alaska Native Corporations who said they could do  
24 the work. You know, we went back to the SBA at that time  
25 and suggested that this should not be sole sourced to a

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1 particular company but, in fact, should be competed amongst  
2 the ANCs.

3 Well, because the determination had already been made  
4 that this particular company was going to get the work, the  
5 SBA was reluctant to do that. So in order to deal with it,  
6 we actually canceled the procurement. We then reset the  
7 procurement. It was competed amongst three Alaska Native  
8 Corporations, and the best company won. And that is kind of  
9 how I see things ought to be.

10 Senator Collins. Thank you.

11 Mr. Jordan, I mentioned in my opening comments that I  
12 remember when I was the regional head for New England of SBA  
13 that we would have actual graduation ceremonies when an 8(a)  
14 firm had been in the program perhaps for the limit of nine  
15 years or because it had been successful and become  
16 prosperous, was graduating from the 8(a) program.

17 Is nine years the maximum limit for participation in  
18 the 8(a) program except for Native-owned corporations in  
19 Alaska, Native corporations?

20 Mr. Jordan. Yes, nine years is the limit, but I  
21 believe tribal entities and Alaska Native Corporations,  
22 these 8(a) certified subsidiaries that are in the 8(a)  
23 program, are also held to that nine year limit. It is the  
24 parent company itself that is not.

25 Senator Collins. Correct.

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1           But, Ms. Ritt, isn't there a provision in the law that  
2 allows the ANCs to keep adding subsidiaries so that the  
3 effect is that they can remain in the 8(a) program virtually  
4 forever rather than being subjected to the nine-year limit?

5           Ms. Ritt. Yes, Senator Collins, that is correct. They  
6 are not restricted in the number of subsidiaries that they  
7 can enter into the 8(a) program. And as we have seen, as  
8 firms graduate, new ones get created. So it happens quite  
9 frequently.

10          Senator Collins. Thank you.

11          Senator McCaskill. Thank you, Senator Collins.

12          We do not have any committee members here. So,  
13 Mr. Begich, would you like to ask a few questions?

14          Senator Begich. Absolutely. Thank you very much.

15          Let me, Ms. Ritt, follow up on that. Do you, I am  
16 assuming you do, understand the difference between an 8(a)  
17 that is an individually-owned and an 8(a), an American  
18 Indian, Alaska Native and Hawaiian, which represents  
19 thousands of owners?

20          Ms. Ritt. Yes, I do.

21          Senator Begich. Do you see any difference in the sense  
22 of what they should be able to do or not do?

23          Ms. Ritt. I do understand that the Alaska Native  
24 companies have multiple shareholders--

25          Senator Begich. And American Indian.

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1 Ms. Ritt. And American Indians that benefit--

2 Senator Begich. And Hawaiian-owned.

3 Ms. Ritt. --from their participation whereas other  
4 8(a) companies just have a few owners.

5 Senator Begich. Right. Do you see a difference there  
6 in the sense of how they generate contracts and value in the  
7 sense that an 8(a), that 9,000 or so that are  
8 individually-owned or a couple owners, are much different in  
9 that their profit motivation is obviously for their own  
10 personal wellbeing in the sense as individuals but the  
11 Alaska Native Corporations, the Indian-owned, the American  
12 Indian-owned and the Hawaiian-owned, are for the betterment  
13 of their culture, their communities as well as profit to  
14 their shareholders?

15 Ms. Ritt. Certainly, I do. But I also understand that  
16 the small businesses are the backbone of this economy and  
17 part of the recovery plan.

18 Senator Begich. I do not disagree. I do not disagree.  
19 I have been in small business for 25 years. My wife owns  
20 four small businesses, so we have been in it; we understand  
21 it. But I thank you for that comment of your knowledge of  
22 it.

23 Let me ask you, in your report, did you compare the  
24 growth of the women-owned businesses, the HUBZone firms, the  
25 veteran-owned firms and their percentage of growth over time

1 compared to?

2 Ms. Ritt. The scope of this audit was limited to ANCs  
3 based on concerns raised by GAO in the report.

4 Senator Begich. But you used the phrase "explosive  
5 growth." Let me give you one data point from testimony that  
6 was given on the House side in '06.

7 When I look at the women-owned business in one year  
8 alone, they grew almost double. HUBZones grew over 200 and  
9 some percent. If you did it over the same period, which you  
10 did it over nine years, in some cases, it would be as much  
11 as 1600 percent. So I guess when you say explosive, you  
12 are--

13 Ms. Ritt. What I meant was--

14 Senator Begich. How are we comparing it?

15 Ms. Ritt. --the percentage of participation. When you  
16 have one group that is 2 percent of the group getting--of  
17 the participants getting contracts, getting 26 percent share  
18 of the 8(a) pie, to me, that is explosive. That is  
19 disproportionate.

20 Senator Begich. But if I compared the ownership of, in  
21 the sense of Alaska Native Corporations, that are owned by  
22 thousands--thousands--there are more owners for those for  
23 sure than even the 9,000 single owned or double owned,  
24 correct?

25 Ms. Ritt. There are more owners. I would agree.

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1           Senator Begich. So there is a different  
2 responsibility.

3           Let me ask you another question. In your report, you  
4 talked about a lot of gross revenues, and you talked about  
5 the value of the dividends, and yet you kind of had some  
6 question in that arena. I forgot the exact number, but I  
7 want to say it was 1 point some billion dividend return for  
8 the 11 or so that you reviewed. And their contract total  
9 was 29 billion, if I remember this right, over the period of  
10 time that you did the analysis.

11           So the question is, why didn't you focus on the net  
12 revenues? Because that is what matters, is what flows to  
13 the owners. Because if you use the calculation that I am  
14 familiar with, they almost gave away 70 percent of their  
15 dividends to their shareholders. Why didn't you use that  
16 number instead?

17           Ms. Ritt. Use their net revenues?

18           Senator Begich. Yes.

19           Ms. Ritt. Because a lot of them do not make very large  
20 profits.

21           Senator Begich. Right.

22           Ms. Ritt. They have very huge cost structures, as I am  
23 sure you know. Some of them have restructured after  
24 Chapter 11.

25           Senator Begich. Yes.

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1 Ms. Ritt. And--

2 Senator Begich. And 8(a)s helped them move forward.

3 Ms. Ritt. But there they are getting billions of  
4 dollars in contracts with hundreds of millions of dollars in  
5 profits, I guess, from various sources.

6 Senator Begich. Yes, but your analysis here kind of  
7 makes it sound like they have these huge contracts and they  
8 are making this huge amount of money. But really, it is  
9 about the net revenue just like the standard 8(a) is  
10 measured by.

11 So let me ask you an additional question in regards to  
12 that, and that is you had a lot of commentary in here on SBA  
13 reforms necessary. Actually, I think your last report  
14 highlighted that a lot, which I agree with, and I think  
15 every SBA member agrees with that. Besides staffing and  
16 overview and monitoring, what else does SBA need in order to  
17 do the job? Because it sounds like, for example, the  
18 example that I just heard from Mr. Assad, the process he  
19 used stopped a contract they did not feel was adequate. So  
20 what more?

21 Ms. Ritt. Well, I do think that they need to collect  
22 data on ANC activity, and they need to be more engaged in  
23 overseeing joint ventures, mentor protege relationships,  
24 where there are opportunities for abuses.

25 Senator Begich. Okay. If I can just ask you, I just

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1 thought of another quick question. My time is pretty much  
2 up here. But in your report, you talked about the GAO in  
3 regards to sole source and the potential of costs to the  
4 taxpayers.

5 How come you did not specify any specific issues where  
6 an 8(a) corporation has cost the taxpayers more than it  
7 should?

8 Ms. Ritt. Well, I think that there has been a lot of  
9 cases documented with other IG reports--

10 Senator Begich. Of 8(a)s?

11 Ms. Ritt. Yes, of 8(a)s.

12 Senator Begich. But why didn't you restate that, then,  
13 if that was such, as I saw, an important piece of the  
14 equation? Because that is part of the debate of sole  
15 source, of what is the value. Because, you know, like  
16 today, for example, I receive a nice newsletter from the Air  
17 Force talking about \$25 million they saved working with an  
18 8(a).

19 Ms. Ritt. Right.

20 Senator Begich. So why didn't you use those examples?

21 Ms. Ritt. Well, we felt that there was enough body of  
22 work that other IGs had done that clearly demonstrated that  
23 sole source awards to ANCs had been abused.

24 Senator Begich. More recently?

25 Ms. Ritt. Yes.



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1 Senator Begich. Okay. I will tell you--

2 Ms. Ritt. There was a DoD IG report in 2007 regarding  
3 a contract for leased space, a \$100 million, 10-year  
4 contract, sole source to an ANC who was not small, did not  
5 qualify under the size standards, they did not go through  
6 GSA, and GSA appraisers determined that it cost \$2.7 million  
7 more a year for the life of that contract.

8 Senator Begich. And from that, what happened  
9 with--well, I will stop because I want to ask you about the  
10 process of that.

11 Senator McCaskill. Senator Murkowski?

12 Senator Murkowski. Ms. Ritt, let's continue with you,  
13 if we may. Both in your oral statement and in your written  
14 testimony, you have suggested that the audit has  
15 confirmed--so this is not a suggestion. The audit has  
16 confirmed the differences in the rules governing ANC  
17 participation has allowed ANCs who have access to the  
18 capital and credit of its parent to compete against truly  
19 small disadvantaged companies. So your suggestion in this  
20 language is very clear to me that somehow or other, the ANCs  
21 have broad access to credit and certainly to the capital  
22 markets. And I am just not clear how you support your  
23 conclusion.

24 You realize, of course, that ANC stock is not traded.  
25 It is not on the stock exchange. Its subsidiaries are not

1 public companies. So I guess I am not sure what capital  
2 markets you are suggesting. And in terms of, you know, the  
3 capital markets that might be available to the ANCs  
4 themselves, the suggestion that they might have to pledge  
5 their land is wholly inappropriate.

6 So the question to you is, where do you believe that  
7 this comes from?

8 Ms. Ritt. It is a very good question. We met with the  
9 parent companies of the 11 ANC 8(a) participants that were  
10 getting most of the money under the program who confirmed to  
11 us that they are heavily involved in managing those  
12 companies, that they have extended capital and credit to  
13 them and other services, management expertise, legal advice.  
14 They have a central treasury, many of them, where they sweep  
15 in all of the 8(a) contract revenue on a daily basis. They  
16 make the decisions on how that money is going to be spent.  
17 And that is where they are getting their access to capital  
18 and credit of the parent corporation and the bonding  
19 capability of the parent corporation.

20 Senator Murkowski. Well, your suggestion, though, is  
21 somehow or other that they could go out to the capital  
22 markets and again--

23 Ms. Ritt. Yeah, that was not our suggestion at all.  
24 It was that they are truly large companies through  
25 affiliation with their parent corporations who have access

1 to capital and credit.

2 Senator Murkowski. You have looked at just 11 of the  
3 ANCs here in this request in response to the chairman of the  
4 Subcommittee here. Some of these that you have reviewed  
5 were early entrants into the 8(a) program. Others are  
6 relatively recent participants into the program, very  
7 different status, most clearly, very different status.

8 Is it reasonable to suggest that we would basically  
9 pull up the ladder at this point and deny entry to--either  
10 deny entry to futures or to cut off those that are  
11 relatively new entrants into the programs and exclude them  
12 from future opportunity?

13 Ms. Ritt. No, our office is not advocating in any way  
14 that ANCs should not be allowed to participate in the 8(a)  
15 program. We are concerned as an IG with the unlimited sole  
16 source awards that do not provide the government the best  
17 value. There is opportunity in the 8(a) program to get  
18 large competed contracts, and ANCs can compete for those.

19 Senator Murkowski. Let me ask you, Mr. Jordan, because  
20 it has been suggested here, through the report and Ms. Ritt  
21 has stated again, that somehow or other we are not getting  
22 good value out of the 8(a) ANCs.

23 Can you speak to that?

24 Mr. Jordan. I can. First of all, it is also a bit of  
25 a misnomer to say there is no competition when it comes to

1 8(a) ANCs. There was over--in 2008, of the figures stated  
2 in terms of 8(a) contracts, over \$650 million was through  
3 8(a) competition. In terms of sole source authority not  
4 providing the best value, I do somewhat reject that on its  
5 premise. I believe that competition is good. I believe  
6 that promoting competition is good. I believe that general  
7 principle. The President has talked about competition,  
8 transparency, accountability.

9       However, in every contract, and this also applies to  
10 all sole source contracts, the contracting officer must  
11 certify that the government got fair and reasonable value  
12 and it must monitor performance of that contract and can  
13 terminate it if the contracting officer sees fit. So to say  
14 that the government did not get the best value because it  
15 was sole sourced is, or should be, inaccurate.

16       Senator Murkowski. Well, I appreciate the  
17 clarification on that.

18       My time has expired, but I do have another series of  
19 questions if we are going to do a second round.

20       Senator McCaskill. I do not think that we are. I do  
21 not think that the Ranking Member and I have additional  
22 questions for this panel, so we are going to move on to the  
23 second panel.

24       Thank you all very much.

25       Mr. Jordan. Thank you.

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1 [Pause.]

2 Senator McCaskill. We will move on to our second  
3 panel, and our first witness on our second panel is Sarah  
4 Lukin.

5 Am I saying your name correctly?

6 Ms. Lukin. Lukin.

7 Senator McCaskill. Lukin. She is the executive  
8 director of the Native--oh, excuse me. I forgot to swear  
9 you in. I need you--all to stand, please.

10 Do you state that the testimony you are about to give  
11 is the truth, the whole truth and nothing but the truth?

12 Ms. Lukin. I do.

13 Ms. Pata. I do.

14 Ms. Kitka. I do.

15 Mr. Lumer. I do.

16 Ms. Schneider. I do.

17 Senator McCaskill. Thank you very much.

18 Ms. Lukin is the executive director of the Native  
19 American Contractors Association. Prior to joining the  
20 Native American Contractors Association, Ms. Lukin served as  
21 vice president of External Relations for Afognak and their  
22 wholly-owned government contracting subsidiary, Alutiiq.

23 Thank you, Ms. Lukin, and we welcome your testimony.

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1                   TESTIMONY OF SARAH L. LUKIN, EXECUTIVE DIRECTOR,  
2                   NATIVE AMERICAN CONTRACTORS ASSOCIATION

3           Ms. Lukin. Quyanaa. Thank you. I am Alutiiq from the  
4 Native village of Port Lions on Kodiak Island, a remote  
5 community of 250 people in the Gulf of Alaska. I just  
6 started as the executive director for the Native American  
7 Contractors Association or NACA.

8           I firmly believe the 8(a) program is critical to the  
9 future of our disadvantaged Native communities. It has made  
10 a dramatic difference in my quality of life, my family's and  
11 my community. And I am here today to ensure other  
12 disadvantaged Native Americans and Alaska Natives have the  
13 same opportunities to improve their lives.

14           So when I see, as I did recently, an official press  
15 release describing tribal Alaska Native and Hawaiian  
16 participation in the 8(a) program as a loophole, it disturbs  
17 and disheartens me. That term ignores the reality of our  
18 severe socioeconomic disadvantages. The fact that Native  
19 enterprises are owned by Native communities that are  
20 destitute and geographically isolated, decimated by  
21 centuries of failed federal policies, yet are still  
22 responsible for the health and welfare of thousands of their  
23 people, their descendants and dependents, that is real.

24           When poverty in our Native communities exceeds all  
25 other race categories and is twice the national average,

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1 that is real. The fact that members of Congress have tried  
2 to keep the promises made by their predecessors in the  
3 Constitution, countless treaties and land settlements when  
4 taking hundreds of millions of acres of Native lands, that  
5 is real. And it is real, too, that Native women have earned  
6 an education because of Native 8(a) benefits and that our  
7 Native children can now speak their traditional language  
8 that was lost for generations, and that Native elders now  
9 receive benefits to offset their very limited income.

10 Here is a federal program that the government actually  
11 got right for Native people. The program is making a  
12 difference and we can tell you that one Alaska Native story  
13 by one Alaska Native story.

14 Like so many of our Native children, I was a statistic.  
15 I come from a broken family that faced substance abuse and  
16 poverty. I remember how ashamed I would feel when I had to  
17 buy groceries with food stamps and wear secondhand clothes.  
18 No one in my family had ever earned a college degree, but  
19 scholarships from my Native corporations enabled me to earn  
20 a bachelor's and a master's degree, empowering me to  
21 overcome enormous odds and experience my own American dream.  
22 And I am one of many Alaska Natives that 8(a) has helped.

23 The Native 8(a) benefits protect our land, our  
24 language, our culture, our elders, our children and our  
25 future. They help American keep its word. They build

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1 business capacity and work ethic, educating teachers,  
2 accountants and IT specialists, hope and opportunity. The  
3 hand up is replacing the handout. We need more benefits for  
4 our people and more Native employment, more work in our  
5 Native communities and more Native executives. To cut the  
6 program that got us this far is absolutely wrong.

7 Native American peoples represent 4 percent of America,  
8 but Native enterprises still represent less than 1.3 percent  
9 of the federal contracting pie. Native 8(a)s strive to  
10 increase business opportunities for all other small  
11 businesses and 8(a)s, and we offer real competition to the  
12 large contractors and real value to the taxpayer.

13 There have been difficulties. The SBA is understaffed  
14 and underfunded. Its enforcement, assistance, guidance and  
15 training have suffered. There are some very real problems.  
16 We strongly believe everyone must play by the rules, and  
17 those who do not should be held accountable. Fortunately,  
18 those rules and enforcement mechanisms already exist.  
19 Unfortunately, the SBA lacks the resources it needs for  
20 these important oversight tasks.

21 The problems with government contracting are universal.  
22 The search for solutions should be comprehensive and not  
23 disproportionately focused on Native American 8(a)s.  
24 America needs the federal procurement system to work, so do  
25 Native Americans. That is why the National Congress of



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1 American Indians, the National Center for American Indian  
2 Enterprise Development and NACA have been very active for  
3 over three years in pushing, pulling and prodding for the  
4 GAO recommendations, regulatory reforms and more resources  
5 for the SBA.

6 We have worked so hard on these issues because Native  
7 8(a) represents success, hope and self determination for our  
8 Native communities. Now is not the time for Congress to go  
9 back on its commitment to Native people.

10 Quaynaasinaq. Thank you very much for allowing me to  
11 discuss a very important program in my life, my children's  
12 lives and the lives of my people.

13 [The prepared statement of Ms. Lukin follows:]

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1           Senator McCaskill. Thank you, Ms. Lukin.

2           Our next witness is Jacqueline Johnson Pata.

3           Ms. Pata. Pata.

4           Senator McCaskill. Pata. She is the executive  
5 director of the National Congress of American Indians. Mrs.  
6 Pata is also a member of the board of directors of Sealaska  
7 Corporation, one of the ANCs. Welcome.

1                   TESTIMONY OF JACQUELINE JOHNSON PATA, EXECUTIVE  
2                   DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS

3           Ms. Pata. Thank you. Gunalcheesh. Good afternoon.  
4 My name is Jacqueline Johnson Pata, and I am the executive  
5 director of the National Congress of American Indians, the  
6 largest and oldest Native organization representing American  
7 Indians and Alaska Native tribal governments.

8           The U.S. Constitution and many statutes establish the  
9 unique American Indian and Alaska Native trust relationship  
10 with the Federal Government. Native peoples ceded over  
11 500 million acres of land, and the United States entered  
12 into a trust relationship with the American Indians and the  
13 Alaska Natives. Congress was very specific when  
14 articulating the Federal Government's relationship with the  
15 Alaska Natives in the Alaska Natives Claims Settlement Act,  
16 and this law required federal compensation to settle Native  
17 land claims. And Congress mandated that Native-controlled  
18 corporations be created. Furthermore, the Settlement  
19 Act--in the Settlement Act, Congress confirmed that Alaska  
20 Native Corporations are eligible for federal procurement  
21 programs.

22           The Federal Government has enacted numerous policies  
23 aimed at reducing poverty and creating economic opportunity  
24 for tribes. Specifically, the 8(a) help tribal communities  
25 to overcome economic and social barriers and create new

1 business opportunities for Native and surrounding rural  
2 communities that are far removed from major markets.

3 Intergenerational poverty remains a serious challenge.  
4 American Indians and Alaska Natives are amongst the most  
5 economically distressed populations in the United States  
6 with a poverty rate of 25.7 percent. This far exceeds the  
7 poverty rate for any other group as more than double the  
8 national average. Per capita income of Indians living on  
9 reservations is still less than half the national average,  
10 and unemployment is twice that of the national average.

11 Many tribal governments lack the ability to provide the  
12 basic infrastructure that most U.S. citizens take for  
13 granted such as water, sewage, roads, affordable housing,  
14 plumbing, electricity and telephone service. These  
15 substandard economic and quality of life indicators have a  
16 social toll. Health disparities are prevalent and suicide  
17 rates, a symptom of lack of opportunity, are high. Over 60  
18 percent more American Indians and Alaska Natives experience  
19 suicide than the national average. Alcoholism and diseases  
20 like tuberculosis are over 500 percent higher in American  
21 Indians and Alaska Natives.

22 Despite these great needs, tribal governments have  
23 fewer resources than state and local governments to fulfill  
24 their governmental responsibilities to their citizens,  
25 making economic development even more important. The

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1 longstanding federal policy of self determination is hollow  
2 with adequate resources or economic development to carry it  
3 out.

4       The 8(a) program is an effective vehicle to realize  
5 Native self determination. Business, educational and  
6 leadership skills are being developed, and the results are  
7 impacting the economic and social conditions in Native and  
8 rural communities. For example, thousands of scholarships  
9 have been awarded to Native people. Hundreds of internships  
10 have given valuable work experience to our future workforce.  
11 Employment and, more importantly, career opportunities are  
12 available where none existed earlier.

13       Business skills learned through government contracting,  
14 like strategic planning and management, are taking root in  
15 our communities, and leaderships skills are being developed  
16 in councils and on boards. Leaders are now being empowered  
17 to make choices about how best to sustain their economic  
18 enterprise, their culture and their future generations.

19       NCAI has taken seriously the recommendations from the  
20 GAO report and the prior SBA Inspector General reports.  
21 Since these reports were issued, we formed a joint working  
22 group with NACA, with Native American--National Center for  
23 American Indian Enterprise Development. And in 2007, we  
24 hosted a series of government-to-government consultations  
25 with the SBA administrator to discuss the GAO and the SBA IG

1 report recommendations and to identify solutions to address  
2 these concerns.

3 Through this process, we developed comprehensive  
4 recommendations to improve the program oversight.  
5 Consistent with the 2006 GAO report, these recommendations  
6 we proposed were administrative rather than legislative.  
7 Our recommendations included developing effective data  
8 collection mechanisms, enhancing oversight through Web-based  
9 reporting, setting milestones for mentor protege and joint  
10 ventures, and increased transparency of ownership  
11 agreements. Additionally, we have urged that Congress  
12 increase funding to the SBA and charge the agency with  
13 reengineering the Native 8(a) program.

14 We feel it is important for this committee and for  
15 Congress to know that tools, such as 8(a) business  
16 development created to promote economic self sufficiency,  
17 are working in our Native communities. The criticism about  
18 the success of tribal and ANCs' contracting is misplaced.  
19 More importantly, pitting a disadvantaged group against  
20 another only distracts from the many issues all small and  
21 disadvantaged contractors have in common.

22 The federal procurement market is enormous and growing.  
23 There is plenty of room for tribal, ANC and other minority  
24 businesses to participate. We have proposed increasing SBA  
25 contracting goals and size standards, as well as increasing

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1 the thresholds for individually-owned 8(a) companies.

2 Limiting access to the federal marketplace will have

3 devastating effects on our Native and rural communities.

4 With conditions in Native communities comparable to those of

5 developing nations, we should all be working together to

6 improve programs like 8(a) business development programs and

7 create the opportunity that is needed in Indian country.

8 Thank you.

9 [The prepared statement of Ms. Pata follows:]

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1           Senator McCaskill. Thank you, Ms. Pata.

2           Ms. Julie Kitka is here. She is the president of the  
3 Alaska Federation of Natives. She is also a member of the  
4 board of directors of Chugach Alaska Native Corporation.

5           And I do want to say for the record that you owe thanks  
6 to your senators for your testimony here today. Your  
7 request to testify came in after we had done the witness  
8 list, but because Senator Begich and Senator Murkowski came  
9 to the Subcommittee and made a specific request for you to  
10 testify, we made an exception to the normal rule that we do  
11 not allow more witnesses after the witness list has been  
12 testified. So I do not know if you want to like say no  
13 thanks to them when this is over or thanks to them, but you  
14 are here at their behest and we welcome you and look forward  
15 to your testimony.



1                   TESTIMONY OF JULIE KITKA, PRESIDENT, ALASKA  
2                   FEDERATION OF NATIVES

3           Ms. Kitka. Well, thank you, Madam Chair, Ranking  
4 Member, members of our delegation and other members of the  
5 committee and staff. I truly appreciate the opportunity to  
6 present testimony on behalf of the Alaska Federation of  
7 Natives regarding our Native corporations, their contracting  
8 opportunities, and their status under the Small Business  
9 Administration 8(a) program, and request that my written  
10 testimony be included into the record.

11           Before I actually get into some of the oral comments  
12 that I wanted to do, I wanted to place a couple things into  
13 the record to give you a background of when, for example, we  
14 are talking about scholarships that are going to our young  
15 people or this or that, it is not like scholarships like  
16 everybody just imagines that you just give out to kids.

17           I want to put one thing formally into the record and  
18 would like to provide the backup for that, is we are still  
19 not on a level playing field as far as education in Alaska.  
20 There is a class action lawsuit pending in the courts right  
21 now in Alaska asserting that there is a \$200 million a year  
22 shortfall deficit spending on the rural village schools, and  
23 this has been going on for decades. We have just had a  
24 class action lawsuit on law enforcement and the deficit  
25 spending and the lack of law enforcement opportunities to

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1 deal with alcohol and other things.

2 We are not yet at a level playing field. And so for  
3 example, the scholarships that come in from this 8(a)  
4 contracting to our young people are essential because we are  
5 trying to catch up generations of young people. And our  
6 corporations that are providing these scholarships, they are  
7 for all ages. It is for adults. It is for young people.  
8 It is for their descendants on that. But we are never going  
9 to catch up and get parity with everybody else in education  
10 if we lose these opportunities for these contracts.

11 So I just wanted to say for the record, the value of  
12 these scholarships means so much more to us because we have  
13 got these hurdles to overcome still and we are not getting  
14 the funding for our basic first grade through, you know,  
15 high school education that other people across the United  
16 States take for granted, or their state government works  
17 really closely with them and accomplishes.

18 We are still in the state under the Voting Rights  
19 Protection Act, the only other state along with Mississippi,  
20 that people have to look out to make sure our voting rights  
21 are protected. We were the last Americans to get the right  
22 to vote in 1924. 1971, the year our land claims was formed,  
23 they had to amend the state constitution to take out the  
24 requirement that you had to write and speak English in order  
25 for our elders, our Native people, could even vote in our

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1 state. We have still got a lot of catching up to do, and  
2 the circumstances we are dealing with as a people have to be  
3 understood by this Congress when you are making policies.

4 As I put in my written comments, we are honored to  
5 submit this testimony. I have worked with an incredible  
6 number of Native leaders in public policy, public officials  
7 for many years, trying to create these opportunities. And  
8 we have had great success. We have had many  
9 accomplishments.

10 I cite in my testimony a 30-year trend analysis that we  
11 commissioned from the University of Alaska in 2004 in which  
12 we looked at all the social, health and economic indicators  
13 of our whole populations over three decades. And the  
14 thumbnail sketch of that analysis is tremendous difference  
15 that this Congress and the state of Alaska and the Native  
16 people have made in people's lives. People are living  
17 longer. Infant mortality is being decreased, health  
18 indicators.

19 Lots of progress is being made. So we do not have a  
20 hopeless situation, but we still have a thread of disparity  
21 in every single indicator, including poverty, including  
22 infant mortality on that that needs targeted attention on  
23 that. And we still are not at a parity with other Alaskans,  
24 let alone with other Americans. And I really commend that  
25 report to you as you are taking a look at when we are

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1 talking about socially disadvantaged people on that, that  
2 report over 30 years will see the progress of work has been  
3 done, but it will point to you every single indicator where  
4 the disparity continues.

5 That is real. That is documented. It was not done for  
6 the purposes of justifying contracting but was done because  
7 our own leadership wants to pay attention to these  
8 indicators. And we also were aware that we are in the midst  
9 of a baby boom with a lot of growth in our population, and  
10 we knew that there would be tremendous needs in health and  
11 education to grow up this next generation of young people.  
12 And I commend that report and would like to submit that for  
13 the record.

14 [The information of Ms. Kitka follows:]

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1           Ms. Kitka. I want to go on record on behalf of AFN  
2 fully supporting the 8(a) program and assuring this  
3 committee that our people are getting solid benefits from  
4 that program. As I mentioned, the scholarships, the  
5 internship opportunities, the work opportunities are real.

6           Are there improvements that can be done? Of course  
7 there are improvements that can be done. But there are many  
8 other factors that need to be in place to help our Native  
9 population to grow our workforce in these contracting  
10 opportunities and in other sectors.

11           I also want to extend on behalf of our board of  
12 directors and our people up there an invitation to this  
13 committee and the chair and your staff to come up to Alaska  
14 and meet our people and see firsthand some of the  
15 contracting that is going on, some of our corporations, our  
16 people and our aspirations. And I might suggest a time  
17 frame in which you might do that, consider.

18           On August 12th, we have a very historic visit in our  
19 state by five members of the cabinet of President Obama,  
20 five cabinet secretaries are all going to be in Bethel,  
21 Alaska on August 12th. Unprecedented in our history to have  
22 five cabinet officials, and they are also planning visits  
23 and sending staff out to the Wade Hampton district, which is  
24 among the top 10 poorest counties in the whole United  
25 States.

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1           And we welcome the attention and the effort and the  
2 partnership that is being offered to address and raise up  
3 the living conditions for our people. And if there is an  
4 opportunity for this committee--if, Madam Chair, you cannot  
5 make it, please send your staff up. I mean join us in this  
6 because we are going to have quite a bit of open discussion  
7 and dialogue. And we are going to be looking at solutions  
8 and things that can go forward. But it is very historic.  
9 We have never seen that before.

10           I know I am using quite a bit of time on that, but I  
11 want to try to get as much into the record. As I said, the  
12 basis for our Native corporations is our land claims  
13 settlement, and it is vitally important to the Native people  
14 of Alaska that our corporations are strong and healthy.  
15 They hold our settlement lands in them, our cultural lands,  
16 our historic and sacred lands. If they go down, the danger  
17 of losing our land and our future is very real.

18           So we are committed to do everything that we can to  
19 help our leadership that is trying to make these  
20 corporations work and are being very diligent and successful  
21 to create as many opportunities as possible.

22           I might want to cite one item. When I think about the  
23 IG report and the data and the period of time in which they  
24 collected data, I think that that is kind of an incomplete  
25 time frame and it is probably nobody's fault. But after the

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1 time frame on that, I mean we have had the worst economic  
2 crisis in my lifetime in this country, and how people are  
3 faring and how government contracting is doing. I mean. we  
4 have to take into account we are still in this crisis and it  
5 has not bottomed out.

6 So I would just like to suggest that, you know, the  
7 collecting of information and the monitoring and the status  
8 needs to continue on. And we need to pay attention to how  
9 everybody is faring in this economic crisis and how people  
10 are positioning their companies to be able to contribute to  
11 this country. We are very much committed to do everything  
12 in our power for the economic recovery of this country  
13 because we are affected by that in Alaska as well as we know  
14 every American is, and we want to be partners in trying to  
15 contribute to that as well.

16 Senator McCaskill. Ms. Kitka, we are several minutes  
17 over your testimony. And I know you have come a long way. I  
18 do want to assure you that every word you want to go into  
19 the record will go into the record. But we want to make  
20 sure since we have five members of the panel that we have  
21 enough time for questions.

22 If there is anything else you want to close with in  
23 just a few seconds, you are welcome to do so.

24 Ms. Kitka. Well, in closing, I just want to reiterate  
25 our strong support of the 8(a) program and that it makes a

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1 difference, and we are pleased to provide additional  
2 information if the Committee has questions for us or wants  
3 additional reports or information.

4       We are honored to be allowed to testify, and we are  
5 just very proud to be contributing to building the country.  
6 I have stated in the testimony that we feel the number one  
7 benefit to the Native people from these contractings is the  
8 capacity building and the whole nation building experience.  
9 And we think as we get past this economic crisis, that whole  
10 capacity that we have built in our corporations and that  
11 nation building experiences can be put to use not only  
12 throughout the rest of the United States but in other parts  
13 of the world.

14       [The prepared statement of Ms. Kitka follows:]



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1           Senator McCaskill. Thank you so much. Thank you.

2           Our next witness is Mark Lumer. He is the senior vice  
3 president for federal programs at Cirrus Technology, a  
4 service disabled veteran-owned small business based in  
5 Alabama. Before joining Cirrus, Mr. Lumer was the principal  
6 assistant responsible for contracting for the U.S. Army  
7 Space and Missile Defense Command, a member of the Senior  
8 Executive Service in Army Acquisition Corps with Level 3  
9 certifications in both contracting and program management.  
10 He is an expert and author in the field of government  
11 contracting and has received many awards. Between November  
12 2003 and July of 2004, Mr. Lumer served as the Assistant  
13 Deputy Assistant Secretary of the Army for Policy and  
14 Procurement in Iraq.

15           Welcome, Mr. Lumer.

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1                   TESTIMONY OF MARK LUMER, SENIOR VICE PRESIDENT,  
2                   FEDERAL PROGRAMS, CIRRUS TECHNOLOGY, INC.

3           Mr. Lumer. Madam Chairman McCaskill, Ranking Member  
4 Collins, members of the Committee, the Alaska delegation, I  
5 am Mark Lumer. I am here representing Cirrus Technology, a  
6 small business located in Huntsville, Alabama. Cirrus  
7 Technology is a HUBZone and service disabled veteran-owned  
8 small business and a recent graduate of the 8(a) program.

9           Before I went into private industry, I did serve as a  
10 contracting official with the Department of the Army for  
11 almost 33 years. My last assignment was as the contracting  
12 executive for the Army Space and Missile Defense Command, a  
13 SES position and a post I was in for almost 13 years. Prior  
14 to that, I was on the Army staff at the Pentagon where I  
15 helped write the FAR and DFARS for four years. So in a  
16 sense, this is all my fault. Part 19 of the FAR, in fact,  
17 and part 219 of the DFARS were two areas of my personal  
18 responsibility.

19           I have been told I am the most decorated civilian  
20 contracting official in the history of the U.S. Army.  
21 However, there was a fire in St. Louis about 35 years ago  
22 and destroyed thousands of records, so that statement cannot  
23 be accurately verified.

24           [Laughter.]

25           Mr. Lumer. The first observation I do want to make is

1 that as a contracting officer for 25 years, the unlimited  
2 sole source authority that ANCs have was a very useful tool  
3 to me in issuing contracts pursuant to the Competition and  
4 Contracting Act quickly. I authorized the use myself about  
5 six times in those 13 years at SMDC for hundreds of millions  
6 of dollars. I received exceptional performance from the  
7 ANCs. The prices proposed were audited, they were  
8 negotiated and ultimately determined to be fair and  
9 reasonable by the contracting officers. I am really not in  
10 favor of having that tool completely eliminated.

11 Serving now as a small business employee, which was an  
12 8(a) and is currently a HUBZone and service disabled  
13 veteran-owned small business, I have to state it is  
14 incredibly difficult to compete with ANCs under the current  
15 rules. Cirrus has lost contracts that were bundled and  
16 awarded to ANCs. Cirrus has lost opportunities to compete  
17 where contracts were assigned to ANCs noncompetitively.

18 As a general rule, Cirrus Technology will not compete  
19 for any procurements if there is a history of ANC  
20 involvement or where there is a likelihood that an ANC will  
21 go after the opportunity directly. I cannot provide you  
22 with any concrete evidence, but anecdotally, I firmly  
23 believe that many small businesses will routinely bypass  
24 procurements where ANCs are involved because the chances of  
25 winning are so small even if they are allowed to compete in

1 the first place.

2 It is my firm belief that the extraordinary growth in  
3 sole source awards to ANCs is a direct byproduct of the  
4 extreme shortage of government contracting officers and  
5 procurement contract specialists, a situation that, frankly,  
6 will only get worse with the addition of billions of dollars  
7 in stimulus money. I have seen and heard estimates that  
8 most government contracting offices are short-staffed by an  
9 average of 35 percent. I believe that figure to be low,  
10 personally.

11 Procurement officials are in the constant process of  
12 performing what I call contracting triage. They are looking  
13 to see what requirements can be legally awarded in the  
14 shortest amount of time using the least amount of resources.  
15 And that inevitably leads them to using ANCs because of the  
16 unique unlimited sole source authority that exists, the fact  
17 that they get small business credit for those awards, and  
18 the guarantee that there will be no protests sustained by  
19 the GAO. There are several areas where the playing field is  
20 currently uneven. We have talked about the sole source  
21 thresholds for HUBZones, non-ANC 8(a)s; service disabled is  
22 three and a half and five and a half versus unlimited. The  
23 size standards for most small businesses are determined by  
24 employees, typically 500 or 1,000 or 1500 depending upon the  
25 NAICS code or sometimes by income as opposed to no employee

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1 limits for the ANCs. That can create an extreme disparity  
2 in the ability to compete.

3 ANCs may have multiple 8(a)s, as has been identified  
4 previously, while other firms are typically limited to one  
5 each. That ANC's unique authority gives them an  
6 extraordinary advantage to adjust overhead rates and general  
7 administrative costs, thereby giving them a cost advantage  
8 that other firms do not have. The inability of companies to  
9 protest a contracting officer's decision to award a  
10 procurement to an ANC, especially when there are bundling  
11 issues, that is a problem.

12 To obtain a HUBZone designation from the SBA, one  
13 requirement is that 35 percent of the employees in the  
14 company live in any designated HUBZone track, yet there are  
15 no minimum requirements for ANCs to employ tribal members or  
16 Alaskans. In fact, there is no requirement that they even  
17 have offices, though in Alaska, though, almost all of them  
18 do. Even the subcontracting arena, there is special  
19 incentives, the 5 percent bonus that was talked about.  
20 There are no incentives for subcontracts to HUBZones,  
21 women-owned or service disabled veteran-owned small  
22 businesses.

23 Having said all that, I truly believe there are many  
24 legitimate reasons to provide procurement assistance to  
25 ANCs. I do not believe many companies would even object to

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1 allowing ANCs to have some type of procurement preference in  
2 competing for government contracts. However, the current  
3 situation is out of balance and it may be time to start to  
4 swing the pendulum back the other way.

5 I look forward to answering any questions the Committee  
6 may have.

7 [The prepared statement of Mr. Lumer follows:]

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1           Senator McCaskill. Thank you, Mr. Lumer.

2           Our next witness is Christina Schneider. She is the  
3 chief financial officer for the Purcell Construction  
4 Corporation, a HUBZone contractor based in the state of New  
5 York. Welcome, and we look forward to your testimony.

1           TESTIMONY OF CHRISTINA SCHNEIDER, CHIEF FINANCIAL  
2           OFFICER, PURCELL CONSTRUCTION CORPORATION

3           Ms. Schneider. Thank you. Good afternoon. My name is  
4 Christina Schneider, and I am the chief financial officer of  
5 Purcell Construction Corp. I also serve as the director on  
6 the New York state AGC, a statewide trade organization of  
7 over 600 construction contractors. We Are also a member of  
8 AGC of America with over 33,000 members nationwide. One of  
9 the founding principles of AGC is to promote fair and open  
10 competition within the marketplace.

11          I commend the senators today for calling today's  
12 hearing and am honored to present testimony on this subject.  
13 Specifically, my remarks will focus on the effect that sole  
14 source awards to Alaska Native Corporations has had on  
15 Purcell Construction and other local general contractors.

16          We are a second generation mid-size general contractor  
17 based in Watertown, New York. Watertown is a small  
18 community in rural, economically depressed northern New York  
19 where much of the economy is dependent upon Fort Drum, home  
20 of the Army's 10th Mountain Division. From 2002 to 2007,  
21 our company was one of two local contractors who held a term  
22 contract at Fort Drum. We completed over 96 different task  
23 orders under a contract valued at \$57.5 million. Both firms  
24 involved in this contract received multiple commendations  
25 for the work that we did, and by all accounts performance



1 exceeded contract expectations.

2       In 2004, the government anticipated exceeding our  
3 contract value limits, so they began preparing for the  
4 solicitation of a follow-on contract, which we assumed would  
5 be through competitive bidding. We were shocked to learn  
6 that the government decided to award the contracts to two  
7 Alaska Native Corporations, Chugach and Alutiiq, on a sole  
8 source no-bid basis. Our firm and several other general  
9 contractors in northern New York were totally shut out from  
10 competing for this contract.

11       We were given various reasons for this decision,  
12 ranging from there not being enough time to procure this  
13 contract using traditional methods to the unbelievable  
14 argument that this sole source contract would lead to the  
15 most potential for involvement by local companies.

16       In addition to being excluded from bidding, we had no  
17 opportunity to protest the decision. Federal regulations  
18 dictate that only a competing bidder has legal standing to  
19 protest. With no competitors, there is no mechanism for us  
20 to protest. This was particularly frustrating because we  
21 believe Chugach was ineligible to receive sole source awards  
22 because of their multiple large affiliates operating in the  
23 same industry classification. We provided the SBA in  
24 Washington with documentation to support our claim but have  
25 no evidence that this information was ever considered.

1           Even though this particular sole source contract was  
2 awarded in 2004, local contractors are still suffering from  
3 the impact of its 10-year, 400-million-dollar obligation.  
4 We have learned over the past month that most of the current  
5 construction projects being procured by the Fort Drum  
6 directorate of contracting, including the bulk of the  
7 stimulus funds allocated to Fort Drum, are going through  
8 these two ANC contracts. Local contractors are not  
9 competing for the stimulus funds.

10           While it is true that ANCs employ local labor and  
11 subcontractors, this contracting preference has eliminated  
12 opportunities for general contractors like us. Our firm is  
13 a prime contractor, and ANCs have replaced us in performing  
14 that function. It has negatively impacted our firm and  
15 others like us who no longer compete for this work.

16           As you know, the foundation of the small business  
17 legislation is to temporarily provide assistance to  
18 fledgling firms. All dollar volume thresholds--there are  
19 also dollar volume thresholds that apply to the 8(a)  
20 program. And as we have heard today, ANCs are exempt from  
21 all of that.

22           If you refer to a website called Government Contracts  
23 Won, the two companies that were awarded the Fort Drum  
24 contracts, Alutiiq and Chugach, have amassed in excess of  
25 2.6 billion and \$3.8 billion in government contracts

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1 respectively over the past nine years. According to the  
2 Inspector General's report issued last week, these two ANCs  
3 represent a total of approximately 2,300 individuals. This  
4 equates to 2.7 million in contract dollars per person. To  
5 us, these figures alone are staggering. But we also know  
6 that Alutiiq and Chugach are only two out of scores of ANCs  
7 being awarded federal contracts.

8       In the construction industry, as with most businesses,  
9 when competition is removed, prices soar. The costs of this  
10 arrangement to the Federal Government is astronomical.  
11 Another side effect of these preferences is the impact on  
12 truly small businesses. We suspect many contracting  
13 officials use this as a way to meet their small business  
14 contracting goals. The award of a large contract to an ANC  
15 surely comes at an expense of legitimate small businesses.

16       We think the solution to this is straightforward. The  
17 unfair advantages enjoyed by the large Alaska Native  
18 Corporations must be closely examined. Their immunity to  
19 affiliation rules and size standards and the lack of dollar  
20 limits on sole source contracts should be eliminated.  
21 Tribal firms that legitimately meet the small business  
22 standards would still be entitled to all of the benefits  
23 offered by the 8(a) legislation.

24       Thank you for this opportunity to present our concerns.

25       [The prepared statement of Ms. Schneider follows:]

1 Senator McCaskill. Thank you, Ms. Schneider.

2 Let me start with going through some of the numbers  
3 with the representatives here from some of the ANCs. Let me  
4 go through the three corporations that you-all represent.

5 In 2008, Afognak had 728 shareholders, and you had 763  
6 million in contract revenue and you employed 6,400 people.  
7 Less than 1 percent of your employees were shareholders of  
8 your Alaska Native Corporation.

9 Ms. Kitka, your corporation, Chugach, your total  
10 revenue for 2008 was 952 million; 62 percent of that revenue  
11 was from federal contracting. The revenue from the  
12 contracts represented 595 million. You had 6,587 employees;  
13 2.2 percent of your employees were shareholders, 147 people.

14 Ms. Pata, the Sealaska Corporation, your total revenues  
15 for 2008 were \$126 million. Your revenue from contracts was  
16 only 8.4 million. In fact, only 6 percent of the revenue of  
17 your corporation came from contracting. You had 1,069  
18 employees, and the largest percentage of shareholders  
19 employed, you had a 136 shareholders employed or 12.7.

20 If I add those together, we have less than--in revenues  
21 of hundreds and hundreds and hundreds of millions of  
22 dollars, in fact, well over billions of dollars. We have  
23 literally less than 300 people that live in Alaska that are  
24 employed or that are members of your corporations.

25 So my question is to you, Ms. Kita, as you talk about

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1 capacity building, how is it capacity building if less than  
2 1 percent of the employees of the company are members of the  
3 corporation?

4 Ms. Kitka. Well, first off, Madam Chair and members of  
5 the Committee, I came here to testify in my role as  
6 president of the Alaska Federation of Natives, not in my  
7 role or spokesman for Chugach Alaska Corporation. I would  
8 be happy to convey any questions back to that corporation.

9 The Alaska Federation of Natives is a completely  
10 different entity than Chugach. It is an umbrella  
11 organization, and that is the role that I came here prepared  
12 to testify to try to give you--

13 Senator McCaskill. Okay. That is fair enough. Let me  
14 ask the other two--

15 Ms. Kitka. But I would be glad to get questions or  
16 information back.

17 Senator McCaskill. That would be terrific. That would  
18 be terrific.

19 I am trying to get at whether or not this is a capacity  
20 building, which traditionally is what the 8(a) program was  
21 designed to be. It was designed to allow small businesses  
22 to grow and get their foot in the door for federal  
23 contracting, to build capacity. And then once the capacity  
24 is built, to graduate from the program and go into the world  
25 of competing. And, in fact, there are some Alaska Native

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1 Corporations that are, in fact, not really participating in  
2 the sole source. They are out there competing.

3 I guess my question is for either one of you, if you  
4 would choose to answer it. With such a low number of  
5 Alaskans--45,000 people are employed by ANCs and only  
6 5 percent of them are members of the corporations; 95  
7 percent of the employees have nothing to do with the  
8 corporations.

9 Ms. Kitka. Madam Chair, on the capacity, since I put  
10 quite a bit in my written testimony about capacity and  
11 nation building, I would be pleased to spend more time and  
12 focus a little bit more on the capacity building in a  
13 written response back to you.

14 Senator McCaskill. That would be terrific.

15 Ms. Kitka. Because I absolutely know that the capacity  
16 building, in my judgment, based on my years of experience,  
17 that that is one of the strongest benefits of this program  
18 statewide and--

19 Senator McCaskill. Okay. We would welcome that  
20 testimony.

21 Yes?

22 Ms. Pata. Madam Chair, I would actually like to answer  
23 this question. I am actually very proud of Sealaska  
24 Corporation and the work that we have done, particularly  
25 around shareholder hire. If you look at the numbers that

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1 you talked about, 12.7 is the shareholder hire rate, if you  
2 take out the U.S. employees versus our offshores out of the  
3 U.S. jurisdiction employees, which is about 455 of them are  
4 Mexican employees, we get to a 21.4 percent shareholder hire  
5 ratio.

6 But if you look at the way that we do our business, our  
7 business in Alaska and our corporate headquarters, we have  
8 80 percent shareholder hire in our corporate headquarters,  
9 which I think is an outstanding ratio considering that in  
10 the 40 years that we have been in business, the first 20  
11 years of business development for all the Alaska Native  
12 Corporations was very challenged with trying to develop  
13 folks--our shareholder base that had gone to school and had  
14 been able to get the education necessary and the skills in  
15 businesses outside.

16 One of the things that Sealaska does that I am so proud  
17 about is our scholarship program and our internship program.  
18 And you have the numbers in the materials that we submitted  
19 to you. But in our scholarship program, we do not just give  
20 our scholarship, we actually continue to track our  
21 scholarship. And so that as we are recruiting for any  
22 opportunities in the corporation, we recruit to that  
23 scholarship base. We also are very proud of our internship  
24 program. And you can also see in the materials that we  
25 submitted to you that we give you a number of stories of how

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1 our Sealaska core management team really started from either  
2 the scholarship program or the internship program or both.  
3 Most of the--the majority of our vice presidents and core  
4 management team is shareholders.

5 I think that is--when we are looking at the capacity of  
6 the corporations--and I cannot speak for the other  
7 corporations because I only represent Sealaska Corporation  
8 as the board of directors. But I do know that we are  
9 looking for models and sharing models, not only amongst us  
10 in Alaska but in the lower 48, and that these models of how  
11 do we use scholarship programs, as the tribes are looking  
12 across the country to implement scholarship programs, are  
13 looking at best practices and what works.

14 I think some of the things Sealaska has done through  
15 experience, we have learned tracking makes a difference in  
16 being able to recruit back home to our own community that  
17 those have left our community and to get them back. And so  
18 I think one of the things about this government contracting  
19 program, 8(a) program, in this business development, and one  
20 of the recommendations that we made, is that we really look  
21 towards taking those best practices and using them to be  
22 able to implement better practices. And some of the things  
23 that Native American Contracting Association, NCAI and  
24 NCAIED, have done in trainings with lower 48 tribes is  
25 really sharing some of those best practices.



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1           Senator McCaskill. Ms. Lukin, did you want to address  
2 the less than 1 percent of your employees being  
3 shareholders?

4           Ms. Lukin. Senator, I came here today to speak on  
5 behalf of the Native American Contractors Association. As  
6 such, I cannot speak to the direct operations or businesses  
7 relating to another organization. Certainly, I am sure that  
8 I can find the proper person to answer that particular  
9 question regarding Afognak Native Corporation. But I would  
10 like to speak in general terms about shareholder hire and  
11 employment of Alaska Native people.

12           As you know, I hope, that the goal of every Alaska  
13 Native Corporation is to hire as many qualified shareholders  
14 and their family members as possible. In fact, we have in  
15 place Public Law 93638, which allows us to provide a  
16 preference for qualified shareholders, Alaska Natives and  
17 American Indians.

18           In addition to that, we are really focused on  
19 mentoring, growing our Alaska Native students to be at a  
20 point where they can earn management level positions within  
21 our Alaska Native Corporations. Remember that we are really  
22 talking about first generation college graduates such as  
23 myself as a great example of somebody who--you know, I come  
24 from a family that did not have a college education. So  
25 really, I am the first generation that is qualified to earn

1 those management level positions.

2 I would also like to note that a lot or most of the  
3 Alaska Native Corporations have shareholder development  
4 departments focused specifically on helping to train and  
5 mentor and grow our shareholders to earn those positions.  
6 They do everything from helping shareholders build life  
7 skills, to resume writing, training. They help them with  
8 mock interviews and then help walk them through the hire  
9 process. So I wanted to just focus on that in general  
10 terms.

11 Senator McCaskill. Yes, and I am going to go ahead and  
12 give my colleagues from Alaska an opportunity to question  
13 now since I am over my time. I have a number of questions  
14 that I want to ask, and so hopefully, this will not take too  
15 long.

16 Senator Begich.

17 Senator Begich. Thank you very much, and this line of  
18 questioning, I am going to follow up on it, also, actually.

19 You know, I think there is an ongoing misunderstanding  
20 how the corporations operate. Not only do you have the  
21 for-profit arms, you have the non-profit arms, which are a  
22 significant portion of the business that goes on, which has  
23 a huge percentage of Alaska hire, Alaska Native hire. But,  
24 also, they are providing the health care. They are  
25 providing the major part of the social network.

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1           So tell me if this is a fair statement, that  
2 individuals that may work for a time being--or like, for  
3 example, I met four interns from NANA Corporation that were  
4 working for some of the subsidiaries here throughout the  
5 country and came by here a couple weeks ago. They may or  
6 may not stay in those corporations. They may go to one of  
7 the sister corporations, for example, the health care. They  
8 may be an administrator. They may be a practitioner.

9           Is that a fair statement? That if you take a very  
10 narrow look at 8(a)s by themselves, you can argue the  
11 percentage all kinds of ways because that is what numbers  
12 do. But if you look at the big picture, what ANCs were set  
13 up for, is that cross sharing not only for American Indian  
14 tribes but also for within the corporations within  
15 Alaska--and, really, the village corporations have kind of  
16 grown in the last few years versus the regionals.

17           Is that a--

18           Ms. Kitka. Well, Senator, I would like to address  
19 that. And it was kind of going to be my follow-up to the  
20 chairman. And I will use my daughter as an example. My  
21 daughter is a graduate of the University of Alaska nurses  
22 program with honors last August. She was supported by  
23 scholarships from her native corporation. There is a  
24 critical nurse shortage in our state, in our villages and  
25 communities, and she graduated with honors, and now she is

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1 working for the Center for Disease Control on influenza  
2 things.

3 If you took a look at the growth of teachers in our  
4 village schools and in our hubs, in our communities, you  
5 will see the incredible growth of Native teachers. I bet if  
6 you looked at every single one of them, virtually 100  
7 percent of those teachers would have been funded from their  
8 village or their regional corporation's scholarship  
9 programs.

10 As far as I know on any of the scholarship programs,  
11 nobody is just trying to only put money into like law or  
12 business management. They are trying to create  
13 opportunities for our young people in whatever areas that  
14 they want to go to, and some gravitate towards working with  
15 the corporation and we really encourage them. But like I  
16 said, like my daughter, she is in the health field in a  
17 critical area of need, and there are so many Native teachers  
18 that are there as well.

19 Senator Begich. Thank you.

20 Ms. Pata. I would like to follow up on the rippling  
21 effect of what I see as today's investments. I know as a  
22 corporation we are taking--and in my testimony, I talk about  
23 the longer term. We as Native peoples across this country  
24 always are concerned with the seventh generation to come.  
25 And so as I look at that, these investments we see today

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1 have rippling effects. It is that student, that person who  
2 got that first time scholarship, who went to college, and  
3 who then now maybe more in that family will go to college.  
4 It is how they invest in their communities.

5 But it is the way we do our business, too. It is our  
6 corporate business philosophy. The way that we stay  
7 connected to our non-profit values as far as cultural and  
8 community values that are very important in what we do. We  
9 have not only the tribal organizations, we have the  
10 non-profit associations that function. And we very much  
11 have the same people. So no matter what hat we are wearing,  
12 we are all the same Alaska Natives concerned about the  
13 subsistence and the other political issues that affect our  
14 communities. And so, we have to invest in those, too.

15 Senator Begich. Let me ask one other--and I have got  
16 about a minute left here.

17 The analysis, which, again, I have a lot of  
18 questions--there is a committee report that came out late  
19 last night that I have had a chance very briefly to review.  
20 But, you know, when they talk about shareholders within the  
21 corporation, it is not uncommon to have other Native  
22 corporation shareholders that are not of the corporation  
23 that runs the corporation.

24 Is that a fair statement?

25 Ms. Pata. That is a fair statement. You know, when

1 the shareholders were divided, when--

2 Senator Begich. The regions.

3 Ms. Pata. --the regions were divided, they kind of  
4 drew lines around the map where you were living at the time.

5 Senator Begich. Right.

6 Ms. Pata. Not unlike some places in the lower 48 when  
7 we are dealing with those issues and so--

8 Senator Begich. So we have to be careful when we talk  
9 about the numbers of shareholders of your corporations  
10 working for the corporations. The real question is Alaska  
11 Native hire within the corporate structures that exist. And  
12 one of the biggest strengths you have is the issue of  
13 in-state and how much you have been doing there.

14 For example, one of the interns I met, it was the first  
15 time he was out of his village ever, ever. And people have  
16 to have that perspective when they deal with what we are  
17 doing in Alaska, that it is a very unique situation where a  
18 young person may not have ever left the village and this is  
19 a new experience. But when you think of shareholders, I  
20 think of it from a broader perspective, and that is a fair  
21 statement, I think. Thank you.

22 Senator McCaskill. Thank you, Senator Begich.

23 Senator Murkowski?

24 Senator Murkowski. Thank you, Madam Chair.

25 I think we all recognize that there is nothing in the

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1 Federal Government requirements when we are talking about  
2 government contracting here, that in order to get a contract  
3 here in Virginia, you have got to be a Virginia-based  
4 company. And so, there seems to be some suggestion, both in  
5 the report that we have seen and from some of the testimony  
6 that we have heard today, that, well, the criticism is, is  
7 that we are not seeing enough local hire, enough shareholder  
8 hire. Also in the report, there was some criticism directed  
9 that we are not seeing a substantial number of Alaska  
10 Natives that are part of the executive structure.

11 I will ask you, Ms. Lukin, you come from Port Lions.  
12 Now, tell me--and I am not asking you to wear your other hat  
13 here, but as a resident of Port Lions, what kind of economic  
14 development can we really see within a tiny, tiny community  
15 like this? And I am going to let you answer the question.

16 But, Jackie, you come from southeast, where I was born  
17 down there. We were born in a national forest. This is  
18 land that is not available for development. We are working  
19 with Sealaska to try to allow for some of that. We have got  
20 the CEO of NANA Corporation, 60 percent of NANA's lands are  
21 locked up as federal lands. And when we are talking about  
22 the ability to hire your people locally, the reality is, if  
23 you are going to have a government contract, more likely  
24 than not, it is going to be out of the state, and more  
25 likely than not, how easy is it to get an individual, a

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1 young person, whether they are from Port Lions or Angoon or  
2 from Quyana, to come here to Virginia?

3 Can you just speak to that? Because, Ms. Lukin, you  
4 have obviously got some very present experience as a young  
5 Alaska native who has left the village and come out into  
6 this world.

7 Ms. Lukin. Yes. Quyanaa. Thank you for the question.

8 My village, like so many in rural Alaska, is not  
9 connected to any other communities by road. It is only  
10 accessible by small plane or a seasonal ferry from the  
11 mainland or boats.

12 Senator Murkowski. How much does it cost to get from  
13 your village to Anchorage?

14 Ms. Lukin. If I were to fly from my village to  
15 Anchorage, it would be several hundred dollars. To take my  
16 family, it is over \$1,000 to leave the village. And we are  
17 probably less expensive than many in, say, the Bethel region  
18 or the Aleut region or other areas in the state.

19 There are no economic opportunities in my community.  
20 We had one single store, which I think would be comparable  
21 to what you might have here is like, what, a 7-Eleven? But  
22 it closed because it could not sustain itself in our  
23 village. We have minor commercial fishing, but the prices  
24 for fish have been drastically declining over the years.  
25 And we used to have timber development, but again, the



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1 prices for timber dramatically went down in the mid 1990s.

2 The likelihood that an Alaska Native Corporation is  
3 going to be pursuing contracts out of the state is very high  
4 because there are contract opportunities in the state of  
5 Alaska but there are only so many opportunities, and there  
6 are 200 Alaska Native Corporations.

7 How likely is it somebody will move? Very unlikely.  
8 I just moved myself, and it is hot here. But we are very  
9 connected to our culture and to our community, to our family  
10 and to our traditional way of life. So to uproot your  
11 people and move them to somewhere outside of your community,  
12 it is very difficult to do.

13 Senator Murkowski. But let me ask about that because  
14 what we are attempting to do through the use of the  
15 educational scholarships, primarily, is to provide for that  
16 level of educational opportunity so that there can be a  
17 level of exposure to how we can make business opportunities  
18 and translate them back to the village. Sometimes it is  
19 going to work; other times it is not going to work. But as  
20 you point out, we are really just in that first generation  
21 of educating young Alaska Natives and now bringing  
22 successful in bringing them back home; is that correct?

23 Ms. Lukin. Yes, that is correct. And I would also  
24 point out that through the scholarships and small business  
25 programs available to--and by the ANCs to their

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1 shareholders, there are some in my dad's age bracket who at  
2 the age of 53 decided to start his own small business,  
3 sports fishing charter business in our village. And he is  
4 still going strong today, used his dividends to help  
5 purchase a small boat and got scholarships to help him get  
6 the Coast Guard's trainings and the certifications that were  
7 necessary to operate his small business in our village. So  
8 there are opportunities like that that are growing in rural  
9 Alaska because of the 8(a) program.

10 Senator Murkowski. Thank you.

11 Senator McCaskill. Thank you, Senator Murkowski.

12 Let me ask a couple of questions that may be awkward,  
13 but I am curious.

14 Would the three of you have any problem with competing  
15 with other ANCs?

16 Ms. Pata. No, I think we actually do compete with  
17 other ANCs on various contracts.

18 Senator McCaskill. I mean, actually taking away the  
19 ability of you to get a sole source contract if, in fact,  
20 the other companies that you were going to compete against  
21 were all ANCs, so that it would actually be a competitive  
22 bidding process but all of the bidders would be ANCs.

23 Do you-all have any problem with that?

24 Ms. Pata. I am not here to speak about that at this  
25 point. Obviously, we would have to have, you know, a

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1 consultation on that issue. It just brings to light two  
2 issues for me. One is, you know, sole sourcing--the issues  
3 around sole source contracting and whether or not it is a  
4 good federal value is not only an issue of 8(a) contracting,  
5 certainly not an ANC only issue or a tribal issue because  
6 tribal governments have the same ability to sole source as  
7 ANCs. And I think that the separation of those poses an  
8 issue for me.

9 I think, though, once again, we look towards  
10 recommendations for improving the program. We would be more  
11 than glad to sit down with you and your staff and the  
12 Committee and have consultation with tribes across the  
13 country as well as the ANCs to come up with some  
14 recommendations that could address some of the concerns.

15 Senator McCaskill. You know, because, believe me, you  
16 do not need to explain to me that we have got a problem with  
17 noncompetitive contracts. It is how I found out about you  
18 guys, was I was looking in to all the noncompetitive  
19 contracts that were let in Iraq. And as I started pulling  
20 the thread, I started finding all of these noncompetitive  
21 contracts across our government.

22 This is by no means an effort to say that the ANCs are  
23 the only problem we have in Federal Government as it relates  
24 to sole source contracting. We have lots of problems  
25 surrounding sole source contracting, especially at DoD and

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1 Homeland Security. And that is why the President issued an  
2 executive order in March directing his executive branch to  
3 prefer competitive bidding because we have gotten into this  
4 incredible explosive growth, not just in the ANC area, not  
5 just in the 8(a) program, but an explosive growth in  
6 contracting across the board. And that is why this  
7 Subcommittee was created, is we need to look at all of the  
8 contracting issues.

9       If you might be willing to compete with other ANCs and  
10 if we put that out there on the table, what about accepting  
11 the exact same rules as the Indian tribes? Would you-all  
12 have any problem with having the same rules for contracting  
13 as it relates to a status of economically disadvantaged?

14       I think everything you have talked about in terms of--I  
15 also served on the Indian Affairs Committee briefly and I  
16 also have been informed and briefed--although not firsthand  
17 knowledge, because we do not have significant tribes in  
18 Missouri--of the incredible dysfunction of our government in  
19 terms of making sure that we have opportunity and economic  
20 opportunity for Indian tribes.

21       So I think all the things you have talked about in  
22 terms of scholarships and empowerment and all of those would  
23 equally apply to the Indian tribes.

24       Would you-all have any problem with accepting the exact  
25 same rules as the Indian tribes have?

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1 Ms. Pata. I guess, once again, I would have to say,  
2 you know, that we obviously are not here to be decision  
3 makers for the body of people who sit behind us or that we  
4 represent here today without having those conversations.

5 I do want to clarify, though. I think there was some  
6 concern about the differences between tribes and ANCs. The  
7 differences between tribes and ANCs are really the issue of  
8 proving that you are disadvantaged. And tribes one time  
9 prove that they are socially disadvantaged, and then they  
10 are able to continue to operate multiple 8(a) contracts,  
11 very similar to ANCs.

12 The only other difference that is out there is in the  
13 management responsibility, and even at that, tribes are  
14 allowed to be able to put forward management plans to show  
15 that they can--that they would have a non-Native manager as  
16 long as they had a mentoring program in place.

17 So as far equitably being able to compete on sole  
18 source contracts and those elements, we are the same. So I  
19 am trying to discern from you exactly what are you--are  
20 those the only two issues that you were concerned about?

21 Senator McCaskill. Well, the main issue is that  
22 regardless of how large an ANC gets, it is still  
23 economically disadvantaged. It does not matter how big it  
24 is. Whereas with Indian tribes, at a certain point in time,  
25 they lose their status as economically disadvantaged if they

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1 get to a certain size.

2 Ms. Pata. No. I am trying not to disagree with you,  
3 but it is my understanding that tribes prove they are  
4 socially disadvantaged the first time, the one time.

5 Senator McCaskill. They are socially and economically.

6 Ms. Pata. Disadvantaged the one time, and they  
7 graduate out of the program just like ANCs graduate out of  
8 the program. So ANCs' subsidiaries are--ANCs' 8(a) programs  
9 graduate out of the programs. Tribes graduate out of the  
10 program, too. That is also the same.

11 The difference, the tribes no longer, according to SBA  
12 regulations, have to prove themselves, continually prove  
13 themselves that they are socially and economically  
14 disadvantaged. They do that one time, whereas the ANCs have  
15 been given by congressional support the recognition that  
16 they have already proved they are socially and economically  
17 disadvantaged because they are addressing a community of  
18 socially disadvantaged folks.

19 I think if you look at the history of the program, part  
20 of that was at the time when ANCs were being included,  
21 tribes were just getting this new gaming opportunity and  
22 many members of Congress were not quite sure whether or not,  
23 you know, how that would be. And so that is why they--that  
24 is why the ANCs have this congressional recognition but the  
25 tribes have to prove that they are still socially and

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1 economically disadvantaged. But they do not have to  
2 repeatedly have to prove it to themselves.

3 Senator McCaskill. Well, I guess then if--I think we  
4 have got something on the table here.

5 Ms. Pata. Yes.

6 Senator McCaskill. If there is no difference, then I  
7 would hope that you-all would be willing to accept and  
8 support a change in the law that would make sure that you  
9 are on completely equal footing as it relates to socially  
10 disadvantaged and economically disadvantaged, because,  
11 certainly, some of your corporations are much, much larger  
12 than many, many, many Native American corporations.

13 I do not think any of you would argue about that, would  
14 you?

15 Okay.

16 Ms. Lukin. Ms. Chairman, as Jackie indicated earlier,  
17 we are not in a position today through our organizations to  
18 negotiate on behalf of our people. We need to go through an  
19 extensive tribal consultation process to ensure that the  
20 government-to-government relationship between Native peoples  
21 and the United States is maintained and we have the  
22 opportunity to hear everyone's voice. So we would be happy  
23 to have that discussion.

24 Senator McCaskill. Okay.

25 Ms. Lukin. But we would like to go through the proper

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1 process.

2 Senator McCaskill. Oh, I understand. I just wanted to  
3 put it out there, that that would seem to me--

4 Ms. Lukin. And I would also clarify--

5 Senator McCaskill. --the starting point of just some  
6 discussions.

7 Ms. Lukin. Absolutely. And the only other point I  
8 would clarify for Jackie is it is proving economic  
9 disadvantage. In fact, tribes and Alaska Natives are  
10 automatically socially disadvantaged. Thank you.

11 Senator McCaskill. Right. It is the economic  
12 disadvantage where the difference is, not the socially  
13 disadvantaged.

14 Ms. Lukin. Thank you.

15 Senator McCaskill. Mr. Lumer and Ms. Schneider, can  
16 you explain--especially you, Mr. Lumer, with your background  
17 in contracting--what would be in your mind a rationale for  
18 allowing a corporation a 5 percent bonus for subcontracting  
19 with one of their affiliates of taxpayer money?

20 Mr. Lumer. Madam Chairman, I was here for the earlier  
21 discussion. I frankly do not agree that that is allowable.

22 Senator McCaskill. You do not?

23 Mr. Lumer. I do not.

24 Senator McCaskill. Okay. Well, I believe we have got  
25 people that are allowing it, so we need to get you back in



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1 government.

2 Mr. Lumer. That is another whole discussion, ma'am.

3 [Laughter.]

4 Senator McCaskill. Well, that would--because it is our  
5 understanding, based on the information that we have  
6 gathered at the Committee, that, in fact, a 5 percent bonus  
7 is being paid.

8 Mr. Lumer. I believe it is allowed by law, but I  
9 believe by regulatory process, it is not allowable.

10 Senator McCaskill. Okay. Let me ask this.

11 Do you think there is any limit that would be  
12 appropriate, Ms. Lukin or Pata? Is there any limit? I  
13 mean, would there be a point that if an Alaska Native  
14 Corporation was netting profits of 10 billion a year, 20  
15 billion a year, would there ever be a point in time that you  
16 would be willing to say that you ought to have to compete  
17 with everyone else for contracts?

18 Ms. Lukin. Again, Senator, actually, you know, there  
19 are a couple of points I would like to make here. One, I  
20 think it is important that we remember that Native  
21 participation in the 8(a) program honors the government's  
22 commitment to Native peoples.

23 In addition to that, I think that I would reiterate my  
24 earlier point on a tribal consultation process, and I would  
25 also--I forgot to mention earlier--encourage us to also

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1 remember other committees of joint jurisdiction on this,  
2 including the Indian Affairs and Small Business. So again,  
3 we would be happy to work with you in a positive, joint  
4 effort with our people.

5 Senator McCaskill. I am painfully aware that this is  
6 not my decision. I understand other committees have  
7 jurisdiction.

8 I do want to point out for the record that I think  
9 there has been a little bit of a blurring because the  
10 legislation that you proudly spoke of, Senator Begich, was  
11 passed in 1971. The first contracting preference came about  
12 in the '80s. And, in fact, even in the '90s, there was  
13 additional contract preferences put in. So the idea that  
14 this was envisioned back in 1971, that we would fast forward  
15 to 2008, I am not sure that that necessarily follows  
16 because, you know, one came almost 30 years after the other.

17 Ms. Pata. And if you inferred that from my abbreviated  
18 oral statement, I apologize because what I was basically  
19 saying was that Congress enacted ANSCA and Congress also  
20 enacted the procurement preferences.

21 You know, if you studied the ANSCA history, as probably  
22 all of us have, the first 20 years are pretty grueling for  
23 our corporations and very, very difficult as we dealt with  
24 the challenges of building capacity. And that is one of the  
25 reasons why in those years when we were looking at

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1 amendments to ANSCA that we were also looking for ways of  
2 really trying to make the corporation model work. You know,  
3 it was a model that Congress invested in because they did  
4 not want to deal with the economic conditions that were  
5 present in the reservations during the '70s when this was  
6 all being debated. So I think we have tried--this  
7 corporate model worked to the extent that it threw us into  
8 an environment that we had to understand corporations and  
9 shareholder value but still never left our cultural and our  
10 personal values.

11 Senator McCaskill. I also wanted to point out that  
12 there are subcontracting going on with major, major  
13 multinational corporations that are big players in  
14 government contracting, such as Wackenhut. I believe your  
15 former corporation, Ms. Lukin, had a major subcontract with  
16 Wackenhut. And Blackwater has been a subcontractor. Korvis  
17 has been a subcontractor. So it is not uncommon for an  
18 Alaska Native Corporation to, in fact, subcontract with a  
19 company that is much larger than the ANC; is that correct?

20 Ms. Lukin. Ms. Chairman, yes, Alaska Native  
21 Corporations, tribes and Native Hawaiian organizations, like  
22 all other federal contractors, can enter into joint venture  
23 agreements and subcontract arrangements under the FAR and  
24 the SBA regulations.

25 Senator McCaskill. Okay. I think that--and let me

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1 just--because I am curious. I have had a penchant, a bug  
2 that is bugging me about line standing. And I found out  
3 today for the first time--I was conducting a hearing where  
4 there was line standing, and I am curious how many of the  
5 people in the audience hired someone to stand in line for  
6 them for this hearing, if you would raise your hands, if you  
7 are willing to.

8           Only one, two brave souls? Okay. All right. I was  
9 just curious.

10           Senator Begich. Our Alaskan people understanding  
11 waiting and being patient.

12           [Laughter.]

13           Senator McCaskill. I have a feeling there might be  
14 more people in the room that did not want to raise their  
15 hands, but congratulations to the two of you who were  
16 willing to raise your hands.

17           I think we are going to conclude the hearing there,  
18 unless the two of you have something that you are anxious to  
19 ask. I am feeling a little uncomfortable since I am the  
20 only member of the Committee left here, and it does not  
21 quite seem fair, you guys.

22           [Laughter.]

23           Senator Murkowski. Madam Chair, if I just may add my  
24 thanks. We have a large contingent of Alaskans that have  
25 come back for this hearing. I think it is fair to say that

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1 when you sent out your letter some six weeks ago, there was  
2 a great deal of angst about this hearing, the direction that  
3 you were taking with it, and a real concern that a program  
4 that has really yielded benefits for so many in Alaska, from  
5 the furthest point north to the smallest communities south,  
6 there was a concern about this.

7 But I have seen interviews, talked with some of the  
8 CEOs of our ANCs, talked with people who are back here  
9 representing their native corporations, and they feel very,  
10 very strongly that they have a story to tell. And I think I  
11 can speak--I will speak for them in saying they want that  
12 opportunity to present not only where they have come from  
13 but where they feel they are capable of going given some  
14 opportunities.

15 I do not think any of them are afraid to present the  
16 facts. They are willing to work certainly with you and this  
17 Subcommittee. And I hope that some of the suggestions--I  
18 know NCAI has been working on this since the hearing back  
19 in, what, it was 2006, and looking at proposals. I know  
20 that NAC has been looking and assessing. We want to make  
21 sure that it works not only for Alaska Natives but when they  
22 assume these government contracts, whether they be in Fort  
23 Drum, New York or wherever, and are able to employ thousands  
24 of people helping the economic recovery of this country,  
25 that it works on all sides.

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1           So we want to work with you on this, but I do think  
2 that the message from Alaskans is we have a success story  
3 here, we are proud of it, and we are pleased to be able to  
4 speak to it. So thank you for giving this opportunity  
5 today.

6           Senator Begich. Madam Chair, I just want to say thank  
7 you very much for the opportunity. Thank you for allowing  
8 both Senator Murkowski and I to be here and to outnumber you  
9 on the backend here. I appreciate that.

10          But it was, I think, especially toward the end here, a  
11 very positive opportunity to figure out what is the right  
12 thing to do for the long-term benefit of not only Alaskan  
13 Natives but American Indians and Hawaiians and all of us  
14 together. So thank you very much for the opportunity.

15          Senator McCaskill. Let me close with a couple of  
16 comments.

17          First, the record will stay open for 15 days for anyone  
18 who wants to submit information for the record. We will  
19 consider any information that is submitted for the record.

20          I also want to make sure that there is no  
21 misunderstanding about this. This has absolutely nothing to  
22 do with whether or not the Native people of Alaska have had  
23 struggles and challenges that are unique to the Native  
24 people of Alaska. And one of the reasons I was concerned  
25 about line standers is I know how many Alaskans traveled

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1 here and they deserve a seat at this hearing. And sometimes  
2 the folks that just are regular citizens get squeezed out at  
3 the door because of people who have been standing in line.  
4 That is why I was curious about it. And I am glad we had  
5 people standing during this hearing. And I hope none of  
6 them came all the way from Alaska because they did not have  
7 enough room because of line standers.

8 But more importantly, what I want to make sure everyone  
9 understands, that this is about whether or not we have  
10 created preferences in the law that are capable of being  
11 outgrown, and whether or not the preferences that we have  
12 created in the law are something that should be permanent,  
13 and whether or not the preferences we have created in the  
14 law are providing good value to taxpayers.

15 I hope Alaska Native Corporations soar, and I think  
16 they have the capability, many of them, in fact, the largest  
17 ones, to do very well without sole source contracting. In  
18 fact, many of them are. And a lot of the income for these  
19 corporations, based on our analysis, is not even from  
20 federal contracting. In fact, the majority of the income  
21 from all the Alaska Native Corporations are not from federal  
22 contracting. So the question is there.

23 When we are going to say to the government you do not have  
24 to worry about whether or not you can get the same goods or  
25 services for cheaper, are we going to continue to have a

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1 compelling rationale to carve out this kind of exception for  
2 companies that have grown as big and as powerful in the  
3 contracting field as some of the ANCs have? And that is  
4 really what this is about.

5 I hope that the people of Alaska continue, the  
6 shareholders of these corporations continue to receive  
7 scholarship and cultural benefits for decades in the future.  
8 The question is how long will we continue to have a  
9 preference in the law that squeezes out good companies like  
10 Christina Schneider's and lots of companies in many, many  
11 states in this country that have the willingness to work for  
12 the government for less to provide the same service. And  
13 that is really what this is about.

14 I think we have gotten mixed up with whether or not  
15 Alaska Natives are entitled to something from the Federal  
16 Government and whether this is the best mechanism to deliver  
17 it. And that is what this discussion is about. If there is  
18 an entitlement program that is deserving of the people of  
19 Alaska, perhaps it needs to be through another way and not  
20 in a way that is driving the competitive process the wrong  
21 direction.

22 As I say, you are one small piece of this problem. You  
23 are not the major problem on competitiveness. There are  
24 many, many other problems on competitiveness. But we  
25 thought it was important enough to take a look at. I



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1 certainly appreciate all of the witnesses. I appreciate the  
2 fact that the two senators from Alaska were able to be here.  
3 And to all of you who traveled from Alaska, thank you for  
4 coming and we respect and honor your traditions and we are  
5 glad you were here. Thank you, and this hearing is  
6 adjourned.

7 [Whereupon, at 5:06 p.m., the Subcommittee was  
8 adjourned.]