



## Testimony

Before the Subcommittee on  
Investigations, Oversight, and  
Regulations, Committee on Small  
Business, House of Representatives

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# SMALL BUSINESS ADMINISTRATION

## Steps Taken on Long- Standing Weaknesses in SBA's Oversight of Tribal 8(a) Firms, but Additional Actions Needed

### Accessible Version

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# GAO Highlights

Highlights of [GAO-20-184T](#), a testimony before the Subcommittee on Investigations, Oversight, and Regulations, Committee on Small Business, House of Representatives

## Why GAO Did This Study

Federal obligations under SBA's 8(a) Business Development Program totaled about \$10.9 billion in fiscal year 2019, according to federal procurement data reported as of October 7, 2019. SBA's 8(a) program is one of the federal government's primary vehicles for developing socially and economically disadvantaged small businesses, including firms owned by ANCs. One of the key benefits of this program is the ability for ANC-owned firms to receive federal contract awards that have been set aside solely for 8(a) firms. From 2006 through 2016, GAO issued three reports detailing the limitations of SBA's oversight and monitoring of ANC-owned firms participating in the 8(a) program.

GAO's testimony discusses the highlights of the aforementioned three reports and the extent to which SBA has addressed the recommendations GAO made in those reports, as of October 2019. GAO examined SBA files and other documents, conducted site visits, and interviewed program officials to perform the work of those reports.

## What GAO Recommends

GAO made multiple recommendations in its reports from 2006 through 2016, many of which SBA has taken steps to implement. However, SBA has not addressed key GAO recommendations, including tracking and sharing ANC-related information across SBA regional offices, considering the establishment of criteria thresholds for contract modifications, and developing policies to consistently assess whether other small businesses are losing 8(a) contracts to ANC-owned firms. GAO continues to believe that implementing these recommendations would enhance SBA's oversight and monitoring of firms in the 8(a) program.

View [GAO-20-184T](#). For more information, contact Seto Bagdoyan at (202) 512-6722 or [bagdoyans@gao.gov](mailto:bagdoyans@gao.gov).

October 22, 2019

## SMALL BUSINESS ADMINISTRATION

### Steps Taken on Long-Standing Weaknesses in SBA's Oversight of Tribal 8(a) Firms, but Additional Actions Needed

## What GAO Found

In three reports issued between 2006 and 2016, GAO has found persistent weaknesses in the Small Business Administration's (SBA) oversight and monitoring of Tribal 8(a) firms, in particular the Alaska Native Corporations' (ANC) subsidiary firms (ANC-owned firms) that participate in SBA's 8(a) program. Over the course of the program, qualified small, disadvantaged businesses, including ANC-owned firms, can receive federal contract awards that have been set aside solely for such businesses, and business development support from SBA, such as mentoring, financial assistance, and other management and technical assistance. In its three reports, among other things, GAO found that SBA had (1) incomplete information and documentation on ANC-owned firms and their compliance with regulatory requirements; (2) limitations in its ability to track and share key program data needed to enforce its own program; (3) insufficient staffing in its Alaska District Office to carry out necessary and critical monitoring tasks; and (4) inadequate or vague program guidance for clearly communicating to staff how to interpret new regulations.

GAO made 21 recommendations to SBA that address weaknesses in SBA's oversight and monitoring of ANC-owned firms participating in the 8(a) program. SBA has taken steps to implement many of those recommendations, including enhancing training for SBA staff that emphasized program rules, and developing and implementing a regulation that helps SBA better enforce rules against ANC-owned firms obtaining contracts for which they were not necessarily eligible.

However, SBA has not yet implemented recommendations that, if implemented as intended, could significantly improve its oversight of the 8(a) program. For example, SBA has not yet addressed limitations raised in GAO's 2006 and 2016 reports regarding SBA's tracking of revenue information for ANC-owned firms, which limits SBA's oversight of 8(a) rules prohibiting multiple subsidiaries under one ANC from generating revenue in the same primary line of business—which 8(a) program regulations intend to limit. SBA officials informed GAO of the agency's plans to develop an information system capable of addressing this issue. However, at the time of GAO's 2016 report, SBA could not provide detailed information or plans about this system, and as of today, the agency could not provide documentation that this system is operational. As another example, SBA has not addressed GAO's 2006 recommendation to consistently determine whether other small businesses are losing contracting opportunities when SBA awards contracts through the 8(a) program to ANC-owned firms, as required in regulation—an area where GAO found that SBA had fallen short in its oversight. Instead, in 2009, SBA reported that it performed a single analysis of a limited set of procurement data from a limited period and concluded the data did not indicate that other small 8(a) firms (e.g., black-owned, Hispanic-owned, and others) were losing contracting opportunities to ANC-owned firms. However, SBA's actions did not address the intent of GAO's recommendation to "consistently" perform this oversight. Absent action on these recommendations, the program continues to be at risk of noncompliance.

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Chairwoman Chu, Ranking Member Spano, and Members of the Subcommittee:

Thank you for the opportunity to discuss our prior work on weaknesses in the Small Business Administration's (SBA) oversight and monitoring of Alaska Native Corporations (ANC) subsidiary firms ("ANC-owned firms") that participate in the agency's 8(a) program and the actions SBA has taken to address these weaknesses.<sup>1</sup> The 8(a) program is one of the federal government's primary vehicles for developing socially and economically disadvantaged small businesses, including those firms owned by ANCs. One of the key benefits of this program is the ability for ANC-owned firms to receive federal contract awards noncompetitively for any dollar amount.<sup>2</sup> Federal obligations under SBA's 8(a) Business Development Program totaled about \$10.9 billion in fiscal year 2019.<sup>3</sup>

From 2006 through 2016, we issued three reports detailing the limitations of SBA's oversight and monitoring of ANC-owned firms participating in the 8(a) program.<sup>4</sup> In our 2006 report, we noted that, among other things, SBA's program rules did not anticipate the complexity of ANC firm structures. Our subsequent reports in 2012 and 2016 also found various limitations in SBA's oversight, including limitations in SBA's ability to share key data across its district offices and long-standing staffing

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<sup>1</sup>Under SBA's regulations, ANCs are defined as any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended, 13 C.F.R. § 124.3. In this testimony, the term "ANC" refers to one of these parent corporations, usually located in Alaska. The term "ANC-owned firm" in this testimony denotes a business owned by an ANC (wholly or partially) that is participating in SBA's 8(a) program.

<sup>2</sup>Although many of these benefits also apply to Indian tribes, Native Hawaiian Organizations, and Community Development Corporations, the majority of this testimony focuses on the rules as applied to ANC-owned firms participating in the 8(a) program. Congress initially passed legislation in 1986 that allowed ANC-owned firms to participate in SBA's 8(a) program, and subsequent laws established and clarified their distinct advantages in the program.

<sup>3</sup>These data are current in Federal Procurement Data System (FPDS) as of October 7, 2019.

<sup>4</sup>GAO, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight*, [GAO-06-399](#) (Washington, D.C.: Apr. 27, 2006); *Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention*, [GAO-12-84](#) (Washington, D.C.: Jan. 31, 2012); and *Alaska Native Corporations: Oversight Weaknesses Continue to Limit SBA's Ability to Monitor Compliance with 8(a) Program Requirements*, [GAO-16-113](#) (Washington, D.C.: Mar. 21, 2016).

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challenges specific to its Alaska District Office, which oversaw the majority of ANC-owned firms in the 8(a) program. More recent reports issued by the SBA Office of Inspector General demonstrate that SBA continues to face challenges in its oversight of the 8(a) program, in general.<sup>5</sup>

My testimony today will discuss (1) highlights of the aforementioned reports related to Tribal firms, including ANC-owned firms, participating in the 8(a) program, and (2) the extent to which SBA has addressed the recommendations we made in those reports.<sup>6</sup> From 2006 through 2016, GAO issued three reports detailing the limitations of SBA's oversight and monitoring of ANC-owned firms participating in the 8(a) program. We reviewed information from SBA on the status of their efforts to implement the recommendations as of October 2019. We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. More detailed information on our objectives, scope, and methodology for that work can be found in each of the reports mentioned above. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The 8(a) program is designed to assist small, disadvantaged businesses in competing in the American economy through business development.<sup>7</sup> Over the course of the program, qualified small, disadvantaged businesses can receive business development support from SBA, such

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<sup>5</sup>Small Business Administration, Office of Inspector General, *8(a) Business Development Program Eligibility*, rpt. no. 16-13 (April 2016); Small Business Administration, Office of Inspector General, *Reassessment of Eligibility Requirements for 30 Firms in SBA's 8(a) Business Development Program*, rpt. no. 17-15 (July 2017); and Small Business Administration, Office of Inspector General, *Improvements Needed in SBA's Oversight of 8(a) Continuing Eligibility Processes*, rpt. no. 18-22 (September 2018). These three Office of Inspector General reports discussed the 8(a) program generally.

<sup>6</sup>[GAO-06-399](#), [GAO-12-84](#), and [GAO-16-113](#).

<sup>7</sup>Participating firms must qualify as "small" under an industry size standard as measured by the average number of employees over the past 12 months or average revenues generated from the previous 3 years, in addition to being majority-owned by a disadvantaged individual or a qualified entity.

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as mentoring, procurement assistance, business counseling, training, financial assistance, surety bonding, and other management and technical assistance. One of the key areas of support is eligibility for competitive and sole-source federal contracts that are set aside for 8(a) businesses, which can be an important factor of the financial development for ANC-owned firms.<sup>8</sup> Oversight and monitoring of all firms participating in the 8(a) program are delegated to each of SBA's 68 district offices nationwide. Of its 68 district offices—staff at the Alaska District Office were assigned and oversaw the majority of all participating ANC-owned firms.<sup>9</sup>

ANCs and ANC-owned firms have a unique status in the 8(a) program and can enter into complex business arrangements. In terms of their organizational structures, ANCs can be either for-profit or not-for-profit and can own a family of for-profit subsidiary firms, including but not limited to, wholly owned holding companies that often provide administrative support to smaller sister ANC-owned firms. As a condition of the 8(a) program, participating ANC-owned firms must be for-profit. Generally, ANC-owned firms can remain in the 8(a) program for up to 9 years, provided they maintain their eligibility. During the first four “developmental” years, participating firms may be eligible for assistance in program areas including sole-source and competitive 8(a) contract support, and training in business capacity development and strategies to compete successfully for both 8(a) and non-8(a) contracts, among other things. In the last 5 years, firms prepare to transition out of the program, and are required to obtain a certain percentage of non-8(a) revenue to demonstrate their progress in developing into a viable business that is not solely reliant on the 8(a) program.

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

<sup>9</sup>[GAO-16-113](#). Specifically, this represents ANC-owned firms active in the program from fiscal years 2011 through 2014. Because we have not conducted any further work since 2016, we cannot say whether the proportion of firms assigned to the Alaska District Office remains the same.

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## SBA Has Faced Long-Standing Weaknesses in Its Oversight and Monitoring of Tribal Firms' Compliance with 8(a) Program Requirements

Across three reports on SBA's 8(a) program, we have found persistent weaknesses in the oversight and monitoring of participating Tribal firms, in particular ANC-owned firms.<sup>10</sup> Specifically, we found that SBA had (1) incomplete information and documentation on ANC-owned firms' compliance with regulatory requirements; (2) limitations in its ability to track and share key program data needed to enforce revenue rules of Tribal firms, including ANC-owned firms; (3) insufficient staffing in its Alaska District Office to carry out necessary and critical monitoring tasks of ANC-owned firms; and (4) inadequate program guidance for clearly communicating to staff how to interpret new regulations.

**Incomplete information and documentation on ANC-owned firms and their compliance with regulations:** We reported in 2016 that during a 2014 site visit to the Alaska District Office, we noted that incomplete information and documentation limited SBA's oversight of the regulatory requirements specific to ANC-owned firms we examined.<sup>11</sup> For example, SBA faced significant challenges in providing us with very basic information on ANC-owned firms, such as the total number of firms serviced by the agency. For example, during the course of our review, it took 3 months for SBA to provide us with a list of ANC-owned firms in the 8(a) program, and on three separate occasions SBA officials provided three separate numbers for the total number of ANC-owned firms—ranging from 226 to 636. We noted in our 2016 report that SBA's inability to account for and make available principal information on all of the ANC-owned firms participating in the program raises concerns about the

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<sup>10</sup>According to the Standards for Internal Control in the Federal Government, known as the "Green Book," oversight is the establishment of a strategic direction and obligations for the agency that relate to accountability; this includes overseeing management's design, implementation, and operation of an internal control system. Monitoring is the activities management establishes and operates to assess the quality of performance over time and promptly resolve findings of audits and other reviews. GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>11</sup>These regulatory requirements include prohibitions against awarding sister ANC-owned firms' follow-on, sole-source contracts and sharing of primary North American Industry Classification System (NAICS) codes by sister ANC-owned firms.

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integrity of the agency's internal controls and ability to provide effective and sustained oversight.

As another example, we reported in 2016 that SBA was unable to provide seven of 30 required agency offer letters for 8(a) contracts that we requested for our review of contracts that may have been follow-on, sole-source contracts. According to the regulation, these required offer letters are critical documents that could have assisted SBA staff in understanding a contract's acquisition history and any small business that performed this work prior to any subsequent awards. Once an applicant is admitted to the 8(a) program, it may not receive an 8(a) sole-source contract that is also a follow-on contract to an 8(a) contract that was performed "immediately previously" by another 8(a) program participant (or former participant) owned by the same ANC. We found that SBA's inability to enforce the regulatory prohibition against follow-on, sole-source contracts was directly tied to the quality of the documentation it collected from contracting agencies. While we found that one program official in the Alaska District Office took steps during our 2016 review to ask agencies to specifically report whether contracts are follow-on, sole-source awards in offer letters, we have no evidence supporting that this practice was more broadly adopted by the program as a whole. Ultimately, we recommended and SBA agreed to enhance its internal controls and oversight of ANC-owned firms in the 8(a) program by ensuring that all ANC-owned firm files contain all relevant documents and information and providing additional guidance and training to SBA staff on the enforcement of related policies, among other things.

**Limitations in tracking and sharing key program data needed to enforce 8(a) revenue rules:** In all three reports mentioned in this testimony, we found that SBA faced limitations in tracking information on the primary revenue generators for Tribal firms, including ANC-owned firms, to ensure that multiple firms under one parent ANC are not generating their revenue in the same primary line of business—that is, expressed as and operating under the same North American Industry Classification System (NAICS) code—which SBA's regulation intends to limit. As discussed later in this testimony, we first identified this issue in our 2006 report, noting that SBA was not effectively tracking ANC-owned firms' revenue data to ensure that the sister firms were not generating the majority of revenue in the same line of business. We recommended that SBA collect information on the participation of 8(a) ANC-owned firms as part of required overall 8(a) monitoring, to include tracking the primary revenue generators for ANC-owned firms and to ensure that multiple subsidiaries under one ANC are not generating their revenue in the same

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primary line of business. Then in our 2012 report, we found that SBA had not addressed this limitation and recommended that SBA develop a system that had the capability to track revenues from ANC-owned firms' primary and secondary lines of business to ensure that ANC-owned firms under the same parent ANC are not generating the majority of their revenue from the same primary line of business.<sup>12</sup>

In our 2016 report, we found that SBA still had not developed such a system and thus was not effectively tracking and sharing the type of revenue information needed to ensure 8(a) ANC-owned firms are following the intent of 8(a) revenue rules.<sup>13</sup> For example, we found that without such a system, sister ANC-owned firms owned by the same ANC could circumvent the intent of the prohibition. In particular, one sister ANC-owned firm could generate a greater portion of revenues under its secondary line of business that another sister ANC-owned firm is using as its primary line of business. Although this type of activity is not prohibited, we determined that if such activity is left untracked, a firm's secondary line of business could effectively become its primary revenue source in the same line of business that its sister firm claims for its primary line of business without actually violating SBA's regulation.<sup>14</sup> During our 2016 review, we found 5 pairs of ANC-owned firms participating in the 8(a) program from fiscal years 2011 through 2014 that concurrently generated millions of dollars in the same line of business as their sister ANC-owned firm's primary line of business, while generating less or no revenue under their own primary line of business.<sup>15</sup> As we found then, such activity

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<sup>12</sup>In 2006 and 2012, SBA did not respond in our report to whether it intended to implement these recommendations.

<sup>13</sup>SBA's regulation prohibit an ANC from owning 51 percent or more of an 8(a) applicant that is the sister subsidiary of another 8(a) participant, which either at the time of application or within the previous 2 years, has been operating in the 8(a) program under the same primary NAICS code as the applicant. However, two ANC-owned sister subsidiaries may share the same primary high-level NAICS code as long as they do not share the same subcategory with corresponding size standard. The prohibition's goal is to assist ANC-owned firms with diversifying their businesses in such a way that would enable them to survive in the market after they leave the 8(a) program.

<sup>14</sup>As mentioned earlier, a NAICS code describes a firm's primary describes a firm's primary or secondary line of business.

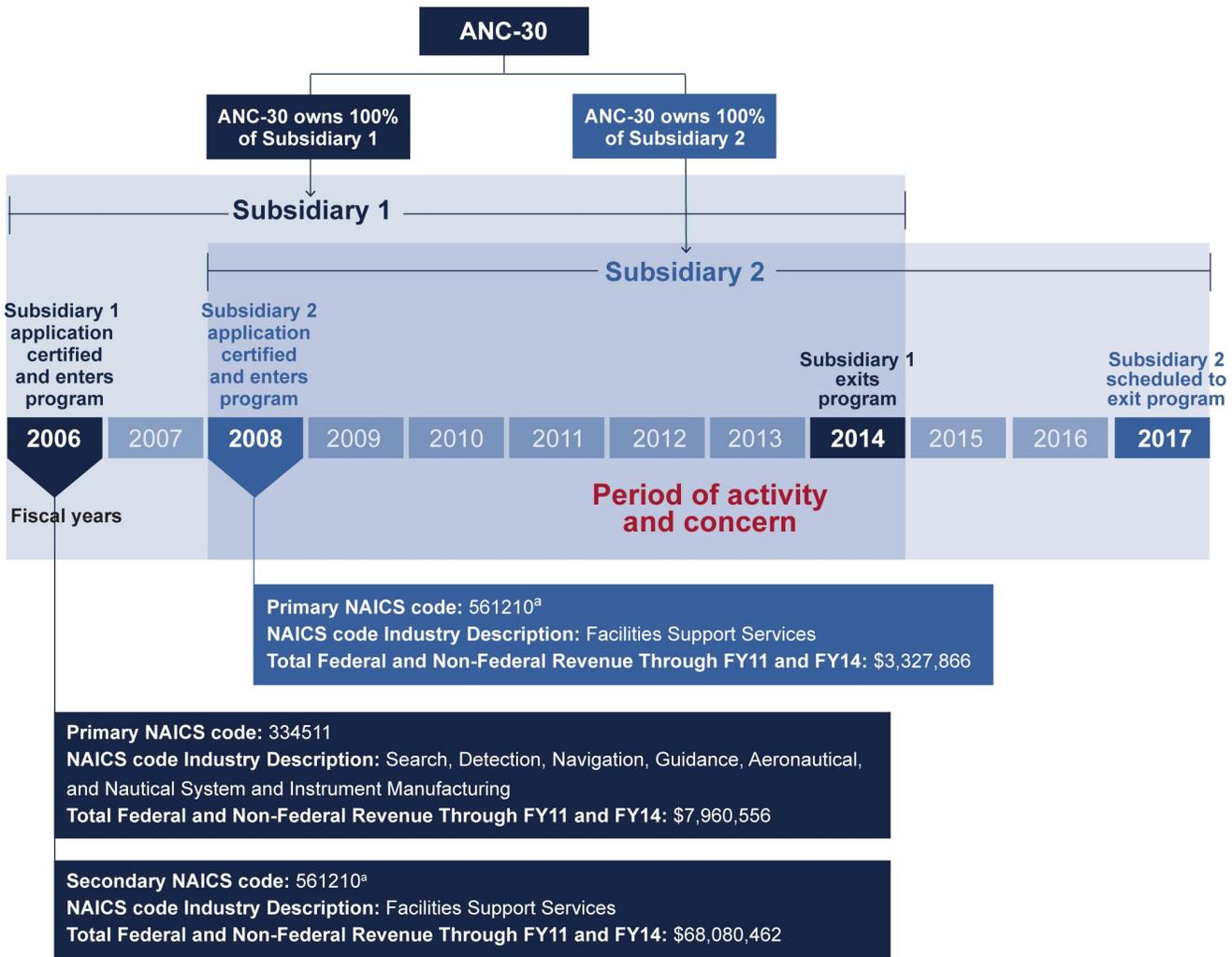
<sup>15</sup>At the time of our 2016 report, SBA's regulations did not require an ANC-owned firm to generate any revenue under its primary line of business (expressed as a NAICS code). Subsequently, SBA promulgated new regulations that allow it to change an 8(a) ANC-owned firm's primary NAICS code to the code that generates the greatest portion of the firm's revenues.

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could, intentionally or not, potentially circumvent the intent of SBA's prohibition, and as discussed later, we recommended that SBA take action to prevent ANC-owned firms from circumventing this rule. Figure 1 below illustrates one example we reported on in our 2016 report.

**Figure 1: Example of Two Sister Subsidiaries Generating Millions of Dollars in Revenue in the Same Line of Business**

From fiscal years (FY) 2011 through 2014, Alaska Native Corporation-30 (ANC-30) owned Subsidiary 1 when it generated much less in revenue under its primary North American Industry Classification System (NAICS) code 334511 while generating millions more in secondary NAICS code 561210 that was the same NAICS code that Subsidiary 2 used for its primary NAICS code. In effect, this activity could have potentially circumvented, but not necessarily violated, the Small Business Administration's (SBA) prohibition on sister ANC-owned subsidiaries sharing the same primary NAICS code.<sup>a</sup>



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

Source: GAO. | GAO-20-184T

<sup>a</sup>SBA prohibits ANCs from owning 51 percent or more of an 8(a) applicant that is the sister subsidiary of another 8(a) participant that, either at the time of application or within the previous 2 years, has been operating in the 8(a) program under the same primary line of business (expressed as a NAICS code) as the applicant.

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**Insufficient staffing levels in SBA’s Alaska District Office:** In our 2006 report, we noted that SBA lacked adequate staffing levels in the Alaska District Office—a district office responsible for the oversight of the majority of ANC-owned firms. Our reports, and a 2008 report issued by the SBA’s Office of the Inspector General, have shown that inadequate staffing was a long-standing challenge and a consistent weakness that directly contributed to SBA’s inability to provide adequate oversight. In our 2012 report, we noted that ANC-owned firms could quickly outgrow the program. It should be noted that we recommended that SBA evaluate its staffing levels in 2006, and in our 2016 report, we found that the staffing challenges persisted. As a result, we found that SBA needed a sustained and comprehensive approach to staffing its Alaska District Office in order to conduct sufficient oversight of ANC-owned firm activities. We were told that frequent staff turnover directly contributed to the limited number of staff in the Alaska District Office with ANC firm expertise—limiting their ability to conduct effective and timely oversight of the ANC-owned firms participating in the program. An SBA official told us at the time that the optimum number of staff for the Alaska District Office was five with no more than 100 assigned 8(a) firm files each; however, that office had 1.5 staff responsible for about 200 files each.<sup>16</sup> We found, based on SBA documentation and observation during our site visit to Alaska that, because of this staffing shortage, supervisory review of contract monitoring activities and annual reviews fell behind, resulting in a backlog of oversight duties related to ANC-owned firms.<sup>17</sup>

In 2016, we found that SBA took some short-term actions to address the issues that we identified, such as temporarily redistributing the management of ANC-owned firm files across several other district offices and within the Alaska District Office. As for long-term action, SBA officials provided us with documentation describing the program’s long-term staffing strategy, which included succession planning and managing attrition. For example, SBA planned to hire four additional BOS, and an attorney who understands ANCs. At that time, SBA began implementing its staffing strategy by hiring additional business opportunity specialists for its Alaska District Office. However, we have not evaluated whether the

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<sup>16</sup>Of the two staff we interviewed, one was part-time and new to the Alaska District Office.

<sup>17</sup>ANC-owned firms must submit annual reviews to their district offices documenting their progress over the program year. One of the objectives of the review is to monitor a firm’s growth and progress towards attaining the ability to compete in the open market without SBA’s assistance. Business opportunity specialists review the report and determine whether a firm has maintained its eligibility for the program.

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agency implemented the remainder of its strategy for succession planning and managing attrition.

**Inadequate program guidance:** We reported that SBA lacked program guidance that could have assisted the Alaska District Office in improving staff's knowledge of program rules and monitoring practices. We initially raised our concern about the need for strong guidance in 2006 given the unique status in the 8(a) program and relationships entered into by ANC-owned firms. For our 2012 report, SBA officials told us that it was in the process of updating its program guidance for the program. However, in our 2016 report, we similarly found that staff lacked sufficient guidance and training on key program regulations and internal monitoring practices, and concluded that resulting inconsistent supervisory review of ANC transactions and related documentation increased SBA's vulnerability to compliance and fraud risks.

Several months after we issued our report in 2016, SBA issued updated standard operating procedures on program rules that address the 2011 regulatory changes related to sister ANC-owned firms receiving follow-on, sole-source contracts and sister subsidiaries sharing primary NAICS codes. In addition to updating the guidance, SBA also provided training to its Alaska District Office staff on its 2011 regulations, specifically training on prohibitions against follow-on sole source contracts. SBA officials also told us in 2016 that staff in the Alaska District Office were provided training in supervisory review and other critical file management procedures, which we noted were weaknesses.

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## SBA Has Not Yet Implemented Some Key Recommendations to Address Oversight and Monitoring Weaknesses

To address the weaknesses described above, as well as others related to oversight and monitoring, our 2006, 2012, and 2016 reports contained a total of 21 recommendations to SBA.

While SBA has fully implemented 15 of these recommendations, SBA has not implemented six recommendations—three of which we highlight in this statement. All six recommendations are important to enhancing

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SBA's oversight of ANC-owned firms in the 8(a) program.<sup>18</sup> We have not evaluated the operational effectiveness of SBA's actions to implement the 15 recommendations, but if effectively implemented, those actions should help SBA improve its oversight and monitoring of ANC-owned firms in the 8(a) program. In response to our recommendations, SBA's actions included

- providing training to its staff that emphasized regulations governing the requirement for procuring agencies to specifically state whether a contract is a follow-on contract in their offer letters, which could help reduce the award of a follow-on, sole-source contracts to sister ANC-owned firms;
- developing and enacting a regulation that gives SBA the authority, under certain circumstances, to change an ANC-owned firm's primary line of business (expressed as a NAICS code) to the NAICS code that generates the greatest portion of the firm's revenue; this action is intended to help SBA enforce rules preventing sister ANC-owned firms from operating in the same primary lines of business; and
- updating and providing written guidance to field staff officials on the enforcement of follow-on sole-source contract regulations.<sup>19</sup>

However, to date SBA has not provided us with evidence that it has implemented the three following recommendations, which if implemented as intended, could significantly improve its oversight of the 8(a) program. Absent action on these recommendations, SBA exposes the program to continued noncompliance.

**Tracking revenue data and other information on 8(a) ANC-owned firms:** As previously discussed, SBA's regulation prohibits ANCs from owning multiple firms that operate under the same primary line of business (expressed as a primary NAICS code). In each of our 2006, 2012, and 2016 reports we identified weaknesses in SBA's ability to track this information in order to prevent sister ANC-owned firms from violating

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<sup>18</sup>In addition to the three recommendations highlighted in this report, the remaining three recommendations were focused on addressing control weaknesses pertaining to determining when ANC-owned firms are obtaining a substantial unfair competitive advantage in an industry and guidance for agency contracting officers on how to comply with requirements of the 8(a) program, among other things.

<sup>19</sup>This is not an exhaustive list of the actions SBA reported taking to implement 15 recommendations. Further, we did not evaluate the operational effectiveness of the actions that SBA reported to us.

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this rule or circumventing its intent. As a result, in 2006 we recommended that SBA track the primary revenue generators for ANC-owned firms and to ensure that multiple subsidiaries under one ANC are not generating their revenue in the same primary line of business, among other things. Similarly, in 2012 we recommended that, as SBA is developing a tracking system, it should take steps to ensure that the system tracks information on ANC-owned firms, including revenues and other information.<sup>20</sup> In 2006 and 2012, SBA did not indicate whether it agreed with and intended to implement these recommendations. However, during our 2016 audit, SBA informed us that it had plans to address this issue, but could not provide any details. We therefore recommended in 2016 that SBA document this planned method for tracking revenue generated under subsidiaries' primary and secondary lines of business. SBA agreed to implement this 2016 recommendation. As part of this recommendation, we stated that SBA's documentation should include milestones and timelines for when and how the method will be implemented. We also recommended that SBA provide the appropriate level of access to and sharing of relevant subsidiary data across district offices, including primary and secondary lines of business and revenue data, once SBA develops a database with the capabilities of collecting and tracking these revenue data.

In August 2018, SBA informed us that regulations promulgated in 2016 allow it to change an 8(a) ANC-owned firm's primary line of business under certain circumstances if the greatest portion of the firm's revenues evolved from one line of business to another. In our 2016 report, we concluded that the new regulations were a step in the right direction but would be difficult to implement effectively without the proper tracking and visibility of revenue data that we describe above and in our 2016 report. In 2018, SBA officials noted that they were testing an analytics tool that, they said, would allow them to track revenues for ANC-owned firms, as we recommended. SBA's estimated completion date for the evaluation and implementation of this tool was December 31, 2018, but as of October 2019, SBA has not been able to provide documentation on whether this action has been implemented. We will continue to monitor SBA's efforts to implement this recommendation.

**Criteria thresholds for contract modifications:** As we reported in 2006, SBA regulation requires that when the contract execution function is

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<sup>20</sup>This recommendation also recommended that SBA use this database to track other contract information on 8(a) contracts to help ensure that district officials have information necessary to enforce the 8(a) program regulations.

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delegated to the procuring agencies, these agencies must report to SBA certain 8(a) information, including contract modifications.<sup>21</sup> Further, the agreements between SBA and the procuring agencies that we reviewed in 2006 require that the agencies provide SBA with copies of all 8(a) contract modifications within 15 days of the date of the contract award. However, in our 2006 report, we found that contracting officers were not consistently following these requirements. While some had notified SBA when incorporating additional services into the contract or when modifying the contract ceiling amount, others had not. Hence, we recommended that when revising relevant regulations and policies, the SBA Administrator should revisit the regulation that requires agencies to notify SBA of all contract modifications and consider establishing thresholds for notification. In 2006, SBA disagreed with this recommendation and thus had not revisited this regulatory requirement, but rather reiterated a preexisting requirement to provide all contract modifications, including administrative modifications, to SBA. We determined that this action did not fulfill our recommendation as it does not help to ensure that agencies are going to comply with the regulatory requirement.

**Small businesses potentially losing contracts to 8(a) ANC-owned firms:** In our 2006 report, we found SBA's oversight had fallen short in that it did not consistently determine whether other small businesses were losing contracting opportunities when large, sole-source contracts were awarded to ANC-owned firms. Further, we found cases where SBA did not take action when incumbent small businesses lost contract opportunities when ANC-owned firms were awarded a large sole-source contract. Hence, we recommended, that when revising relevant regulations and policies, the SBA Administrator should consistently determine whether other small 8(a) businesses are losing contracting opportunities when awarding contracts through the 8(a) program to ANC-owned firms. SBA did not agree with this recommendation, nor did it address the intent of this recommendation by developing a procedure to consistently perform this action. Instead, SBA reported to us that in 2009 it performed a single analysis of a limited set of procurement data from a limited period and concluded the data did not indicate that other small 8(a) firms (e.g., small businesses which are unconditionally owned and controlled by one or more socially and economically disadvantaged

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<sup>21</sup>Through partnership agreements between SBA and procuring agencies, SBA may delegate some responsibility for contract execution and administration to the contracting officers at the procuring agencies.

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individuals, such black-owned and Hispanic-owned firms) were losing contracting opportunities to ANC-owned firms. We continue to believe that without a strategy for consistent monitoring of this issue, SBA is limited in determining the extent to which other small 8(a) businesses are being adversely impacted by contracts awarded to ANC-owned firms.

In summary, the findings I have described in my statement today have persisted over time as SBA has struggled to articulate and execute an effective overall monitoring and oversight strategy. Implementing our remaining recommendations could help SBA address its monitoring and oversight control weaknesses in a comprehensive manner.

Chairwoman Chu, Ranking Member Spano, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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## GAO Contact and Staff Acknowledgments

For further information regarding this testimony, please contact Seto J. Bagdoyan, (202) 512-6722 or [bagdoyans@gao.gov](mailto:bagdoyans@gao.gov). In addition, contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony are: Latesha Love (Assistant Director), Tatiana Winger (Assistant Director), Flavio Martinez (Analyst in Charge), Carla Craddock, April VanCleaf, Tracy Abdo, Marcus Corbin, Colin Fallon, Julia Kennon, Barbara Lewis, Michele Mackin, Maria McMullen, James Murphy, Anna Maria Ortiz, William Shear, and Erin Villas.

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