



Frequently Asked Questions About Alaska Native Tribally Owned 8(a) Companies.

Introduction

The combination of Alaska Native Corporation (ANC) ownership and Small Business Administration 8(a) status affords a company special considerations in federal government contract procurement, as defined in federal law and the Federal Acquisition Regulations. These may be of interest to federal agencies' acquisition or program personnel who want to expedite the procurement process by means of a sole source award.

This paper provides citations of law or statute on key points, explores advantages to the government of sole source awards, and provides supplemental reference material on Integrated Process Teams and the Alaska Native Claims Settlement Act of 1971, the genesis of the special considerations for ANCs.

Why would I want to consider a sole source award?

Generally, the Contracting Agency has a need that cannot be fulfilled using normal contracting methods. Some of these reasons that convince contracting officers to use sole-source procurement rather than a normal bidding process are:

Schedule - Agencies who are under schedule pressure generate many sole source award procurements. Often, the commander or contracting officer is faced with an impossible (if normal methods are used) schedule not of their making. With a sole source award, most difficult schedules can be accomplished.

Lack of resources – Contracting organizations have not been immune to budget cuts. When the workload exceeds resources available, sole source awards provide a very efficient and cost effective

method of successfully completing a contracting task with available resources.

Partnering – “Partnering” can be a formal process or simply a descriptor for a government organization and contractor working in harmony, with common goals, towards successfully completing the mission. A sole source award, with its attendant “open-book” negotiations, encourages a “partnering” environment, as opposed to the adversarial environment too often encountered in government contracting.

What's the purpose of the 8(a) program?

Congress established the Small Business Administration's 8(a) program to help small, disadvantaged businesses compete in the American economy and access the Federal procurement market. The program is aimed at businesses “owned and controlled by socially and economically disadvantaged individuals.”

SBA offers these businesses a range of development resources, such as marketing, managerial, technical, financial and procurement assistance. To help them gain entry to the Federal procurement market, the 8(a) program makes it possible for small businesses to seek government contracts on a sole source, or limited competition, basis.

The 8(a) program helps emerging disadvantaged businesses. It offers assistance to eligible businesses for a limited time (nine years), as long as they stay under a certain size. After nine years, businesses “graduate” from the program. So do businesses whose success enables them to outgrow the size limits.

8(a) FAQs



What about 8(a) businesses that represent Native Americans?

The 8(a) program helps disadvantaged businesses owned—not just by individuals—but also by Federally recognized Native American groups:

- Native American tribes
- Alaskan Native Corporations (ANCs)
- Organizations of Native Hawaiians

Note: While some differences exist, for this discussion ANCs, tribally owned entities and Native Hawaiian organizations will be referred to collectively as Native American groups

In 2002, businesses owned by Native Americans and Native Hawaiian Americans represented almost 1 in 10 businesses in the 8(a) program.

Why are ANCs and other Native American groups in the 8(a) program?

Native Americans are among the poorest and most under-employed groups in our society, with many still living in third-world conditions. Among American Indians and Native Alaskans, the poverty rate is over 25%. Some 27% have no health insurance.

In enacting the Alaskan Native Claims Settlement Act (ANCSA) in 1971, Congress took steps to help Alaskan Natives reach long-term economic self-sufficiency. One of those initiatives was to include Alaskan Native Corporations (ANCs) in the definition of “socially and economically disadvantaged” individuals under the 8(a) program.

Along with Native American tribes and Native Hawaiian organizations, each ANC represents hundreds or thousands of disadvantaged owners.

ANCs have been successful in generating a wide range of businesses—some focused solely on Alaska, others extending to the Lower 48 as well. They generate jobs, much-needed community services—and profits that go back to their socially and economically disadvantaged shareholders as dividends. Dividends, while not large by Lower 48 standards, represent a vital source of cash to families otherwise dependent on hunting and fishing, or the Federal Government, to survive.

The NANA Regional Corporation, Inc. (NANA) is the ANC that represents 11,400 Inupiat people of the Northwest Arctic. NANA's lands are mostly above the Arctic Circle.

About 3,000 of NANA's shareholders live in the coastal town of Kotzebue. Most of the others live in villages ranging from 100 to 400 people, scattered over 38,000 square miles of rugged terrain. In the villages, subsistence hunting and fishing still plays a vital economic, cultural and social role. At the same time, NANA has

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How does the 8(a) program accommodate Native American ownership groups?

Two 8(a) provisions reflect the unique nature of businesses owned by Native American groups:

- The program doesn't limit the size of sole-source contracts they can secure.
- Native American groups can own more than one 8(a) business

Most 8(a) business owners are individuals or families. With these in mind, the 8(a) program offers mentoring and other assistance. The program recognizes that these businesses may lack the financial or managerial wherewithal to begin—or sustain—businesses on their own.

For these businesses, the program limits the size of sole-source Federal contracts to \$3 million. For Native American ownership groups, Congress did not impose the \$3 million contract ceiling. This makes sense for two reasons:

- Each Native American ownership group represents—not a single or small group of disadvantaged individuals—but hundreds or thousands of disadvantaged owners.

With a \$3 million contract limit, earnings benefits to individual Native American shareholders would be disproportionately tiny. For example, if a single-owner 8(a) business produced a net income of 5%, the owner would receive \$150,000. However, if the business had 7,000 owners and distributed all its profits, each owner would only receive \$21.43.

- Within the nine-year 8(a) timeframe, the most successful Native American businesses have grown large and stable enough to handle large contracts. These businesses tend to grow larger, faster than individually owned 8(a)s. Many are well managed and better financed. The most successful have been able to build the managerial and financial stability to provide a large range of quality services to the government.

For the same reasons, ANCs and other Native American ownership groups are allowed to own more than one 8(a) businesses:

- These groups typically operate many different businesses. They generally have the management capacity to oversee multiple 8(a)s.
- The ability to develop multiple businesses with 8(a) help offers a large ownership group the possibility of providing its shareholders with a reasonable rate of return.

What has including Native American groups in the 8(a) program accomplished?

Including Native Americans in the 8(a) program has been an important success for the Native Americans and for the Federal Government:

- The program is graduating a number of substantial, well-financed and well-managed Native-American-owned companies that continue to contribute to economic development of their disadvantaged populations and communities.
- Under certain conditions, the Federal government can take advantage of the flexibility that sole-source access to competent contractors can offer.

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- Native American owners benefit from their business' participation in the program. Their 8(a)-assisted businesses are contributing profits, jobs and much-needed business know-how to disadvantaged communities.
- For disadvantaged Native American populations, increased economic self-sufficiency reduces their dependency on welfare and other entitlement programs.