

## Do ANCs deserve their special contracting status?

Alaska Native Corporations have their supporters and detractors; we examine both sides of the debate

- By [Matthew Weigelt](#)
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For many people, the government's set-aside program for Alaska Native Corporations is a blemish on the federal acquisition system. Even people who otherwise support the idea of setting aside contracts for economically disadvantaged groups take a dim view of the program, which allows agencies to award contracts of any size to ANC firms without competition.

Ever since the death of its champion, Alaska Sen. Ted Stevens, opponents have called for the program to end. Here is an overview of the arguments for and against keeping it.

### **The case for the ANC program:**

**\* It's a time-saver.** Agencies can award sole-source contracts of any size to ANCs at any time. Therefore, the ANC program lets contracting officers move quickly when they're pressured for time or caught in emergency situations, such as preparing for a hurricane.

The contracting officer doesn't have to spend time justifying a sole-source award when using an ANC, said Larry Allen, president of Allen Federal Business Partners.

Officials also save time by avoiding the bid protests that are always a risk during full-and-open competitions.

**\* It stimulates the economy.** The program benefits Alaska natives in economically depressed areas in the state and other parts of the country.

A 2009 survey of 11 ANCs by the Native American Contractors Association (NACA) showed that the companies provided more than \$530 million in various types of benefits to more than 67,000 shareholders from 2000 to 2008. More than \$341 million of that money was in cash dividends.

Alaska natives are given the opportunity to go to college, for instance, with their shares in the ANCs, said Jennine Elias, director of external affairs at NACA.

The program also provides funding for housing and government services, such as law enforcement.

**\* It's a promise-keeper.** ANCs were created to settle land claims with Alaska natives and foster economic development, and the companies have been allowed to participate in the government's 8(a) minority-owned small-business program since 1986. Therefore, the ANC program fulfills a promise to the native community, Elias said.

## **The case against the ANC program:**

**\* It short-circuits the procurement process.** Although sole-source provisions can help in emergencies, the process can tempt an official to award a contract when it would be better to hold a competition for the work, Allen said.

There's no doubt that contracting officers are overworked, and the ANC program can help ease their workload. But, he cautioned, "a program with good intentions can get out of control."

**\* It undermines efforts to level the playing field.** There was a big push for parity in government several years ago. Companies in Historically Underutilized Business Zones used to have first crack at set-aside contracts, but Congress put all small businesses on an equal footing last year.

"The theme is parity among other guys," said Rob Burton, former deputy administrator at the Office of Federal Procurement Policy and now a partner at Venable law firm. But because ANCs don't have to follow the same rules as other small businesses, they have "an incredible deal."

Other small-business owners and Federal Computer Week readers have voiced their frustrations.

"The ANC advantage is unfair to real 8(a) companies and should be disbanded," commented one reader from Virginia.

**\* Its benefits to the native community are questionable.** The benefits ANC shareholders receive have come under scrutiny over the years. Sen. Claire McCaskill (D-Mo.), chairwoman of the Homeland Security and Governmental Affairs Committee's Contracting Oversight Subcommittee, has found some problems with the program.

In 2009, her subcommittee's analysis revealed that only about \$615 a year in money, scholarships and other benefits go to each member of the Alaska native community. The report also says the ANCs employ a relatively small percentage of shareholders and often send work to outside subcontractors. McCaskill has proposed changes to match other small-business rules.

However, Elias said ANCs are already required to report on what they're doing in their community in the interests of transparency.

And Allen said it's a good program that would benefit from oversight by every agency, not just the Small Business Administration.