TESTIMONY OF THE

NATIVE HAWAIIAN ORGANIZATIONS ASSOCIATION (NHOA)

BY

CARIANN AH LOO, PRESIDENT

BEFORE THE

U.S. SENATE COMMITTEE ON INDIAN ARRAIRS

HEARING ON "ECONOMIC SELF-DETERMINATION IN ACTION: EXAMINING THE SMALL BUSINESS ADMINISTRATION NATIVE 8(A) PROGRAM."

FEBRUARY 10, 2026, 9:30 A.M.

DIRKSEN SENATE OFFICE BUILDING, ROOM 628

Chairperson Murkowski, Vice Chair Schatz, and distinguished Members of the Committee, thank you for the opportunity to testify today. My name is Cariann Ah Loo. I serve as the President of the Native Hawaiian Organizations Association, or NHOA. I am also Chair of the Nakupuna Foundation, a Native Hawaiian Organization or "NHO," and a member of the Native American Contractors Association board. I appreciate the Committee's leadership in examining how the Small Business Administration's 8(a) Business Development program supports economic self-determination in Native communities, and I welcome the opportunity to share NHOA's perspective.

Founded in 2007, NHOA is a trade organization that supports the community of NHOs, as defined by SBA, and their for-profit 8(a) subsidiaries. Our members are nonprofit, community-based organizations that use federal contracting as a tool to generate sustainable resources for Native Hawaiian communities pursuant to 13 CFR 124.110. NHOA provides its members with relevant community, government, and legislative information for responsible participation in federal contracting; networking and partnership opportunities; and a collective voice on key issues impacting NHOs in federal contracting.

As the Committee understands, programs serving American Indians, Alaska Natives, and Native Hawaiians are grounded in longstanding legal principles and the Federal Government's trust responsibility to Indigenous peoples. Participation in the 8(a) Program reflects political and legal status—not racial preference—and has been repeatedly affirmed by Congress and the courts.

NHOs participate in the 8(a) Program as part of this broader statutory framework governing what are often referred to as Native or entity-owned firms—enterprises owned by and accountable to Native communities rather than individuals. Unlike individually owned firms, NHO-owned and other native-owned companies exist to serve broad beneficiary populations and are required to reinvest earnings in education, workforce development, cultural preservation, and other

community priorities. That structure is central to how the program works: Federal contracts generate mission value for agencies, and the resulting proceeds are reinvested to strengthen the communities those entities are obligated to serve.

The regulatory framework governing Native entity-owned participation in the 8(a) Program is detailed and exacting. While the rules are necessarily nuanced, they share two essential objectives that mirror NHOA's priorities: first, ensuring the Federal Government receives fair value for taxpayer dollars; and second, ensuring that Native communities are the intended beneficiaries of the program. These are not competing aims. They are mutually reinforcing, and both are central to the program's credibility and success.

Because entity-owned firms serve hundreds or thousands of community constituents, the entity-owned 8(a) model differs in meaningful ways from the individually owned 8(a) model, including in governance, oversight, and the distribution of benefits. Those distinctions reflect congressional judgment about scale, accountability, and purpose that have been layered into the 8(a) program through years of bipartisan actions. In my remarks today, I will focus on three areas that illustrate how this model functions in practice for NHOs:

1. The value NHO-owned firms provide to Federal customers;
2. The tangible benefits these firms deliver to the Native Hawaiian community; and
3. The regulatory framework that governs the program, including opportunities for continued improvement and accountability for NHOs.

I will begin with the value NHO-owned companies deliver to Federal agencies and the American taxpayer.

I. Value to Federal Customers

NHO-owned firms participating in the 8(a) Program are not simply small businesses; they are mission-focused partners that help Federal agencies deliver essential services and advance national priorities. Governed by mission-driven boards rooted in the Native Hawaiian community rather than by individual owners, these organizations are structured for long-term planning, sustained investment, and disciplined compliance. That structure allows them to combine the agility of small business with the stability and accountability required for complex federal missions.

Across the government, NHOs and other Native 8(a) firms help meet some of the most critical functions that directly affect readiness, resilience, and public service delivery. Their work spans construction and facilities modernization, safeguarding of critical infrastructure, cybersecurity operations protecting warfighters, logistics and sustainment, and other mission essential work. Their ability to move quickly under existing 8(a) authorities enables agencies to field, refine, and scale these capabilities on accelerated timelines, improving readiness, resilience, and performance in complex, high-risk, and rapidly changing environments. The

flexibility available under existing 8(a) authorities is consistent with the Administration's push to streamline and modernize Federal acquisition.

This model also strengthens the workforce and industrial base that mission delivery depends on in the Department of War, historically the Department of Defense, and other Federal agencies. Every contract awarded to an NHO-owned firm is more than a business transaction; it is an investment in a larger mission. NHOs are required to reinvest earnings into the Native Hawaiian community, and many direct those investments to education, workforce development, and vocational training, creating pathways for the next generation of leaders in STEM, cybersecurity, engineering, and skilled trades. This reinvestment model, over time, helps create a durable talent pipeline and resilient labor force that contributes to long-term readiness through workforce capacity and national resilience.

Contracting with NHO-owned 8(a) firms also spurs innovation by pairing small-business agility with a long-term, mission-focused ownership structure. These firms must continually demonstrate value in demanding operational environments, which drives them to adopt new technologies, refine processes, and rapidly translate operational lessons into improved solutions for Federal agencies. Far from locking agencies into static approaches, this model broadens the pool of creative problem-solvers, encourages continuous improvement in cost, schedule, and performance, and accelerates the pace at which new concepts can be tested, iterated, and delivered to the force. This is exactly the type of innovation pipeline the Administration has called for in its recent directives on Federal procurement.

For these reasons, contracting with Native-owned 8(a) firms is not a carve-out from the Administration's priorities; it is one of the most practical, already-available tools for operationalizing them.

The 8(a) Program is one of several acquisition strategies agencies have the discretion to use, based on mission needs, timelines, market research, and the projected internal costs of executing an acquisition. Federal agencies, both civilian and defense, rely on the flexibility of the 8(a) program to meet mission-critical requirements efficiently through streamlined acquisition mechanisms. The 8(a) Program permits sole-source and limited-competition awards, enabling contracting officers and program managers to reduce procurement lead times, field solutions faster, and tailor support to specific mission requirements. In appropriate circumstances, this flexibility provides a strategic advantage by accelerating delivery while maintaining accountability and performance standards.

When an agency determines that a direct award under existing 8(a) authority is the best approach, that decision is typically informed by comprehensive market research, including written responses to sources-sought notices, oral presentations, and careful review of relevant past performance. Even then, awards are supported by detailed technical and price proposals, and contracting officers are required to conduct rigorous price analysis and negotiations to

ensure the Government receives goods and services that meet requirements at fair and reasonable prices.

In fact, there are explicit regulatory safeguard to ensure agencies are receiving a "fair market price" even when an 8(a) contract is awarded on a sole source basis under both the FAR and the SBA's regulations. Under SBA regulations the procuring agency must determine what constitutes a "fair market price" for an 8(a) contract, and must derive that estimate from a price or cost analysis that considers prevailing market conditions and comparable commercial prices for similar products or services, or, where there is a satisfactory procurement history, from recent award prices adjusted for differences in quantity, period of performance, specifications, and other cost drivers.[1] The regulation further provides that the procuring agency's estimate of fair market price and any supporting data may not be disclosed by SBA to the 8(a) Participant or other potential contractor. Upon SBA's request, the procuring activity must also provide a written statement detailing the method used to estimate fair market price and identifying all information, studies, analyses, and other data it relied on. In addition, SBA has an independent oversight role with respect to the Government's pricing judgments. The SBA Administrator may appeal "the terms and conditions of a proposed 8(a) contract, including the procuring activity's … estimate of the fair market price," to the head of the procuring agency, and the agency head must specify in writing the reasons for denying such an appeal.[2] This creates a second layer of review over how fair market price is being applied in specific 8(a) awards.

Equally importantly, the 8(a) sole source approach allows for constructive collaboration between Government and potential contractors. That collaboration helps agencies refine requirements, align solutions to mission realities, and reduce the risk of cost growth, delays, or performance shortfalls that can arise when procurements are rigidly specified too early. This ultimately leads to the Government receiving a tailored approach that best meets their needs.

Taken together, these requirements mean that an 8(a) sole source award is always negotiated against a documented, independently developed Government estimate of fair market price, is subject to SBA scrutiny, and is constrained by the same fair pricing norms that apply to competed procurements, even though the award itself is non-competitive. By contrast, even fully competitive procurements, particularly where lowest price is prioritized, can result in cost overruns, delays, and underperformance when contractors bid unrealistically low to win, then struggle to execute. What matters in practice is the Federal Government's ability to define requirements clearly, develop an independent cost estimate, negotiate, and hold contractors accountable—functions that apply every bit as much to an 8(a) sole-source award as to any other Federal contract, if not more so.

[1] 13 C.F.R. § 124.511
[2] 13 C.F.R. § 124.505

The 8(a) program is a value-generating engine for both the Federal Government and the 8(a) participants. For the government, it is a tool. For an NHO, it is an opportunity to perform through disciplined execution, strategic planning, and sustained hard work. Building a high-performing subsidiary capable of winning, managing, and successfully performing contracts requires robust internal systems, qualified and accountable personnel, sound financial management, and a continual focus on delivering value to customers. While program participation may open doors, only consistent performance, operational excellence, and a commitment to continuous improvement keep those doors open over the long term.

II. Benefits to our Communities

Native Hawaiians are the indigenous people of the Hawaiian Islands, with a distinct cultural, political, and historical identity that predates U.S. governance. Federal regulations define Native Hawaiians as "any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawai'i." Today, there are 680,442 Native Hawaiians living in the United States, including within each of your constituencies.

Since contact with the western world up through the 19th century, the Kingdom of Hawai'i was a recognized sovereign nation with international diplomatic relationships, including with the U.S. Despite this, the U.S. government played a significant role in the events leading to the overthrow of the Kingdom of Hawai'i and Hawai'i's subsequent annexation.

In 1893, U.S. diplomatic officials in Hawai'i, supported by the presence of U.S. naval forces, were involved in the removal of Queen Lili'uokalani. Although the United States did not immediately annex Hawai'i, it recognized the provisional Government and later the Republic of Hawai'i. In 1898, Congress approved the annexation of Hawai'i through a joint resolution.

When Hawai'i was organized as a U.S. territory under the Hawaiian Organic Act of 1900, Congress assumed Federal authority over public lands and governance and, over time, enacted specific responsibilities toward Native Hawaiians, most notably through the Hawaiian Homes Commission Act of 1920, which established a Federal trust to provide land and support for their rehabilitation and well-being. Upon statehood under the Hawai'i Admission Act of 1959, these trust responsibilities were transferred to the State of Hawai'i, which was obligated to manage designated lands and revenues, in part, for the betterment of Native Hawaiians, subject to continuing Federal oversight.

Pursuant to its authority under the Constitution, Congress has included Native Hawaiians in more than 150 laws that benefit other Native peoples in the U.S. Congress has also enacted separate programs for Native Hawaiians, such as the Native Hawaiian Education Act and the Native Hawaiian Health Care Improvement Act. Each of these acts acknowledges a trust relationship between the Native Hawaiian people and the United States.

In 1993, the 100th anniversary of the illegal overthrow of the Kingdom of Hawai‘i, Senator Daniel Kahikina Akaka introduced, and President Bill Clinton signed, Public Law 103-150, commonly known as the Apology Resolution, which:

- Acknowledges the significance of the overthrow of the Kingdom of Hawai‘i which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people,
- Apologizes to the Native Hawaiian people for the overthrow which resulted in the deprivation of the rights of Native Hawaiians to self-determination, and
- Commits the Federal Government to a process of reconciliation between the Unites States and the Native Hawaiian people.

That process of reconciliation continues to this day. As this Committee noted in Committee Report 112-251, Native Hawaiians are the only Federally recognized Native people without a formal government-to-government relationship with the Federal Government. In the absence of the formal government-to-government relationship between the Federal Government and the Native Hawaiian people, it is paramount to defend programs by which the Federal Government is exercising its trust responsibility to Native Hawaiians and the Native Hawaiian right to self-determination.

Congress's decision to authorize NHO participation in the 8(a) Program is an important example of the recognition of the Federal Government's commitment to reconciliation with the Native Hawaiian people. Limited economic opportunity is one of the root causes of the various problems that plague Native Hawaiians. Today, Native Hawaiian communities continue to experience persistent socioeconomic challenges that are not the result of temporary labor market conditions, but of long-standing structural inequities. Even among employed households, many Native Hawaiian families struggle to earn a livable income and face disproportionate rates of housing cost burden, food insecurity, health disparities, and educational barriers. Poverty rates remain among the highest of any major population group in Hawai‘i and begin early in life, contributing to intergenerational disadvantage. These conditions underscore that economic participation alone is not enough; sustained access to capital, job creation, and community-based reinvestment are essential to improving long-term outcomes for Native Hawaiians.

While the issues are complex and there is no simple solution, the 8(a) Program provides a practical way for Native Hawaiians to create jobs and generate the financial resources needed to address specific needs of the community. Instead of relying on welfare or other programs, the NHO 8(a) program provides an effective way to reinvest profits earned by NHO-owned businesses in the Federal marketplace directly into local organizations that are best equipped to serve Native Hawaiians in the state.

Importantly, this reinvestment is not merely a suggestion, but is a required condition of admission into the 8(a) Program. Each NHO must clearly state a specific mission to support the Native Hawaiian community, describe the activities it has provided to benefit that community,

and submit a detailed plan explaining how proceeds earned through participation in the program will benefit Native Hawaiians. This plan includes defined goals, the methods for achieving those goals, and the allocation of proceeds to each objective. Consistent with this framework, NHO-owned 8(a) firms must submit information to the SBA on an annual basis describing how the NHO has provided benefits to the Native Hawaiian community as a result of its participation in the 8(a) Program. This reporting includes information on funding for employment assistance, job creation, scholarships, internships, subsistence activities, cultural programs, and other services designed to support the Native Hawaiian community the NHO serves. In practice, this operates as an ongoing community-benefit reporting cycle: NHOs are required not only to articulate their community mission at the time of application, but to report on how proceeds derived from 8(a) participation are being directed toward tangible community outcomes. Based on aggregated reporting from NHOA, between 2018 and 2024, our member NHOs alone directed over $120 million toward community benefit initiatives serving Native Hawaiians, including over $25.8 million in 2024—our highest giveback amount yet.

NHOs, like ANCs and Tribes, are perpetual and rooted in statute, with a Congressional mandate to serve their communities. They therefore differ substantially from individually owned 8(a) firms in ways that are intentional and beneficial to both the Federal Government and the communities Native-owned firms serve. Individually owned 8(a) businesses are designed primarily to help a specific entrepreneur overcome barriers to market entry and build a successful company. Native enterprises like NHOs operate differently: rather than profits accruing to a single individual, earnings generated are distributed and reinvested back into the community. Because NHO-owned entities exist to advance long-term community benefit rather than individual gain, Congress determined that Native entities should be permitted to own multiple 8(a) and other small business concerns and to participate in the program on a perpetual basis. This structure reflects Congress's recognition that community needs do not end after a fixed period, and that sustained economic participation is essential to achieving durable outcomes that advance the long term economic, educational, and social well-being of a community.

Each contract awarded to an NHO-owned firm is more than a transaction; it fuels a broader mission of Native Hawaiian self-determination. By transforming Federal procurement into sustained community investment, the NHO 8(a) model directly addresses the economic conditions that continue to constrain opportunity for Native Hawaiian families.

SBA's regulations include multiple, specific guardrails designed to protect against misuse of the special authorities available to entity-owned 8(a) firms. These regulations prevent overconcentration, preserve competition, and ensure that participation remains aligned with both performance and community benefit. These safeguards include limits on concentration within a single NAICS code, restrictions on follow-on awards among related entities, prohibitions on unfair competitive advantage, and ongoing eligibility requirements tied to both business performance and documented community benefit.

One of the underlying misconceptions driving public outcry over "large" 8(a) awards is the assumption that contract value, revenue, profit, and cash are all the same thing. They are not. There are basic economic realities that are often lost when critics point to the face value of a single 8(a) sole-source award, or to the statutory thresholds at which Native-owned 8(a) firms may receive sole-source contracts, and treat those figures as if they were guaranteed windfall profits. In practice, higher sole-source thresholds simply define the additional layers of review and approval that are applied when larger contracts are awarded without formal competition; they do not change the underlying economics of performance, the cost structure of complex Federal requirements, or the fact that only a small fraction of the obligated amount will ever be realized as profit, and that an even smaller subset of that profit will be available as free cash at any given time. Even when a Native-owned 8(a) firm is performing well and earning a reasonable profit on a contract, those dollars do not arrive all at once and are not immediately free for distribution. Payments are typically received only after work is performed and invoiced, and firms must first cover payroll, subcontractors, materials, bonding, insurance, and other operating costs—often weeks before they are reimbursed by the Federal Government. Prudent management also requires maintaining reserves for contingencies, backlog, and future capital investments so the entity can continue to perform and compete for new work.

As a result, the timing and amount of cash actually available for community programs will lag well behind the headline value of awards, and distributions are often made on a planned, periodic basis after obligations are met and financial results are known. Far from withholding benefits, this approach allows Native-owned enterprises to remain stable Federal partners while providing sustained support to their communities.

III. The 8(a) Regulatory Framework and Opportunities For Continued Improvement and Accountability

For NHOs and other Native entities, strict compliance is not just a legal obligation; it is a foundational to our legitimacy and long-term viability. Our long-term ability to participate in the 8(a) Program, to perform Federal contracts successfully, and to reinvest proceeds into community benefits depend on sustained confidence from Federal agencies, inspectors general, and Congress that we are operating squarely within statutory and regulatory bounds. Any lapse—real or perceived—risks consequences that extend well beyond a single firm. Loss of contracts, reputational damage, and program restrictions would reverberate across entire Native communities whose scholarships, jobs, and services are rely on these enterprises as economic engines. For that reason, Native entities have every interest to treat compliance as a core business function and a non-negotiable part of their mission.

That shared understanding has driven continual, proactive investment in compliance education across the Native contracting community. NHOA and other organizations like the National 8(a) Association, the Native American Contractors Association (NACA), the Alaska Regional Association, and the Alaska Native Village Corporation Association, devote substantial

resources and efforts to helping members understand and meet their obligations. We do so precisely because we know that one firm's misstep can have consequences for every Native-owned participant. NHOA's approach has emphasized early education and peer accountability. In August 2025, for example, we convened an all-day, members-only workshop focused exclusively on compliance requirements. At our Annual Small Business Summit each April, compliance and regulatory issues are a central feature of the agenda, supported by detailed briefings from legal and accounting professionals with deep experience in Federal contracting.

Historically, these efforts have been strengthened by direct engagement from SBA leadership, including senior attorneys, whose participation has helped ensure that guidance is clear, current, and grounded in SBA's expectations. That kind of engagement reinforces compliance on the front end, where it is most effective. As the Committee considers the compliance issues discussed in the next section, we would encourage renewed attention to the value of that partnership. Constructive, regular engagement between SBA and Native trade associations is not ancillary to oversight; it is one of the most practical tools available to support it.

As for specific opportunities to address compliance risk, I would like to focus on three areas.

1. Limitations on Subcontracting.

The limitations on subcontracting (LOS) requirement is one of the most important safeguards in SBA regulations and the FAR. It applies to all small businesses—not just 8(a) firms—and generally requires that the prime contractor retain at least 50% of the revenue on set-aside contracts for goods or services. The purpose is straightforward: to ensure that small businesses, including 8(a) firms, actually perform the work and receive the benefits Congress intended. For that reason, we therefore strive not merely to meet the minimum LOS threshold, but to exceed it, because meaningful self-performance strengthens both business capability and program integrity.

From our vantage point, responsibility for monitoring LOS compliance has been diffuse, with SBA and contracting agencies often deferring to one another. The recent reviews and audits announced by SBA and other agencies mark a significant shift toward more active oversight. We welcome objective, fact-based reviews that are designed to improve compliance and strengthen integrity of small business programs, rather than to undermine them.

Given the scale and complexity of the 8(a) and broader small business contracting ecosystem, we recognize some instances of non-compliance may be found. We expect most of those to be isolated and driven by circumstances outside a small business's direct control. SBA's regulations already contemplate relief where genuine mitigating circumstances and good-faith efforts are evident. But where LOS violations are intentional—whether by the prime contractor, teaming partner, or even Government personnel—there should be consequences. Such conduct

violates the law and deprives legitimate small businesses of opportunities and erodes confidence in programs Congress created to expand participation in the Federal marketplace.

Accordingly, we believe Congress should encourage more robust reporting of LOS performance and active, coordinated monitoring by both SBA and contracting agencies.

2. SBA's Regulations and the FAR.

As this Committee understands, the 8(a) program is grounded in the Small Business Act, and Congress has vested SBA with responsibility for administering the Act and all Federal small business set-aside programs. Consistent with that charge, SBA has developed a comprehensive regulatory framework governing small business and 8(a) procurement. While the FAR Council has adopted certain SBA requirements in the FAR, notably in FAR Part 19, the FAR has not kept pace with SBA's regulations and is less comprehensive.

Recent FAR revisions have further weakened alignment with SBA's regulations, creating uncertainty and the potential for conflicting interpretations. SBA's regulations, by contrast, remain unchanged and detailed in prescribing protections for small businesses and the Federal Government. They were also promulgated through formal public notice-and-comment rulemaking processes of the Administrative Procedure Act and reflect SBA's statutory oversight responsibility.

In light of SBA's statutory purview over the 8(a) and other small business set-aside programs, explicit congressional recognition of the primacy of SBA's regulations over conflicting provisions in the FAR would help restore coherence, reduce compliance risk, and strengthen the integrity of the industry as a whole.

3. Visibility of Impact.

As covered in this testimony, NHOs participate in the 8(a) Program for a different reason than individually owned firms: community benefit. Some of the current discussion about NHOs occurs in the absence of consistent, accessible information about how community benefits are actually generated and delivered. That vacuum has allowed anecdote and assumption to substitute for fact, and it is therefore reasonable that Native Hawaiians—the intended beneficiaries of our enterprises—would want visibility into how those benefits are delivered over time. That interest is not a challenge to the program's legitimacy; it reflects a type of accountability to community that is in keeping with the spirit of NHO participation in the 8(a) Program.

We believe there is value in exploring whether there are voluntary, NHO-led ways to better communicate community impact that builds on current SBA reporting without creating new mandates, undermining consistency among Native programs, or turning community benefit into a compliance exercise. NHOs serve a diffuse, statewide Native Hawaiian population, and that structural reality matters when considering how benefits are communicated and understood. Native entities participate in the 8(a) Program under distinct governance models—sovereign, shareholder,

and nonprofit—and expectations around public reporting should reflect those differences rather than assume uniformity across Tribes, ANCs, and NHOs. Properly scoped, such an effort could strengthen trust, counter misinformation, and reinforce the integrity of the NHO model without unintended consequences.

IV. Closing

In closing, participation by Native entities in the 8(a) Program rests on Congress's constitutional authority over Indian affairs and the political trust relationship between the Federal Government and Native peoples—not on race-based preferences. Through hundreds of statutes and Federal actions, Congress has affirmed its trust responsibility to Native Hawaiians alongside American Indians and Alaska Natives.

Through the 8(a) program, NHOs are delivering measurable value to the Federal Government, performing mission-critical work across civilian and defense agencies, and doing so under a framework that preserves acquisition integrity and accountability. Concurrently, those same contracts are generating durable, visible benefits for Native Hawaiian communities as specifically intended by Congress when it authorized participation in the 8(a) program.

That linkage matters. Mission performance and community impact are not separate outcomes in the 8(a) Program. They are structurally connected. When the program functions properly, the Federal Government receives capable partners and a resilient industrial base, taxpayers receive value, and Native communities gain tools for genuine economic self-determination.

Accountability also matters. NHOA supports robust, fact-driven oversight that deters and minimizes noncompliance and abuse without undermining the core features that make the program effective. Preserving balance across accountability, flexibility, and scale are what will allow the program to continue delivering for all 8(a) stakeholders, including the Federal Government. The record shows that when Native entity-owned firms are given the opportunity to perform, the result is sustained strength across our nation and in our local communities.

We thank the Committee for its leadership and respectfully urge continued attention to ensuring parity in Federal policies affecting all Native peoples, so that economic self-determination can be advanced fairly, lawfully, and effectively.

Respectfully,

Cariann Ah Loo

Cariann Ah Loo
President, Native Hawaiian Organizations Association