

# GAO Highlights

Highlights of [GAO-14-706](#), a report to the Chairman, Subcommittee on Financial and Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate

## Why GAO Did This Study

SBA's 8(a) program is one of the federal government's primary means for developing small businesses owned by socially and economically disadvantaged individuals. To ensure that 8(a) firms do not pass along the benefits of their contracts to their subcontractors, regulations limit the amount of work that can be performed by subcontractors. In 2013, the Small Business Act was amended to make several changes related to these subcontracting limitations. GAO was asked to review how federal agencies and small businesses monitor the amount of subcontracted work under 8(a) contracts and the potential effects of the changes to the Small Business Act.

This report examines (1) the extent to which contracting officers and firms monitor compliance with 8(a) subcontracting limits and (2) the implementation status of changes to the Small Business Act and potential effects. GAO reviewed a nongeneralizable sample of 10 8(a) contracts at the three agencies with highest 8(a) obligations in fiscal years 2011 and 2012. GAO selected a small sample to delve more deeply into the circumstances of the contracts. GAO also examined the amendments to the Small Business Act.

## What GAO Recommends

GAO recommends that the OFPP Administrator take the appropriate steps to amend the FAR to reflect contracting officers' responsibilities for monitoring 8(a) subcontracting limits and require 8(a) contractors to regularly report on the amount of subcontracted work. OFPP agreed with GAO's recommendations.

View [GAO-14-706](#). For more information, contact Michele Mackin at (202) 512-4841 or [mackinm@gao.gov](mailto:mackinm@gao.gov).

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## 8(a) SUBCONTRACTING LIMITATIONS

### Continued Noncompliance with Monitoring Requirements Signals Need for Regulatory Change

## What GAO Found

Similar to prior GAO findings from April 2006 and January 2012, contracting officers are generally not collecting information on the amount of subcontracted work performed under the 8(a) contracts reviewed, as required. The amount of work prime contractors must perform differs according to what is being procured. For example, the subcontractor's personnel costs are not to exceed 50 percent of the total work under service contracts. Two of the contracting officers associated with the 10 contracts GAO reviewed had monitored and ensured that the subcontracting limitations were not exceeded. In these cases the contractors had been asked to provide necessary information. In the other cases, however, contracting officers did not monitor and were not fully aware of what they were required to do, in part because their responsibilities are not set forth in the Federal Acquisition Regulation (FAR), the primary source for federal procurement policies, to which they regularly turn for guidance. Instead, these responsibilities are outlined in agency agreements with the Small Business Administration (SBA).

| Reasons Contracting Officers Cited for Not Ensuring Compliance with Subcontracting Limitations                                            | Total |
|-------------------------------------------------------------------------------------------------------------------------------------------|-------|
| Not responsible for monitoring compliance with subcontracting limitations                                                                 | 2     |
| Not fully aware of responsibilities in agency agreements with SBA                                                                         | 5     |
| Did not have access to information on the extent of subcontracted work                                                                    | 6     |
| Primarily concerned with contractors satisfactorily performing the contracted services but not compliance with subcontracting limitations | 6     |

Source: GAO analysis of interviews with nine contracting officers. | GAO-14-706

Note: Some contracting officers cited more than one reason. One contracting officer was not available for interview due to separation from the agency.

All 10 contractors GAO met with stated that they maintain and are willing to provide information to demonstrate compliance with subcontracting limitations, if required. While all 8(a) contracts GAO reviewed must comply with the limitations, 5 of the 10 contracts had an increased risk of exceeding these limits. These situations, which underscore the need to monitor, included cases where a subcontractor had been the prime contractor under a prior contract for the same or similar work.

In January 2014, SBA took an initial step in the federal rule making process by announcing that it was drafting a rule to implement the amendments to the Small Business Act. It will take more actions and could take years, however, to incorporate any changes into the FAR, which is maintained by a council chaired by the Administrator of the Office of Federal Procurement Policy (OFPP). Contracting officers and contractors stated that pending changes could make it easier to determine compliance with subcontracting limitations. At the same time, however, contractors had some concerns that it could be more challenging to comply because previously excluded subcontracted costs, such as materials, will be considered as subcontracted work. Contractors said that new monetary penalties—a minimum of \$500,000—for violating subcontracting limitations are high but would encourage firms to perform the required amount of work.