

Preserving the 8(a) Program's Sole-Source Authority

Why the Department of the Army's April 7, 2026 Acquisition Memo Is Counterproductive

Summary. On April 7, 2026, the Department of the Army issued an acquisition policy memorandum directing contracting activities to prefer competition over sole-source awards in the SBA 8(a) Business Development Program "to the maximum extent practicable." The memo arrives alongside the February 20, 2026 revisions to FAR Part 19 (released under the Revolutionary FAR Overhaul, RFO) and a January 16, 2026 SECWAR review requirement for small business awards above \$20 million. Taken together, these actions narrow a small, congressionally-authorized contracting channel that *already delivers* what current procurement policy is trying to build elsewhere: speed, fixed-price discipline, and small-business participation. The data does not support a premise of 8(a) overuse.

This paper presents five findings drawn from a full analysis of federal contract data, FY2018-FY2025.

1. 8(a) sole-source awards are highly competitive — competition occurs before the award decision.

The framing of "sole-source" as the absence of competition misreads how 8(a) contracting actually works. Contracting officers conduct market research, issue requests for information, hold industry days, evaluate capability statements, and run informal mini-competitions in the manners that best serve their agency needs among the 8(a) firms in their agency's pool — all before designating a single award recipient under sole-source authority. The competitive pressure is real; it simply occurs at the front end of the procurement rather than through a formal solicitation.

The breadth of the participant pool confirms this. Across FY2018-FY2025, between 760 and 820 distinct 8(a) firms received sole-source awards in each fiscal year — a stable, broad universe of small businesses, not a captured channel. Between 83 and 98 distinct federal sub-agencies used 8(a) sole-source authority each year, indicating widely distributed contracting-officer judgment across the government rather than concentration in a few offices.

The operational efficiency of this approach is measurable. For Army awards above the Simplified Acquisition Threshold, FY2020-FY2024, the median 8(a) sole-source award closed in 24 to 43 days from solicitation to award. The median full-and-open competitive award required 43 to 58 days — meaning 8(a) sole-source procurements were typically between 26% and 51% faster, in every year. In a department whose stated priority is warfighting readiness, that speed advantage is a feature of the system, not a flaw to be regulated away.

2. 8(a) sole-source is not overused — it is a small and well-governed share of federal contracting.

Discretionary use of the 8(a) program by federal contracting officers is the relevant baseline question. The data shows the program is not overused — by any reasonable measure.

Across the eight-year period, 8(a) sole-source obligations averaged approximately \$1.1 billion per year, ranging from \$694 million (FY2020) to \$1.8 billion (FY2021). By comparison, competitive 8(a) obligations averaged approximately \$21 billion per year — roughly 18 times the sole-source dollar volume. The program is overwhelmingly competitive in dollar terms; sole-source is the smaller pathway *within 8(a) itself*, not the dominant one.

Within the broader universe of federal sole-source awards, the 8(a) share is small. Sole-source obligations to 8(a) firms represented between 0.34% and 0.94% of all federal sole-source dollars in any given year. Sole-source obligations to non-8(a) firms — the remaining 99.02% to 99.66% — flow predominantly to large prime contractors with no equivalent statutory guardrails (see Point 4). The Army memo's competition preference, applied to the 8(a) program, addresses a category that represents under 1% of federal sole-source activity.

3. Sole-source 8(a) awards save the Department of War millions in protest costs.

Under 15 U.S.C. § 637(a) and FAR 19.805-2, 8(a) sole-source awards are not subject to GAO bid protest on competitive grounds — a deliberate design choice by Congress to enable rapid, low-friction contracting with disadvantaged small businesses. Each protest the Department of War avoids represents direct cost savings.

GAO data show federal agencies handled approximately 1,800-2,200 protests annually in recent fiscal years, with an effectiveness rate near 50% (meaning agencies took corrective action in about half of cases). RAND and DoD-IG analyses estimate the fully-loaded cost of a protested procurement — including delay, re-solicitation, legal defense, and program disruption — at \$100,000 to \$750,000 per protest, with complex DoD procurements at the higher end. With thousands of 8(a) sole-source awards issued each year that are statutorily protected from protest, the cumulative avoided cost runs into hundreds of millions of dollars over a multi-year period. The Army memo's competition preference will move some portion of these awards into protest-exposed channels, increasing the Department's litigation surface area and slowing acquisitions that are currently fast.

4. Roughly 99% of federal sole-source dollars go to non-8(a) firms — concentrated in a handful of large primes with no statutory guardrails.

If a policy concern about sole-source contracting exists, the 8(a) program is the wrong place to focus. The relevant data:

Across FY2018-FY2025, between 99.02% and 99.66% of all federal sole-source obligations went to non-8(a) firms. **For every \$1 in sole-source obligations going to an 8(a) firm, non-8(a) firms received between \$101 and \$289.** In FY2020, the gap was \$289 to \$1. The eight-year average is approximately \$169 to \$1.

Concentration among the largest contractors is striking. The top 5 prime contractors received between \$77 billion and \$116 billion in sole-source obligations each year — representing 46% to 58% of all federal sole-source dollars annually. **Five firms receive roughly half of every sole-source dollar the federal government obligates.** The top 20 primes receive 70% to 78% of the total. In FY2020, the top 5 primes

alone received more than 167 times what every 8(a) firm in the federal contracting system received combined in sole-source obligations.

These large primes operate under none of the statutory constraints that govern 8(a) firms. There are no limitations on subcontracting, no fixed-price preference, no developmental mission. By contrast, 8(a) firms must self-perform the majority of work, face strict size and ownership requirements, and operate under SBA program oversight. The Army memo applies competition pressure to the structured, accountable channel while leaving the unstructured, concentrated channel untouched.

5. The new follow-on release authority threatens the 8(a) program's developmental purpose.

The February 20, 2026 RFO revision to FAR 19.108-11 authorizes federal agencies to release follow-on procurements from the 8(a) program and set them aside for other small-business categories. The Army memo cites this authority directly. The legal status of this provision is contested — 13 C.F.R. § 124.504(d) requires SBA concurrence for follow-on release, and SBA regulation generally controls over FAR provisions on questions of program-specific authority — but the practical effect is already being signaled to agencies.

The 8(a) program is, by statute, a business development program. Its core purpose is to graduate participating firms into self-sustaining federal contractors after a nine-year participation period. That mission depends on contract continuity: a firm that wins an 8(a) award develops past-performance history, hires staff against the work, and builds the capacity to compete in the open market. If every contract end becomes a potential exit point for that work from the program, the developmental runway collapses. The 8(a) program would become a series of one-off awards rather than a coherent capacity-building system.

This is the most consequential long-term structural change embedded in the current package of acquisition revisions. Even if no single award is moved out of the 8(a) program under the new authority, the prospect of follow-on release alters firm investment behavior — discouraging hiring, capital expenditure, and the long-horizon planning that produces graduated firms.

The April 30, 2026 Executive Order on fixed-price contracting targeted approximately \$120 billion in federal consulting work for cost discipline. Those dollars do not flow to 8(a) firms; they flow to large prime contractors. The 8(a) program already delivers what that EO seeks elsewhere — 8(a) firms obligate 71% to 76% of their dollars under fixed-price contracts, compared to 52% to 59% for the rest of the federal government, a gap of roughly 18 to 20 percentage points that holds in every year of the data.

Asking 8(a) firms to absorb the procurement friction of the April 7 Army memo, on top of the documentation burden of RFO Part 19 and the SECWAR review threshold, places the cost of a procurement-reform agenda on precisely the small businesses that agenda claims to champion.

Conclusion and recommended action.

The April 7, 2026 Army memorandum is a well-intentioned acquisition policy that misreads the empirical record. The 8(a) program is not overused, is overwhelmingly competitive, delivers measurable speed and fixed-price advantages over the rest of federal contracting, and serves the veteran- and service-disabled-veteran-owned small businesses the broader administration agenda claims to support.

Sources: All federal contract data points are derived from analysis of USASpending.gov contract action files, FY2018-FY2025. Memo and regulatory references: U.S. Department of the Army, Office of the Deputy Assistant Secretary (Procurement), April 7, 2026; SBA Federal Acquisition Regulation Part 19 Revisions (Revolutionary FAR Overhaul), February 20, 2026; SECWAR Memorandum on Small Business Sole-Source and Set-Aside Awards, January 16, 2026; DPCAP Class Deviation 2026-00001, January 21, 2026; Executive Order on Fixed-Price Contracting, April 30, 2026; Schwabe, Williamson & Wyatt LLP analysis, April 2026. Protest cost figures: U.S. GAO Annual Reports to Congress on Bid Protests, FY2022-FY2024; RAND Corporation, "The Cost of Bid Protests" (2018).