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Acquisition

Contract Actions Awarded
to Small Businesses
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BPA	Blanket Purchase Agreement
DSSW	Defense Supply Service - Washington
FAR	Federal Acquisition Regulation
FSS	Federal Supply Schedules
GAO	General Accounting Office
GSA	General Services Administration
IG DoD	Inspector General of the Department of Defense
NAICS	North American Industry Classification System
NASA	National Aeronautics and Space Administration
SBA	Small Business Administration



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Contracting officials throughout DoD should read this report because it addresses the need for being fair to contractors and obtaining the best value for the Government, including fair and reasonable prices, when issuing orders under Federal Supply Schedules.

We initiated this audit to determine whether contracting officials followed established procedures when awarding orders to small businesses using General Services Administration Federal Supply Schedules and whether contracting officials used appropriate market research.

We reviewed 124 contract actions awarded at 16 contracting offices during FYs 2000 and 2001. Each of the actions was valued at more than \$0.5 million and collectively totaled \$891.5 million. Seventy-three of these actions, valued at \$254.4 million, were awarded to small businesses using General Services Administration Federal Supply Schedules. Fifty-one actions, valued at \$637.1 million, were awarded to small businesses either on a sole-source basis or by competition where only 1 proposal was received.

Contracting officials did not make adequate efforts to use market research, competition, and the huge buying power of DoD as a basis for obtaining good prices. Contracting officials did not comply with the Federal Acquisition Regulation and the General Services Administration Special Ordering Procedures when awarding 71 of 73 orders using Federal Supply Schedules. The value of the 71 orders was \$249.3 million. Each of the 71 orders had 1 or more of the following problems:

- inadequate or no review of contractor pricelists (15 of 17 orders for products, or 88 percent; 36 of 44 orders for services, or 82 percent; and 9 of 12 orders for a combination of products and services, or 75 percent);
- no request for discounts (45 of 64 orders, or 70 percent);
- inappropriate use of sole-source orders instead of seeking multiple sources (31 of 73 orders, or 42 percent); and
- inadequate review of labor hours, labor mixes, and labor rates (49 of 56 orders, or 88 percent).

As a result, there is no assurance that the Government paid fair and reasonable prices or obtained best value for the 71 Federal Supply Schedule orders. More specific guidance from the Under Secretary of Defense for Acquisition, Technology, and Logistics would increase the likelihood of DoD obtaining good pricing from orders issued using Federal Supply Schedules. See finding A for details of the results and recommendations.

Contracting officials also did not effectively use market research techniques to obtain competition and better pricing for contracts awarded to small businesses in which Federal Supply Schedules were not used. For 17 of 51 contract actions reviewed, contracting officials made sole-source awards to small businesses without convincing sole-source justifications. The value of the 17 orders was \$131.6 million. Contracting officials also awarded 6 of the 51 contract actions on a competitive basis knowing that only 1 offeror was likely to submit a proposal. The value of the six contract actions was \$219.6 million. As a result, other eligible small businesses were not considered. Inadequate price reasonableness determinations were also made, and problems related to the use of the Truth in Negotiations Act continue to exist. See finding B for the details of the results and recommendations.

Four prior Inspector General of the Department of Defense audits identified price reasonableness and Truth in Negotiations Act problems similar to the problems in this report. Accordingly, DoD needs to take an aggressive role in monitoring its contracting officials.

The Director, Defense Procurement generally concurred with 12 of the recommendations. The Director deferred taking action on clarifying guidance related to orders for products and services placed on Federal Supply Schedules, including the General Services Administration special ordering procedures in the Federal Acquisition Regulation pending the outcome of the contentious Federal Acquisition Regulation Case 99-603. The Director disagreed with developing a trend analysis to measure the progress made in obtaining competition and multiple sources through the market research process claiming that there was no database available that included a metric to measure the increase in competition solely attributable to market research. A discussion of management comments is in the Findings section of the report and the complete text is in the Management Comments section.

We believe that the Director needs to take aggressive action to clarify guidance on orders from the Federal Supply Service since the Federal Acquisition Regulation case has been ongoing for over 3 years and its outcome is doubtful. We did not intend that new databases or metrics be developed to measure the increase in competition solely attributable to market research. The intent of our recommendation was for DoD to determine whether DoD is increasing its use of market research when awarding contracts. We request the Director, Defense Procurement provide comments in response to the final report by January 15, 2003.

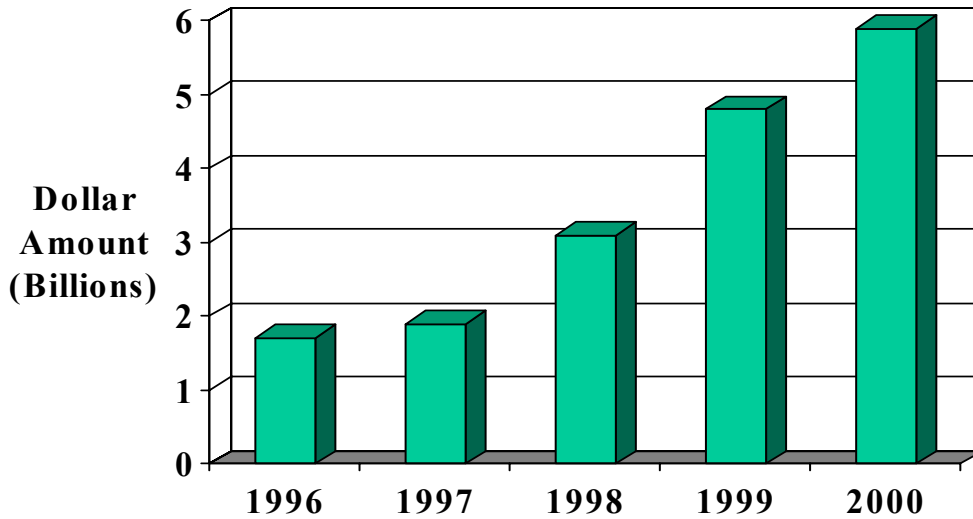
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We performed this audit as a result of issues identified in prior Inspector General of the Department of Defense (IG DoD) audits. See Appendix B for details. We reviewed orders awarded to small businesses using Federal Supply Schedules (FSS). Eleven FSS orders were issued using DoD blanket purchase agreements (BPAs) that DoD Components had entered into with FSS contractors in accordance with the Federal Acquisition Regulation (FAR) Part 8, "Required Sources of Supplies and Services." See Appendix C for FSS orders issued using BPAs. We also reviewed non-FSS contract actions awarded to small businesses in accordance with FAR Part 19, "Small Business Programs."

The General Services Administration (GSA) FSS are usually large contracts through which Federal customers can acquire more than 4 million products and services directly from more than 8,000 commercial suppliers. Under the FSS, GSA enters into contracts with commercial firms, for a fee, to provide supplies and services at stated prices for given periods of time. Orders are placed directly with the schedule contractor, and deliveries are made directly to the customer. The FSS offer a vast array of brand name products, from office supplies and copier paper to office furniture and computers, and services ranging from accounting and graphic design to landscaping.

Use of FSS by Government agencies, including DoD, has increased significantly during the last several years for a variety of reasons, including ease of use and reductions in acquisition time. DoD is the largest user of the FSS. Figures from the Federal Procurement Data System show for FY 2000 that DoD accounted for 55 percent (\$5.6 billion) of dollar purchases from the GSA FSS. To assist contracting officers with GSA purchases, GSA has an online ordering system. This system, GSA Advantage!, is available to any Internet user 24 hours a day, 7 days a week, and contains more than 1 million products and services.

GSA charges a 1 percent fee for using FSS contracts. This fee is passed on to the DoD customer through the contractor's price. Using the 1 percent fee as the basis, and information extracted from the Federal Procurement Data System, DoD incurred, at a minimum, \$56 million in fees in FY 2000 for using the GSA FSS.



The following figure shows the value of DoD orders under the FSS from FY 1996 through FY 2000.

From April 1999 to September 2001, the IG DoD issued four reports that state that DoD was not adequately competing procurements or obtaining fair and reasonable prices. This report addresses the same type of problems and shows that the lack of competition and no assurance of fair and reasonable prices are continuing problems.

Inspector General, GSA report, "MAS [Multiple Award Schedule] Pricing Practices: Is FSS Observing Regulatory Provisions Regarding Pricing?," August 24, 2001, stated that the Federal Supply Service was not consistently negotiating most-favored customer pricing and many multiple award schedule contract extensions were accomplished without adequate price analysis. The Inspector General, GSA was concerned that post-award audits had been discontinued, and the number of pre-award audits it was performing at the request of contracting officers had decreased significantly. The report identified that although 211 pre-award audits had been performed in FY 1990, only 94 pre-award audits were performed in FY 1996 and 23 pre-award audits performed in FY 2000. Instead of GSA pre-award audit coverage increasing in proportion with the increased number of FSS contracts being awarded, pre-award audit coverage was decreasing.

Therefore, prudent use of FSS is required, especially for high dollar orders. In our opinion, DoD, as the largest user of FSS should be in a position to demand more pre-award audits to verify the continued validity and competitiveness of the FSS prices.

A General Accounting Office (GAO) report, GAO-01-25, "Contract Management: Not Following Procedures Undermines Best Pricing Under GSA's Schedule," November 28, 2000, stated that DoD contracting officers did not follow GSA established procedures intended to ensure fair and reasonable prices when awarding FSS orders for information technology services. The report noted that the FAR does not make distinctions between services and products and that the regulation did not inform contracting officers that GSA Special Ordering Procedures for services even exist. GAO recommended that the Administrator, Office of Federal Procurement Policy, as chair of the Federal Acquisition Regulatory Council take steps to revise the FAR to incorporate the requirements contained in the ordering procedures for services to obtain competitive quotes. Although the Administrator, Office of Federal Procurement Policy agreed with the GAO recommendation, the Office of Federal Procurement Policy is still in the process of revising the FAR to incorporate the requirements contained in the ordering procedures for services to obtain competitive quotes. Our audit was broader than the GAO report and found additional examples of the same problems identified in the GAO report.

Our objective was to determine whether contracting officials awarded orders to small businesses using General Services Administration Federal Supply Schedules in accordance with FAR Part 8. Furthermore, we determined whether adequate market research was performed for small business contract actions awarded on a sole-source basis or competitively when only one proposal was received. See Appendix A for a discussion of the audit scope and methodology and the review of the management control program.

Contracting officials did not comply with the FAR and GSA Special Ordering Procedures when awarding 71 of 73 FSS orders to small businesses for products and services. The value of the 71 orders was \$249.3 million. Each of the 71 orders had 1 or more of the following problems:

- inadequate or no review of contractor pricelists (15 of 17 orders for products, or 88 percent;* 36 of 44 orders for services, or 82 percent;* and 9 of 12 orders for a combination of products and services, or 75 percent);*
- no request for discounts (45 of 64 orders, or 70 percent);*
- inappropriate use of sole-source orders instead of seeking multiple sources (31 of 73 orders, or 42 percent);* and
- inadequate review of labor hours, labor mixes, and labor rates (49 of 56 orders, or 88 percent).*

This occurred because FAR and GSA guidance were confusing, and contracting officials made inaccurate interpretations of the guidance. As a result, there is no assurance that the Government paid fair and reasonable prices for products and services obtained from small businesses using the schedules.

FAR 8.404(a), “General,” provides that orders for products and services placed against multiple-award schedules are considered to be issued using full and open competition and that ordering offices need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business programs. It also provides that GSA has already determined the prices of items under schedule contracts to be fair and reasonable. By placing an order against a schedule using the procedures in FAR Part 8, the ordering office has concluded that the order represents the best value and results in the lowest overall cost alternative considering price, special features, and administrative costs to meet the Government’s needs.

* Judgment sample percentage does not generalize to universe.

FAR 8.404(b), "Ordering Procedures for Optional Use Schedules," provides more specific guidance depending on the dollar amount of awards. FAR 8.404(b)(1), "Orders at or Below the Micro-Purchase Threshold," provides that orders can be placed with any FSS contractor if the order is at or less than the micro-purchase threshold, which is currently \$2,500. FAR 8.404(b)(2), "Orders Exceeding the Micro-Purchase Threshold But Not Exceeding the Maximum Order Threshold," provides that contracting officials place orders with the schedule contractor that can provide the supply or service that represents the best value. Contracting officials should also consider reasonably available information about the supply or service offered under multiple-award schedule contracts by using the GSA Advantage! online shopping service, or by reviewing catalogs or pricelists of at least three schedule contractors for orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold. FAR 8.404(b)(3), "Orders Exceeding the Maximum Order Threshold," provides that contracting officials review additional schedule contractors' catalogs or pricelists or use the GSA Advantage! online shopping service and generally seek price reductions from schedule contractors appearing to provide the best value for orders exceeding the maximum order threshold, which varies by schedule. The maximum order threshold is the point where it is advantageous for the ordering office to seek a price reduction. FAR 8.404(b)(4), "Blanket Purchase Agreements," authorizes agencies to establish BPAs for recurring requirements using the FSS ordering procedures.

In March 1998, GSA developed special instructions for ordering services priced at hourly rates under the FSS. In March 2000, these instructions were updated to become Ordering Procedures for Services. These procedures provide instructions for issuing FSS orders for both services that require a statement of work and for services and products that do not require a statement of work. For FSS orders requiring a statement of work, contracting officials are required to send a request for competitive quotes to three FSS contractors for orders valued for more than the micro-purchase threshold up to the maximum order threshold. Contracting officials are required to provide a request for competitive quotes to additional contractors for orders that exceed the maximum order; however, the guidance does not specify how many additional quotes should be obtained. Contracting officials are also required to consider the level of effort and mix of labor proposed to perform a specific task and make a determination that the total firm-fixed price or ceiling price is fair and reasonable prior to issuing FSS orders for services. GSA also developed a Multiple Award Schedules Program Owner's Manual that should be used by contracting officials to implement the GSA Special Ordering Procedures.

Contracting officials are required to use the GSA Advantage! online shopping service or review the pricelists from at least three FSS contractors for orders that do not have a statement of work when orders exceed the micro-purchase threshold up to the maximum order threshold. Contracting officials should review additional price lists or use the GSA Advantage! online shopping service and seek price reductions from FSS contractors for orders awarded for more than the maximum order threshold. Although GSA Special Ordering Procedures take precedence over the procedures in FAR 8.404(b)(2) through

(b)(3), there is no mention of these procedures in FAR Part 8. In addition, the Special Ordering Procedures are difficult to locate on the Internet.

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Section 803 places more stringent requirements on contracting officials awarding FSS orders. It requires contracting officials to compete FSS orders for purchases of services in excess of \$100,000 or to justify waivers of this requirement.

The competition for FSS orders will increase the likelihood that competitive prices are obtained because contracting officials will be comparing quotes that include special pricing arrangements and discounts, as opposed to merely reviewing contractor schedules. Contracting officials will also be required to perform additional analyses when making determinations of fair and reasonable prices.

The legislation, when incorporated into the procurement regulations, should strengthen competitive procedures for purchasing services. However, it does not address discounts on high dollar awards for products. Additional guidance is needed for the use of sole-source orders since the legislation does not impose new procedures for placement of sole-source orders. Prudent contracting should result in better prices as quantities rise.

We reviewed 73 FSS orders to small businesses for products, services, or a combination of both, valued at \$254.4 million, at 13 DoD contracting offices. See Appendix C for a list of orders reviewed. Seventeen of the orders, valued at \$39 million, were for products; 44 orders, valued at \$103.3 million, were for services; and 12 orders, valued at \$112 million, were for a combination of both products and services. The value of each order exceeded \$0.5 million.

The following table provides a breakdown of FSS orders reviewed by DoD Component.

DoD Component	Offices Visited	FSS Orders Reviewed	Value (Millions)
Army	5	34	\$ 69.0
Navy	3	11	54.3
Air Force	3	18	79.4
Defense Logistics Agency	1	5	13.1
Defense Information Systems Agency	1	5	38.6

Contracting officials did not follow procedures in FAR Part 8 for obtaining best value when awarding orders for products and GSA Special Ordering Procedures for obtaining price reasonableness when awarding orders for services. FAR Part 8 requires that contracting officers review contractor catalogs or pricelists or use the GSA Advantage! online shopping service when buying products. GSA Special Ordering Procedures require contracting officers to request contractor quotes when buying services. In addition, DoD did not maximize its position as the largest user of FSS to obtain favorable pricing (discounts) and in all likelihood, paid prices similar to other Federal agencies that made lower volume purchases. As a result, there was no assurance that DoD obtained best value or fair and reasonable prices. Table 2 summarizes the problems identified during the audit, and Appendix E shows the details relating to each contract.

Problem Areas	Number of Occurrences/Universe	Percent	Value of Number of Occurrences
Inadequate or No Review of Contractor Pricelists	60/73	82*	\$206 million
No Request for Discounts	45/64	70*	\$164 million
Inappropriate Use of Sole-Source Orders Instead of Seeking Multiple Sources	31/73	42*	\$98.9 million
Inadequate Review of Labor Hours, Labor Mixes, Labor Rates	49/56	88*	\$152.5 million

* Judgment sample percentage does not generalize to universe

Contracting officials could not demonstrate that they had performed the required reviews of contractor pricelists/catalogs, used the GSA Advantage! online shopping service, and requested discounts in accordance with FAR Part 8 and GSA Special Ordering Procedures when buying products. Contracting officials also could not show that they had requested quotes from multiple sources and requested discounts when buying services in accordance with GSA Special Ordering Procedures. These problems were related to orders for products, orders for services, and orders for a combination of products and services.

Seventeen of 73 orders reviewed were for products and were valued at \$39 million. Sixteen of the 17 orders were valued for more than the maximum order threshold. Contracting officials were unable to determine the maximum order threshold for the one remaining order. For 14 of the 16 orders awarded for more than the maximum order threshold, contracting officials responsible for the orders were unable to show that they reviewed catalogs/pricelists or used the Advantage! online shopping service to identify more than 3 FSS contractors. For the one order in which contracting officials could not identify the maximum order threshold, contracting officials were unable to provide documentation showing that they had, at a minimum, reviewed pricelists/catalogs from three FSS contractors or used the GSA Advantage! online shopping service.

An egregious example was order DASW01-00-F-4586, valued at \$655,490, for 370 Docuprint N2125 LaserJet printers and related supplies. On this order, the

contracting officer at Defense Supply Service-Washington (DSSW), now called Defense Contracting Command-Washington, did not follow the FAR and GSA Special Ordering Procedures, and also allowed the FSS contractor that was eventually awarded the order to determine whether other FSS contractors existed that could provide the product. There was no indication that the contracting officer attempted to identify multiple sources of the printer using the methods previously identified. Instead, DSSW contracting officials relied on a FSS contractor that supplied the printer to another Defense agency to perform the market research for them. The FSS contractor informed the contracting officer of the following:

I did some web surfing on this. I can't find anybody else that has this Xerox printer on GSA. I went to the Xerox web site and checked all of their GSA holders. Most of them had very few Xerox products at all. I did check a lot of other places as well. I don't know what else to do at this point.

We queried the GSA Advantage! online shopping service and identified six contractors other than the contractor awarded the order. Four of the 6 contractors offered a lower unit price for a quantity of 1 than the \$1,246 unit price awarded under order DASW01-00-F-4586 for a quantity of 370. These unit prices varied from \$1,208 to \$1,221. Had contracting officials complied with FAR Part 8 and GSA Special Ordering Procedures to identify FSS contractors that provided the printer, they could have obtained a better price than the price received. Also, the contracting officials should have recognized that requesting the FSS contractor that provided the printer to identify other contractors that provided the same product was a conflict of interest and put the contractor in the awkward position of having to identify other competitors. The contracting officer who awarded the order was no longer employed by the Defense Contracting Command-Washington.

Of the 73 FSS orders reviewed, 44 orders were for services. The value of the 44 orders was \$103.3 million. Of the 44 orders, 37 were for amounts higher than the maximum order threshold. For 29 of 37 orders valued higher than the maximum order threshold, contracting officials could not show that they followed FAR Part 8 procedures or that they had requested quotes from more than 3 contractors as required by the GSA Special Ordering Procedures. Contracting officials were also unable to show that they had obtained at least three quotes for three orders awarded below the maximum order level and for four orders in which they were unable to identify the maximum order level.

Contracting officials also did not follow FAR Part 8 and GSA Special Ordering Procedures when awarding 12 orders, valued at \$112 million, which included a combination of products and services. We identified problems with these orders similar to the problems previously discussed.

For example, for order DCA200-00-F-5418, valued at \$6.8 million for software, software support, and engineering and technical services, Defense Information Technology Contracting Office officials were unable to demonstrate

that they had performed a thorough review of the contractor's proposed cost for the product portion of the order or proposed labor hours, labor rates, and labor mixes for the services portion of the order, or that they had requested discounts.

In our opinion, contracting officials did not adequately support the overall price reasonableness determination for 9 of the 12 orders, which is a fundamental responsibility of a contracting officer when awarding a priced contract action.

Contracting officials did not use a common commercial practice associated with their huge buying power to obtain better pricing. Sixty-four of the 73 FSS orders reviewed were valued for more than the maximum order threshold in which contracting officials should have requested discounts. However, contracting officials requested and obtained discounts for only 19 of the 64 orders. Even though contracting officials obtained discounts for 19 orders, they were unable to explain the basis for determining that the discounts were fair or describe the basis for the overall discount. Usually, the contracting officials simply stated that discounts were good because they were a certain percentage lower than the GSA Schedule prices. They believed that because they got a discount (any amount) that the price was fair and reasonable.

For example, Army Communications-Electronics Command-Washington contracting officials were unable to show how they determined that the discounts obtained were deemed fair, or why discounts remained the same when the actual value of order No. 2 on FSS BPA DAAB07-98-A-6000 increased from \$6.8 million to \$15.8 million or 3,060 percent higher than the maximum order threshold. The order was for system engineering and technical assistance. Contracting officials stated that the discounts were based on the \$6.8 million order award amount, which was 1,270 percent higher than the \$0.5 million maximum order threshold.

During an interview, the Naval Fleet Industrial Supply Center, Norfolk Detachment, Washington D.C., contract specialist assigned to order N00600-00-F-2095 stated that he had no idea how discounts of \$1.3 million based on \$18 million of funded requirements were determined or whether they were adequate. The estimated value of this order—for project management, information technology consulting, and hardware/software—was \$50 million, which would be incrementally funded over 5 years.

FAR Part 8 and GSA Special Ordering Procedures only require contracting officials to seek discounts for orders exceeding the maximum order threshold. In our opinion, this does not go far enough to ensure that DoD receives fair discounts in proportion to the amount of products and services being acquired. The Under Secretary of Defense for Acquisition, Technology, and Logistics should issue guidance instructing DoD contracting activities to not only seek discounts for orders exceeding the maximum order threshold but also explain why discounts were not received or explain how discounts received were determined to be reasonable.

There should be a conscientious effort to obtain the best terms and prices because DoD accounts for 55 percent of the dollar purchases from GSA FSS.

Contracting officers should also document that they sought discounts on all orders that exceed maximum order thresholds, explain how they determined that discounts obtained were fair, or explain why discounts were not received.

For 31 orders, valued at \$98.9 million, contracting officials developed justifications using the guidance in FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements,” while claiming that the same orders were competed in accordance with FAR Part 8. A contracting official stated that documentation supporting the use of sole-source orders did not have to go through the approval process because these orders were considered competed. Sole-source orders may be appropriate for low dollar orders; however, sole-source orders should not be authorized for the high dollar purchases exceeding maximum order thresholds. Table 3 provides a breakdown of these sole-source orders by DoD Component.

DoD Component	Orders Issued	Dollar Value (Millions)
Army	16	\$32.0
Navy	7	23.2
Air Force	3	3.5
Defense Logistics Agency	2	4.3
Defense Information Systems Agency	3	35.9

For 41 orders for services, valued at \$96.3 million, and 8 orders for a combination of products and services, valued at \$56.1 million, contracting officials were unable to demonstrate that they performed a thorough review of labor hours, labor rates, and labor mixes as required by GSA Special Ordering Procedures. Accordingly, the overall best value or price reasonableness determinations for each of these FSS orders lacked support.

For example, when asked if a review of labor hours had been performed for FSS order DASW01-00-F-3926, valued at \$1.4 million for data management support, the DSSW contracting officer stated that labor hours do not matter, only labor rates and that they mainly go with price, not hours. In our opinion, contracting officials should have supported an overall price reasonableness determination based on the results of an analysis of the labor rates, labor hours, and labor mixes.

Contracting officials were confused with the guidance related to the award of orders using FSS. For example, FAR Part 8 does not differentiate between products and services for evaluating best value. Although additional procedures for FSS orders for services and products are contained in GSA Special Ordering Procedures, these procedures are not even mentioned in FAR Part 8 although they take precedence over procedures in FAR Part 8.

Contracting officials were also confused about their authority to issue sole-source orders against FSS. The confusion about whether sole-source orders are authorized was evident in both orders for products and services. The primary cause for this confusion is that both FAR Part 8 and GSA Special Ordering Procedures are silent on whether sole-source orders are authorized for orders placed on FSS. A prior version of the GSA Multiple Award Schedules Program Owner's Manual stated that sole-source orders were not authorized; however, this statement does not appear in the GSA current manual. As a result, contracting officials were unsure whether the sole-source orders were authorized. In our opinion, contracting officials included the sole-source justification in the contract files to document that only a single contractor was considered by the requiring organization. Also, the language of FAR Part 8 had allowed contracting officials to award FSS orders without making overall determinations of price reasonableness when awarding sole-source orders. If sole-source orders are allowed, contracting officials should restrict their use to low dollar orders.

FSS previously contained maximum order limitations, which put a ceiling (usually a dollar amount) on the use of the FSS contract. FSS no longer includes maximum order limits. Instead, the FSS contains a maximum order threshold that acts as a trigger point for customers to seek additional price reductions. This change allows FSS contractors to accept any order regardless of size. Contracting officials awarded 64 of the 73 FSS orders reviewed higher than the maximum order level. FAR 8.404(b)(3) and GSA Special Ordering Procedures require contracting officials to use prudence in determining pricing by seeking price reductions and considering additional FSS contractors prior to issuing orders that exceed the maximum order threshold.

Contracting officials confused maximum order limits with maximum order thresholds, and as a result, were not aware that they should be requesting discounts.

For example, on order F41691-99-F-8111, valued at \$5.1 million, issued by Randolph Air Force Base, we asked the contracting official whether a discount had been requested from the FSS contractor because its value exceeded the maximum order threshold. The contracting official stated that the maximum order thresholds had been eliminated and, accordingly, discounts were not requested. The contracting official confused maximum order limits with the maximum order thresholds and therefore was not aware that contracting officials should have requested a discount. The Military Departments and Defense agencies need to train contracting personnel in the use of FSS to eliminate the confusion.

Procedures for issuing FSS orders under FAR Part 8 are unclear, subject to interpretation, and do not include the GSA Special Ordering Procedures. Contracting officials believed that GSA had made competition and price reasonableness determinations when the contractors were included on the FSS. Accordingly, contracting officials believed they did not have to make best value or price reasonableness determinations when issuing FSS orders. As a result, contracting officials cited FAR Part 8 as their rationale why they had not performed additional price reasonableness analysis.

Contracting officials interpreted FAR 8.404(a) to mean that they need not perform any steps related to competing or making best value or price reasonableness determinations prior to issuing orders using FSS. FAR 8.404(a) states that orders for products and services placed against multiple-award schedules are considered issued using full and open competition. It also states that ordering offices need not seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business programs. FAR 8.404(a) also provides that GSA has already determined the prices of items under schedule contracts to be fair and reasonable and that by placing an order against a schedule using the procedures in this section, the ordering office has concluded that the order represents the best value and results in the lowest overall cost alternative, considering price, special features, and administrative costs to meet the Government's needs.

For example, the file for Defense Information Technology Contracting Office order DCA200-00-F-5261, valued at \$1.5 million, for the purchase of Harris radio sets contained documentation stating:

Since this order will be placed against a GSA schedule, in accordance with FAR 8.404(a), [we] need not seek further competition, synopsise the requirement or make a separate determination of fair and reasonable pricing.

The documentation also referenced FAR 8.404(b)(2) stating:

FAR 8.404(b)(2) suggests that agencies may wish to [take] further steps to ensure that award of an order under GSA schedule over \$2,500 represents the best value and meets the agency's needs at the lowest overall cost when the information is reasonably available considering administrative costs.

However, there was no mention of FAR 8.404(b)(3), which requires contracting officials to review additional schedule contractors' catalogs or pricelists or use the GSA Advantage! online shopping service and generally seek price reductions from schedule contractors for orders exceeding the maximum order threshold. FAR 8.404(b)(3) was applicable because the order value exceeded the maximum order threshold.

A DSSW contracting official incorrectly interpreted FAR Part 8 on FSS order DASW01-00-F-3918, valued at \$1.2 million, for professional services and systems support for the management, implementation, and execution of Office of Small and Disadvantaged Business Utilization programs. She believed that the order did not have to be competed because it was awarded under the section 8(a) program and was less than the \$3 million threshold requiring competition, in accordance with FAR 19.805-1(a)(2). The official was not aware that according to FAR 8.404(a), FAR Part 19, "Small Business Programs," does not apply to orders placed against FSS.

A Defense Logistics Agency contract specialist made an incorrect interpretation of FAR Part 8 when issuing order No. 35, valued at \$3.2 million, under FSS BPA SP4700-98-A-0007. The contract specialist stated "On GSA" as the entire reason for soliciting only one source. During an interview, the contracting officer assigned to the contract could not provide any additional documentation describing why a sole-source order was necessary and could not determine whether discounts had been either requested or obtained. She stated that the price was reasonable because it was obtained from a GSA schedule.

Because the amount of DoD expenditures using GSA FSS continues to increase (see figure in the Background section), it is imperative that DoD properly train contracting officials in the use of these schedules. Training in the use of FSS could be obtained through a variety of methods.

Section 821 of the FY 2001 Defense Authorization Act provided that the Secretary of each Military Department shall establish at least one center of excellence in contracting for services. Each center of excellence should assist the acquisition, technology, and logistics community by identifying and disseminating best practices in contracting for services in the public and private sectors. Because DoD uses the FSS to procure services, it would seem logical to include training on the use of FSS as a responsibility for the centers of excellence. We believe these centers are ideal for providing training and assistance to contracting officials in the proper use of FSS.

A National Aeronautics and Space Administration (NASA) Inspector General audit report, IG-02-014, "NASA Acquisition of Services Using the Federal Supply Schedules," dated March 27, 2002, stated that upon request, GSA had provided FSS training to NASA contracting personnel at one NASA center. The NASA report also stated that NASA should pursue this training for all agency contracting officers involved in the acquisition of services. Because DoD is the largest Federal user of the FSS, we believe DoD should also make arrangements with GSA to provide training to its contracting officers. As a result of this training, contracting officials would have a better understanding of their responsibilities when using FSS, including the request for discounts.

The lack of clear guidance for issuing orders using FSS along with contracting officials not seeking competitive quotes and requesting discounts has significantly affected the ability of DoD to maximize its position as the largest user of FSS to obtain services and products at the best prices. Comparing quotes and requesting discounts from at least three FSS contractors would go a lot further to ensure best value than just comparing prices from contractor FSS schedules. It is imperative that contracting officials consider all FSS contractors especially when procuring services and receive quotes from at least three FSS contractors. Contracting officials must adequately support decisions and award sole-source orders through the appropriate approval process. It is also important that contracting officials document their basis for determining best value and price reasonableness.

Purchasing from FSS at predetermined prices saves time. However, contracting officials need to identify as many FSS contractors as possible to ensure that the customer is getting the best value or fair and reasonable prices. Ease of use and significant reductions in acquisition time do not relieve contracting officials from obtaining competition or providing fair opportunities to compete for orders. Accordingly, contracting officials need to shop for fair prices and seek discounts. As the number of FSS continue to rapidly expand, the need for more attention to price reasonableness is critical.

The
Director questioned how the \$60 million in fees was arrived at since the report stated that GSA had charged a 1 percent fee for \$5.6 billion of purchases from GSA FSS in FY 2000.

The \$60 million in fees cited in the draft report was an estimate based on 1 percent of \$6 billion in purchases under FSS contracts. We changed the report to \$56 million in fees based on figures from the Federal Procurement Data System for FY 2000.

The Director requested that the section of the report related to FSS orders for services be clarified that 37 orders reviewed were above the maximum order threshold.

We revised the report to clarify that the orders were above the maximum order level.

The Director pointed out that Section 803 pertains to only services and not products.

We amended the conclusion section of the report to state that contracting officials consider all FSS contractors especially when procuring services.

The Director, Defense Procurement concurred, and stated that she would send a memorandum to the contracting community addressing this issue within 90 days of the issuance of this final report.

The Director, Defense Procurement concurred, stating that the memorandum described in response to Recommendation A.1.a. would also address this recommendation.

The Director, Defense Procurement partially concurred, stating that when using FSS for services exceeding \$100,000, contracting officers will be required to provide fair notice of the intent to make purchases to as many FSS contractors as practical, to reasonably ensure that offers will be received from at least three contractors that can fulfill the work

requirements. If less than three contractors can fulfill the work requirements, the contracting officer will be required to document the efforts made to obtain three offers and the efforts to ensure all offers received were fairly considered. The Director stated that Section 803 would be implemented in the Defense Federal Acquisition Regulations and that the Director was working with the Defense Acquisition University to revise training to emphasize the need to completely document the file.

The Director, Defense Procurement comments meet the intent of our recommendation.

The Director, Defense Procurement partially concurred, agreeing that contracting officers will be required to consider labor hours, labor rates, and labor mixes when awarding orders for services except when FSS contain firm-fixed prices for a particular service. The Director also stated that this issue is being addressed in the memorandum cited in her response to Recommendation A.1.a.

The Director, Defense Procurement comments were partially responsive. The comments meet the intent of our recommendation as long as the firm-fixed prices for particular services represent a total firm-fixed price that includes labor hours, labor rates, and labor mixes, not just firm-fixed price labor rates, and as long as the memorandum cited in the response to Recommendation A.1.a. clarifies this issue. In response to the final report, we ask that the Director provide additional comments clarifying that firm-fixed prices for particular services represent a total firm-fixed price and not just firm-fixed price labor rates.

The Director, Defense Procurement partially concurred, stating that FAR Case 99-603, Federal Supply Schedule Services and Blanket Purchase Agreements, addressed the clarification of guidance related to orders placed on Federal Supply Schedules. The Director stated that the FAR case was contentious and had been going on since 1999. The Director stated that implementation of this recommendation would depend on the outcome of this case.

The Director, Defense Procurement comments were not responsive. Resolution of the FAR case is uncertain. We believe that the Director needs to take immediate steps to clarify the guidance related to orders for products and services placed on Federal Supply Schedules. If guidance is

not clarified, problems identified in this report as well as in GAO Report No. GAO-01-25 will continue and prices obtained from FSS will be questionable. In response to the final report, we ask that the Director, Defense Procurement provide additional comments on interim steps to clarify guidance until the FAR case is resolved.

The Director, Defense Procurement partially concurred, stating FAR Case 99-603 addresses the special ordering procedures and implementation of the recommendation will depend on resolution of the case.

The Director, Defense Procurement comments were not responsive. We agree with GAO that the General Services Administration special ordering procedures need to be included in the Federal Acquisition Regulation. In response to the final report, we ask that the Director, Defense Procurement provide additional comments on making DoD contracting officers aware of the General Services Administration special ordering procedures until the FAR case is resolved.

The Director, Defense Procurement concurred and stated that the memorandum cited in her response to Recommendation A.1.a. would reemphasize the guidance in this area.

The Director, Defense Procurement concurred and stated that the memorandum cited in her response to Recommendation A.1.a. would reemphasize the guidance in this area.

The Director, Defense Procurement concurred, stating that Defense Procurement is working with the Defense Acquisition University to update contracting courses to address these issues.

The Director, Defense Procurement partially concurred, stating that Section 803 covered this area and that she would defer final comment on this to GSA since the comment is addressed for their action.

The Director, Defense Procurement comments were not responsive. DoD, as the largest user of FSS, needs to ensure that its contracting officials are properly trained in the use of FSS. The Director states in Recommendation A.5. that Defense Procurement is working with the Defense Acquisition University to update contracting courses. The purpose of Recommendation A.6. is to include GSA into the process of identifying the type of courses needed to train DoD contracting officials. In response to the final report, we ask that the Director, Defense Procurement provide additional comments as to how DoD and the General Services Administration will coordinate training for DoD contracting officers on the use of Federal Supply Schedules.

Contracting officials awarded 23 of 51 (45 percent)* contract actions reviewed to small businesses on a noncompetitive basis without performing adequate market research. This occurred because contracting officials did not aggressively use available market research techniques to identify additional sources. Additionally, contracting officials awarding 7 of the 51 contract actions did not comply with the requirements of the Truth in Negotiations Act. As a result, other eligible small business contractors may have been excluded from consideration during these awards, and DoD did not obtain the best prices. Price competition has been found to reduce costs by about 25 percent over sole-source awards. If competition and similar price reductions had occurred on these 23 contract actions, valued at \$164.2 million, costs could have been reduced by \$41.1 million.

FAR 2.101 defines market research as “collecting and analyzing information about capabilities within the market to satisfy agency needs.” Market research is performed in order to identify the most suitable approach to acquiring a product or service and to ensure that all potential sources are identified.

FAR Part 10 states research must be conducted before:

- developing new requirements,
- soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold,
- soliciting offers for acquisitions less than the simplified acquisition threshold when adequate information is not available and circumstances justify its cost, and
- soliciting offers for acquisitions that could lead to a bundled contract.

FAR 15.403-4(a)(1) states that the threshold for obtaining cost or pricing data is \$550,000. FAR 15.403-1(b), “Exceptions To Cost or Pricing Data Requirements,” provides exceptions from obtaining cost or pricing data.

*Judgment sample percentage does not generalize to universe.

The exceptions are when:

- the price is based on adequate price competition,
- prices are set by law or regulation,
- a commercial item is being acquired,
- a waiver has been granted, and
- contracts or subcontracts for commercial items have been modified.

We reviewed 51 non-FSS contract actions, valued at \$637.1 million, which were awarded to small businesses on a noncompetitive basis. See Appendix D for a list of orders reviewed. The following table provides a breakdown of non-FSS orders reviewed by DoD Component.

DoD Component	Offices Visited	Non-FSS Contract Actions Reviewed	Value (millions)
Army	3	12	\$231.3
Navy	5	26	364.2
Air Force	2	9	36.4
Defense Logistics Agency	1	2	1.6
Defense Information Systems Agency	1	2	3.7

Contracting officials can use a variety of market research techniques to identify potential sources for requirements, such as contacting Small Business Administration (SBA) officials, reviewing recent market research of similar requirements, publishing formal requests for information, querying Government databases, querying Internet information

sources, obtaining source lists, reviewing catalogs, and holding pre-solicitation conferences. For all market research efforts, contracting officials should document the results in an appropriate manner.

Contracting officials did not perform adequate market research for 23 of the 51 non-FSS high dollar contract actions awarded to small businesses. There was no evidence of any market research efforts for 10 of the 23 contract actions and limited market research for 13 contract actions. While contracting officials may have complied with other statutory or regulatory provisions regarding competition, we believe market research was inadequate. When market research was performed, it usually consisted only of an announcement in the Commerce Business Daily. The following examples describe the lack of market research efforts for the contract actions. See Appendix D for a list of these contract actions.

Contracting officials at Hill Air Force Base stated that adequate market research was performed for contract F04606-97-C-0142, valued at \$13,820,791, issued on a sole-source basis to the incumbent contractor. The justification and approval document for the sole-source procurement stated that market research consisted solely of contacting the user community, and no other sources were identified. Contracting officials also requested a waiver from the SBA to award the contract on a sole-source basis. The SBA denied the request for a waiver, stating it had identified 480 firms that may be able to perform the proposed requirement. The SBA stated that it found it difficult to believe that at least two of these potential sources would not submit a proposal. Contracting officials chose not to consider the market research information provided by the SBA and awarded the contract on a sole-source basis to the incumbent contractor.

Contracting officials at Hill Air Force Base also claimed that competition occurred when awarding contract F42650-00-C-0127 after receiving one offer. Market research efforts for this contract consisted of posting the solicitation on the Internet and undocumented conversations the architect and engineering firm had with other capable contractors. We queried Pro-Net, an SBA Internet database, and identified over 2,500 firms that performed commercial and institutional building construction under the same North American Industry Classification System (NAICS) code identified in this contract. Had contracting officials done this, they would have identified additional sources for this requirement that could have resulted in receipt of multiple offers.

Contracting officials at the Naval Air Systems Command determined that adequate competition existed under contract N00421-00-D-0263, valued at \$8,030,027, for management support services after receiving one offer. This was a follow-on contract awarded to the incumbent contractor, who was awarded the prior contract on a sole-source basis. Because there was no evidence of adequate competition on the prior contract, market research should not have been limited to only an announcement in the Commerce Business Daily and the Naval Air Systems Command Web site.

Additional market research should have been performed using other techniques. According to Pro-Net, more than 1,600 firms perform work under the same NAICS code.

Contracting officials at the Space and Naval Warfare Systems Command relied on market research that was 2 years old to purchase communications equipment on contract N66001-00-D-5031, estimated at \$9.6 million. In an ever-changing marketplace, especially in the communications arena, market research that is 2 years old may not have accurately reflected the market at time of award.

Of 51 non-FSS contract actions, 44—valued at \$416.1 million—were awarded on a sole-source basis and 7 of the contract actions, valued at \$221 million, were awarded on a competitive basis when only 1 offer was received.

Documentation in the files did not adequately support the use of sole-source contract actions. Also, contracting officials were unable to demonstrate that adequate market research was performed when awarding sole-source contract actions. Justification and approval documents cited “only one responsible source” to justify the use of a sole-source contract, but lacked sufficient detail to support this exception. We questioned contracting officials’ use of sole-source contract actions for 17 of 44 sole-source contract actions reviewed, valued at \$131.6 million. For 13 of the 17 contract actions, small businesses competed with large businesses, 1 was awarded as a small business set-aside, and 3 of the 17 were section 8(a) set-asides. Each of the three contract actions were awarded higher than the competition threshold; \$5 million for acquisitions assigned NAICS codes and \$3 million for all other acquisitions. However, they were not competed among section 8(a) contractors as required by FAR 19.805-1, “General.” For 15 of the 17 contract actions, we also questioned the adequacy of market research performed. Had contracting officials performed adequate market research, they would have been able to better support a sole-source award or make competitive awards.

Contracting officials did not appear to take adequate steps to obtain competition for six of the seven contract actions reviewed, valued at \$219.6 million, because the only proposals received were from incumbent contractors. There was no evidence of either a realistic expectation for competition or that contractors other than the incumbent contractor would submit a proposal. The contracting officials’ position is contrary to the FAR. FAR 15.403-1(c)(1)(ii) indicates that competition should be based on at least two contractors by stating that cost or pricing data are not required if:

There was a reasonable expectation, based on market research or other assessment, that two or more responsible offers, competing independently, would submit priced offers in response to the solicitation’s expressed requirement, even though only one offer is received from a responsible offeror....

Contracting officials claimed that a competitive environment existed when only one offer was received after other contractors stated that they would not submit proposals because they had no chance of winning the award. No additional research was performed to locate other sources or to give intended parties assurance that they would be fairly considered.

For example, contracting officials at the Army Aviation and Missile Command claimed that competition occurred when awarding contract DAAH01-97-C-0324 for services in support of the Patriot Project Office after receiving one offer. However, other contractors stated that they did not submit a proposal due to the incumbent's extensive years of experience and that chances of winning the award were extremely low. One contractor commented:

it would be extremely difficult if not impossible to overcome the incumbent contractors apparent "solid" position with the technical customer.

In our opinion, contracting officials need to fully support decisions and supporting statements on sole-source determinations and provide evidence that a reasonable expectation for competition exists prior to issuing the solicitation. If there is no reasonable expectation that the Government will receive two offers, then cost and pricing data should be required pursuant to FAR Part 15. When initial efforts indicate no likelihood of competition, contracting officials should document that they aggressively pursued other techniques and strategies.

Contracting officers did not comply with Truth in Negotiations Act procedures under FAR 15.403-1(b) and FAR 15.403-4(a)(1) for 7 of the 51 contract actions reviewed, valued at \$97.8 million, and as a result did not make adequate price reasonableness determinations for the 7 actions (1-Army and 6-Navy). See Appendix D for a list of these contract actions. Contracting officials were unable to explain why certified cost or pricing data were not obtained, or provide evidence that the adequate competition exception to obtaining cost or pricing data was valid. As a result, contracting officials did not protect the interests of the Government for contract actions involving defective pricing.

As a result of IG DoD Report No. D-2001-129, "Contracting Officer Determinations of Price Reasonableness When Cost or Pricing Data Were Not Obtained," May 30, 2001, the Director of Defense Procurement issued a memorandum dated March 21, 2002, emphasizing the importance of price reasonableness determinations. The memorandum discusses the need to obtain information on prior prices for similar products, perform a thorough price analysis, and provide adequate documentation to explain the contracting officer's price reasonableness determination. The memorandum detailed a plan to monitor 20 major contracting activities in the Military Departments and Defense agencies that are pricing a substantial amount of

The underlying goal of market research is to identify as many potential sources as possible. By not taking a more aggressive approach towards market research, additional eligible small business contractors are excluded from consideration, and DoD loses the benefits of competition. Price competition has been found to reduce costs by about 25 percent over sole-source procurements. If competition and similar price reductions had occurred on these 23 actions, valued at \$164.2 million, costs could have been reduced by \$41.1 million.

The Director, Defense Procurement concurred, stating that Defense Procurement was working with the Defense Acquisition University to update contracting courses to address these issues. The Director, Defense Procurement also stated that these issues would be reemphasized in the memorandum cited in her response to Recommendation A.1.a.

The Director, Defense Procurement nonconcurred, stating that market research contributes to increased competition; however, there is no database that includes a metric that could be used for measuring the increase in competition solely attributable to market research. The Director, Defense Procurement also stated that the cost to establish such a metric would outweigh any potential benefit.

The Director, Defense Procurement comments are partially responsive. We did not intend that new databases or metrics be developed. The intent of our recommendation was for DoD to determine whether DoD is increasing its use of market research when awarding contracts. We envisioned data calls to the Military Department and Defense agency procurement executives for selected information and an analysis as to whether increased use is being made of market research. We believe that

competition advocates at contracting activities should be emphasizing use of market research in outreach training to requiring offices to promote competition and can report on progress in obtaining competition and multiple sources through the market research process. In response to the final report, we ask that the Director, Defense Procurement provide additional comments.

The Director, Defense Procurement concurred, stating that this issue will be addressed in the memorandum cited in her response to Recommendation A.1.a.

We judgmentally sampled 124 actions awarded by 16 contracting offices during FYs 2000 and 2001. We used the DD350 database to select actions valued greater than \$0.5 million, and collectively totaled \$891.5 million. Seventy-three of these actions, valued at \$254.4 million, were awarded to small businesses using GSA FSS. Fifty-one actions, valued at \$637.1 million, were non-FSS contract actions awarded to small businesses.

We examined delivery orders, statements of work, negotiation memorandums, price analyses, and miscellaneous correspondence. We interviewed contracting personnel and officials from GAO and GSA. We also reviewed FAR and GSA rules and procedures pertinent to the award of orders issued using FSS. We performed this audit from June 2001 through May 2002 in accordance with generally accepted government auditing standards.

We did not evaluate the general and application controls relating to the DD350 database system that processes the contract action reports, although we relied on data produced by that system during the audit. We did not evaluate the controls because the information was used only to obtain the universe data and actions selected for review and to perform a trend analysis on GSA schedule orders awarded by DoD contracting organizations. After we selected the actions for review, we verified data on each action by reviewing the contract files at the contracting organizations. Accordingly, we only used the DD350 data as a starting point and not evaluating the controls did not affect the results of the audit.

The General Accounting Office has identified several high-risk areas in the DoD. This report provides coverage of the Defense Contract Management high-risk area.

DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996, require DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

We reviewed management control procedures related to orders awarded to small businesses using FSS. Specifically, we were concerned about whether contracting officials followed established procedures when awarding orders to small businesses using GSA FSS. We were also concerned about whether contracting officials used adequate market research techniques

when awarding contract actions to small businesses on a sole-source basis and on a competitive basis when only one proposal was received.

We identified a material management control weakness as defined by DoD Instruction 5010.40. Army, Navy, Air Force, Defense Logistics Agency, and Defense Information Systems Agency management controls were lacking to ensure that contracting officials adequately competed and made overall price reasonableness determinations on orders awarded to small businesses using GSA FSS and for contract actions awarded to small businesses in general. Recommendations A. and B. will help correct the management control weakness. A copy of the report will be provided to the senior officials responsible for management controls within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics; the Defense Information Systems Agency; and the Defense Logistics Agency.

DoD contracting organizations did not specifically identify orders awarded to small businesses using GSA FSS or contract actions awarded to small businesses, in general, as assessable units and, therefore, did not identify or report the material management control weakness identified by the audit.

GAO Report No. GAO-01-125, "Contract Management: Not Following Procedures Undermines Best Pricing Under GSA's Schedules," November 28, 2000

IG DoD Report No. D-2001-189, "Multiple Award Contracts for Services," September 30, 2001

IG DoD Report No. D-2001-129, "Contracting Officer Determinations of Price Reasonableness When Cost or Pricing Data Were Not Obtained," May 30, 2001

IG DoD Report No. D-2001-102, "Service Contracts at the National Security Agency," April 17, 2001 (Confidential)

IG DoD Report No. D-2000-100, "Contracts for Professional, Administrative, and Management Support Services," March 10, 2000

IG DoD Report No. 99-116, "DoD Use of Multiple Award Task Order Contracts," April 2, 1999

IG NASA Report No. IG-02-014, "NASA Acquisition of Services Using the Federal Supply Schedules," March 27, 2002

IG GSA Special Report, "MAS Pricing Practices: Is FSS Observing Regulatory Provisions Regarding Pricing?," August 24, 2001

1) DAAB32-00-F-0010	Service	\$926,818.00	\$500,000.00	\$426,818.00	85.4	No				
2) DAAB32-01-F-0249	Service	1,063,330.74	Could Not Determine	Could Not Determine	Could Not Determine	No				
3) DAAB32-01-F-0227 (This Order Was Cancelled)	Service	1,003,270.24	Could Not Determine	Could Not Determine	Could Not Determine	No				
4) DAAB15-00-A-0007/0001*	Service	2,063,245.00	500,000.00	1,563,245.00	312.6	Yes				
5) DAAB07-98-A-6000/0002*	Service	15,803,427.79	500,000.00	15,303,427.79	3060.7	Yes				
6) DAAB15-99-A-1002*	Both	8,856,803.00	500,000.00	8,356,803.00	1,671.4	Yes				
7) DABT63-00-A-1023/0004*	Service	1,137,418.00	500,000.00	637,418.00	127.5	No				
8) DAAE20-00-F-0044	Product	3,730,340.00	1,000,000.00	2,730,340.00	273.0	No				
9) DASW01-00-F-5121	Service	565,000.00	500,000.00	65,000.00	13.0	No				
10) DASW01-00-F-8895	Product	586,862.60	500,000.00	86,862.60	17.4	No				

* Orders issued from a FSS blanket purchase agreement.

24) DASW01-00-F-4424	Both	500,082.02	500,000.00	82.02	0.02	No							
25) DASW01-00-F-5294	Both	701,981.34	1,000,000.00	(298,018.66)	(70.2)	No							
26) DASW01-00-F-3968	Service	726,783.40	Could Not Determine	Could Not Determine	Could Not Determine	No							
27) DASW01-00-F-4704	Both	1,272,833.90	500,000.00	772,833.90	154.6	Yes							
28) DASW01-00-F-4251	Service	835,760.20	500,000.00	335,760.20	67.2	No							
29) DASW01-00-F-5075	Service	2,492,228.60	500,000.00	1,992,228.60	398.4	No							
30) DASW01-00-F-4625	Service	699,921.41	1,000,000.00	(300,078.59)	(70)	No							
31) DASW01-00-F-3918	Service	1,968,723.18	500,000.00	1,468,723.18	293.7	No							
32) DASW01-00-F-4586	Product	655,490.00	500,000.00	155,490.00	31.1	No							
33) DASW01-00-F-4185	Service	952,537.88	Could Not Determine	Could Not Determine	Could Not Determine	No							
34) DASW01-00-F-5076	Service	977,144.83	500,000.00	477,144.83	95.4	No							

35) N65236-00-F-0570	Product	1,029,970.00	500,000.00	529,970.00	106	No							
36) N65236-98-A-7914, DO J198*	Product	3,030,101.00	500,000.00	2,530,101.00	506	Yes							
37) N65236-98-A-7914, DO J217*	Product	3,552,811.63	500,000.00	3,052,811.63	610.6	Yes							
38) N00421-00-F-0387	Service	1,933,144.76	500,000.00	1,433,144.76	286.6	No							
39) N00421-00-F-0860	Service	799,145.85	1,000,000.00	(200,854.15)	(79.9)	No							
40) N00421-99-F-5746	Service	533,702.02	500,000.00	33,702.02	6.7	No							
41) N00421-00-F-0819	Product	1,502,096.00	Could Not Determine	Could Not Determine	Could Not Determine	No							
42) N00421-99-F-5664	Service	6,640,025.35	1,000,000.00	5,640,025.35	564.0	No							
43) N00600-00-F-2095	Both	18,000,967.73	1,000,000.00	17,000,967.73	1,700.1	Yes							
44) N00600-00-F-0125	Service	7,606,807.68	500,000.00	7,106,807.68	1,421.4	Yes							

* Orders issued from a FSS blanket purchase agreement.

56) FA8770-00-F-0037	Service	863,273.46	500,000.00	363,273.46	72.7	Yes							
57) FA8770-00-F-8026	Product	884,352.00	500,000.00	384,352.00	76.9	Yes							
58) FA8770-00-F-8040	Service	3,385,038.77	500,000.00	2,885,038.77	577.0	Yes							
59) FA8770-99-F-8020/0003	Service	1,373,265.18	500,000.00	873,265.18	174.7	Yes							
60) FA8770-99-F-8018/0002	Service	2,954,075.84	500,000.00	2,454,075.84	490.8	Yes							
61) FA8770-00-F-8003	Service	3,215,503.00	500,000.00	2,715,503.00	543.1	Yes							
62) FA8770-00-F-0030	Service	1,023,774.62	500,000.00	523,774.62	104.8	Yes							
63) FA8770-99-F-8016/0004	Service	1,703,987.41	500,000.00	1,203,987.41	240.8	Yes							
64) DCA200-99-F-5381	Both	22,545,553.52	1,000,000.00	21,545,553.52	2,154.6	No							
65) DCA200-00-F-5418	Both	6,860,000.00	500,000.00	6,380,000.00	1,276	No							
66) DCA200-00-F-5261	Product	1,457,392.69	500,000.00	957,392.69	191.5	No							

67) DCA200-00-F-5072	Service	6,424,837.01	500,000.00	5,924,837.01	1,184.5	No			
68) DCA200-00-F-5293	Product	1,259,218.00	500,000.00	759,218.00	151.8	No			
69) SP4700-99-A-0021/0069*	Both	1,094,572.63	500,000.00	594,572.63	118.9	No			
70) SP4700-00-A-0004/0002*	Service	1,156,054.45	500,000.00	656,054.45	131.2	No			
71) SP4700-98-A-0007/0035*	Product	3,150,048.80	500,000.00	2,650,049.00	530.0	No			
72) SP4700-99-A-0021/0079*	Product	1,690,808.00	500,000.00	1,190,808.00	238.2	No			
73) SP4700-99-A-0021/0116*	Product	5,997,912.00	500,000.00	5,497,912.00	1,099.6	No			

* Orders issued from a FSS blanket purchase agreement.

1) DAAE20-99-C-0094		\$6,000,000.00										
2) DAAE20-00-D-0020		18,129,300.00	X						X			X
3) DAAE20-98-C-0089		2,525,050.00										
4) DAAH01-97-V-0324		177,691,331.00									X	
5) DAAH23-00-C-0313		4,860,000.00										
6) DAAH23-00-C-0311		1,045,674.00										
7) DAAH23-99-C-0064		702,464.50										
8) DAAH23-99-C-0189		4,032,486.40	X									
9) DAAH01-00-C-0106		4,768,080.96	X						X			
10) DAAH01-99-C-0072		5,297,155.00	X						X			
11) DAAH01-00-C-0091		5,800,000.00										
12) DABT63-00-A-1009/0004		413,968.80	X						X			

13) N65236-00-D-5071	5,000,000.00		X						X
14) N65236-99-D-5047	5,000,000.00								
15) N65236-99-C-5834	6,759,520.00	X							X
16) N65236-99-C-5830	5,626,767.00								
17) N65236-98-D-7813	31,978,803.00	X	X						X
18) N65236-99-D-7825	9,707,607.00	X	X						
19) N66001-00-D-5031	9,647,920.00								
20) N66001-00-C-5077	2,464,645.00								
21) N66001-98-C-0021	9,382,282.00								
22) N66001-00-D-5022	9,956,014.00								
23) N66001-98-C-5025	8,645,556.00								
24) N66001-97-D-5018	6,101,705.00	X	X						X

48) DCA200-98-G-0005/0007	1,161,108.00								
49) DCA200-97-G-0002/0018	2,535,542.60	X	X						
50) SP4700-99-A-0021/0076	715,362.80	X	X						
51) SP4700-99-A-0027/0001	855,410.00	X	X						
Totals:		23	17	6	7				

1) DAAE20-00-F-0044		\$3,730,340	X	X	X					
2) DASW01-00-F-8895		586,863	X	X	X					
3) DASW01-00-F-3918		1,968,723	X	X	X		X			X
4) DASW01-00-F-4625		699,921	X	X						X
5) DASW01-00-F-5075		2,492,229	X	X	X					X
6) DASW01-00-F-4586		655,490	X	X	X					
7) DASW01-00-F-5050		679,019	X	X						X
8) DASW01-00-F-3926		1,413,023	X	X	X					X
9) DASW01-00-F-4556		725,948	X	X	X					X
10) DASW01-99-F-0689		1,568,120	X	X	X				X	X
11) DASW01-00-F-5457		2,089,861	X	X	X				X	X

56) FA8770-00-F-8026		884,352	X							
57) FA8770-00-F-0030		1,023,775	X				X			X
58) FA8770-00-F-0037		863,273	X				X			X
59) FA8770-99-F-8018/P00002		2,954,076								X
60) FA8770-00-F-8003		3,215,503								X
61) FA8770-99-F-8020/P00003		1,373,265								X
62) DCA200-00-F-5418		6,880,000	X				X			X
63) DCA200-00-F-5261		1,457,393	X				X			
64) DCA200-00-F-5293		1,259,218					X			
65) DCA200-00-F-5072		6,424,837	X				X			X

66) DCA200-99-F-5381		22,545,554	X	X	X	X	X	X	X	X
67) SP4700-99-A-0021/0116		5,997,912	X	X	X	X	X	X	X	X
68) SP4700-99-A-0021/0069		1,094,573	X	X	X	X	X	X	X	X
69) SP4700-99-A-0021/0079		1,690,808	X	X	X	X	X	X	X	X
70) SP4700-98-A-0007/0035		3,150,049	X	X	X	X	X	X	X	X
71) SP4700-00-A-0004/0002		1,156,054	X	X	X	X	X	X	X	X

Under Secretary of Defense for Acquisition, Technology, and Logistics
Director, Defense Procurement
Under Secretary of Defense (Comptroller)/Chief Financial Officer
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Director for Acquisition Initiatives

Assistant Secretary of the Army (Financial Management and Comptroller)
Auditor General, Department of the Army

Naval Inspector General
Auditor General, Department of the Navy

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force

Director, Defense Information Systems Agency
Director, Defense Logistics Agency

Inspector General, General Services Administration
Office of Management and Budget/Office of Federal Procurement Policy

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Committee on Small Business and Entrepreneurship
House Committee on Appropriations
House Committee on Small Business
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services

House Committee on Government Reform
House Subcommittee on Government Efficiency, Financial Management, and
Intergovernmental Relations, Committee on Government Reform
House Subcommittee on National Security, Veterans Affairs, and International
Relations, Committee on Government Reform
House Subcommittee on Technology and Procurement Policy, Committee on
Government Reform



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

September 16, 2002

DF/CPA

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE,
DEPARTMENT OF DEFENSE INSPECTOR GENERAL

✓ THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *RA*

SUBJECT: Draft OIG Report, "Contract Actions Awarded to Small Businesses,"
dated July 9, 2002, Project No. D2001CF-0133 *Mon 9/12/02*

This memorandum provides our comments regarding the findings and recommendations of the subject draft report. This report pertains to a sampling of contracts awarded to small businesses using GSA Federal Supply Schedules and market research procedures.

Please direct questions regarding our comments to Ms. Karen Clougherty,
703-614-6719.

Deidre A. Lee
for Deidre A. Lee
Director, Defense Procurement

Attachment:
As stated



DoDIG DRAFT REPORT DATED JULY 9, 2002
REPORT NO. D2001CF-0133

“CONTRACT ACTIONS AWARDED TO SMALL BUSINESSES”

DEPARTMENT OF DEFENSE COMMENTS

GENERAL COMMENTS:

Much of the quantitative analysis is based on numbers of actions and the corresponding percentages. However, from a risk assessment standpoint, the report would be considerably more useful, if the analysis also included the dollars and corresponding percentages for the various quantitative comparisons.

Page 1, fourth paragraph, fourth sentence: it is not clear what the \$60 million in fees is based on given that 1% of the \$5.6 billion stated in the prior paragraph as DOD purchases from GSA FSS would equate to \$56 million.

Some of the findings on Pages 7 and 8 could be related to file documentation issue (such as those required by FAR 8.404(b)(2)). We are working with DAU to revise training to emphasize the need to completely document the file.

Page 9, first paragraph, fifth sentence: 37 orders were issued above the maximum order threshold according to the second sentence but this sentence characterizes the 37 orders as under the maximum order threshold. This needs to be corrected or clarified.

Under the paragraph “Issued Orders on a Sole-Source Basis Instead of Seeking Multiple Sources” on Page 10, please note that we are still required to go to three sources or to process sole source per GSA procedures and FAR 8.404(b)(2) (over the micro purchase limit).

Page 11, paragraph one discusses confusing guidance – there is a DAR case in process to correct this.

Page 12, paragraph one (last two sentences): FAR 8.404(b)(2) requires contracting officers to go to at least 3 sources and FAR 8.404(b)(1) allows micro purchase procedures. Paragraph 3 on Page 12 mentions that discounts were not requested because the maximum order thresholds was eliminated. We would like to emphasize that the contracting officer is supposed to ask for discounts.

Additional
Information
Added. See
pages 43-47

Revised

Pages 7, 8,
and 9

Page 9,
Third
Paragraph,
Revised

Page 11

Page 12

Page 12,
Paragraph 2
and 3

Page 13, second paragraph discusses the requirements of FAR 8.404(a). We would like to point out that FAR 8.404(b) discusses the requirement to do the competition within the schedule.

Page 13,
Paragraph 3

Page 15, Conclusion, discusses “that contracting officers consider all FSS contractors capable of providing products or performing services and receive quotes from at least three FSS contractors.” As DLA pointed out in their comments to us, these comments should be changed to eliminate the word “all” since “fair notice of intent” to make a purchase be provided to all schedule holders is the language in Section 803. It cites “as many as practicable” as long as the number is sufficient to ensure offers from at least three (pertains to services only—not products provided by FSSs).

Revised

Appendix D, page 36, the Navy advises that the contract number cited in subparagraph 32 has a typographical error that needs to be corrected as shown: Delete: N00244-00-D-0051; Insert: N00244-99-C-0051.

Appendix D,
Page 38,
Revised

COMMENTS ON SPECIFIC RECOMMENDATIONS:

RECOMMENDATION A1: We recommend that the Under Secretary of Defense for Acquisition, Technology and Logistics issue guidance:

a. Requiring contracting officers to consider the proposed prices of both the services and products when awarding orders for a combination of products and services.

DOD RESPONSE: Concur. Within 90 days of the issuance of this draft report as a final report, the Director of Defense Procurement will send a memorandum to the contracting community addressing this and areas as noted below.

b. Addressing the need to not only seek discounts for orders exceeding the maximum order threshold but also explain why discounts were not received or explain how discounts received were determined to be fair.

DOD RESPONSE: Concur. This is being addressed in the memorandum cited in Recommendation A1a.

c. Requiring contracting officers to fully document and support reasons for not considering all potential sources when awarding orders using Federal Supply Schedules.

DOD RESPONSE: Partially concur. Based on Section 803, when using schedules for services exceeding \$100,000, contracting officers will be required provide a fair notice of the intent to make the purchase to as many schedule contractors as practical, to reasonably ensure that offers will be received from at least three contractors that can

fulfill the work requirements. If less than three contractors can fulfill the work requirements, the contracting officer is required to document the efforts made to obtain three offers and the efforts to ensure all offers received were fairly considered. In all other cases, contracting officers will have to document not considering all contract holders and this will be addressed in our memo (cited in A1a, above). In addition to implementing Section 803 requirements in the DFARS, we are working with DAU to revise training to emphasize the need to completely document the file.

d. Requiring contracting officers to consider labor hours, labor rates, and labor mixes when awarding orders for services.

DOD RESPONSE: Partially concur: This is being addressed in the memorandum cited in Recommendation A1a (except when the schedules contain firm-fixed prices for a particular service).

RECOMMENDATION A2: Task the Defense Acquisition Regulations Council to coordinate with the Office of Federal Procurement Policy and the General Services Administration regarding a change to the FAR that will:

- a. Clarify guidance related to orders placed on Federal Supply Schedules.
- b. Include the GSA special ordering procedures in the FAR.

DOD RESPONSE: Partially concur. FAR Case 99-603, Federal Supply Schedule Services and Blanket Purchase Agreements, already has included the comments to a. and b. above. However, the case has been going on since 1999 and is contentious. The implementation of these recommendations will depend on the outcome of this case.

RECOMMENDATION A3: Request the General Services Administration (GSA) to revise its special ordering procedures to clearly state whether sole-source orders are authorized under Federal Supply Schedules. If authorized, issue instructions stating that sole-source orders are only authorized up to the maximum order threshold.

DOD RESPONSE: Concur. N/A for DoD - we will forward a request to GSA. We note that the report was distributed to GSA for direct input. The memorandum to be issued (see A1a) by our office will reemphasize the guidance in this area.

RECOMMENDATION A4: Request the General Services Administration to perform more pre-award audits on FSS contracts that DoD is a predominant customer to ensure that DoD obtains fair and reasonable prices.

DOD RESPONSE: Concur. N/A for DoD - we will forward a request to GSA. We note that the report was distributed to GSA for direct input. The memorandum to be issued (see A1a) by our office will reemphasize the guidance in this area.

RECOMMENDATION A5: Requires Military Departments to make training on the use of Federal Supply Schedules (FSS) available through their centers of excellence and develop a mechanism for Defense agency personnel to obtain training on the use of FSS.

DOD RESPONSE: Concur. Defense Procurement is working with DAU to update contracting courses to address these issues.

RECOMMENDATION A6: Coordinate with GSA to provide training to DoD contracting officers on the use of FSS.

DOD RESPONSE: Partially concur. Although Section 803 covered this area, we will defer final comment on this to GSA since the comment is addressed for their action.

RECOMMENDATION B1: Issue instructions requiring the Military Departments and Defense agencies to re-emphasize the importance of market research and train contracting personnel in the use of market research techniques and require contracting officers to fully document in the contract file market research efforts performed.

DOD Response: Concur. Defense Procurement is working with DAU to update contracting courses to address these issues and this will be reemphasized in our memorandum cited in Recommendation A1a.

RECOMMENDATION B2: Develop a trend analysis of the progress made in obtaining competition and multiple sources through the market research process. Such an analysis should be available for review within 18 months from the date of this report.

DOD RESPONSE: Non-concur. We agree that improved market research contributes to increased competition. For that reason, we agree to address market research in our policy memorandum. However, there is no database that includes a metric that could be used for measuring the increase in competition solely attributable to market research. The cost of establishing such a metric would outweigh any potential benefits.

RECOMMENDATION B3: Direct the Director of Defense Procurement to monitor the 9 contracting activities visited during this audit in addition to the 20 contracting activities identified in the Director, Defense Procurement memorandum of Mar 21, 2002.

DOD RESPONSE: Concur. This will also be addressed in the memorandum cited in our response to Recommendation A1a.

The Contract Management Directorate, Office of the Assistant Inspector General for Auditing of the Department of Defense prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

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