

GAO

Report to the Committee on Oversight
and Government Reform, House of
Representatives

September 2009

CONTRACT MANAGEMENT

Agencies Are Not
Maximizing
Opportunities for
Competition or
Savings under Blanket
Purchase Agreements
despite Significant
Increase in Usage



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Highlights of [GAO-09-792](#), a report to the Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

The Federal Acquisition Regulation (FAR) allows agencies to establish blanket purchase agreements (BPA) under the General Services Administration's (GSA) Schedules Program, where contracts are awarded to multiple vendors for commercial goods and services and made available for agency use. BPAs are agreements between agencies and vendors with terms in place for future use; funds are obligated when orders are placed. When establishing BPAs under schedule contracts, agencies must follow procedures regarding the number of vendors considered, request discounts, and conduct annual reviews in accordance with requirements. This report assesses selected agencies' use of schedule BPAs and evaluates whether they considered more than one vendor when establishing BPAs and placing orders under them, took opportunities for savings, and conducted annual reviews. To conduct this work, GAO reviewed a sample of 336 schedule BPAs and 352 fiscal year 2007 orders and met with officials.

What GAO Recommends

GAO recommends that the Office of Federal Procurement Policy (OFPP) clarify when establishing a BPA using the limited source justifications of the FAR is appropriate; increase competition under BPAs; and provide guidance on annual reviews. GAO also recommends that GSA assist agencies with language for discount requests. OFPP and GSA concurred with the recommendations.

View [GAO-09-792](#) or [key components](#). For more information, contact John Hutton at (202) 512-4841 or huttonj@gao.gov.

CONTRACT MANAGEMENT

Agencies Are Not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements despite Significant Increase in Usage

What GAO Found

In fiscal year 2008, civilian agencies obligated \$3.2 billion under schedule BPAs—up 383 percent from fiscal year 2004. GAO estimates that DOD's obligations ranged from \$0.5 to \$4.7 billion, placing total obligations in 2008 between \$3.7 and \$7.9 billion. GAO was unable to determine more fully DOD's obligations because DOD does not utilize fields in the federal procurement data system to distinguish schedule BPAs from other BPAs. DOD has begun to take actions to address this issue. Civilian agencies' use of BPAs for services grew significantly faster—475 percent—than their overall services contracting between 2004 and 2008. Contracting officers use BPAs for flexibility and speed, noting, for example, advantages in disaster response preparation and when funding for a fiscal year is unknown.

Of the BPAs GAO reviewed, 64 percent had been competed—meaning, for purposes of this report, that more than one vendor was considered—when established. For 12 percent of BPAs that had not been competed, contracting officers provided a variety of justifications, some of which appear inconsistent with sound procurement policy. The FAR is not clear about justification requirements for BPAs awarded with limited competition, including to one vendor. Also, the majority of BPAs had been awarded to a single vendor, which resulted in a lack of competition when placing orders because the FAR does not currently require competition of orders under single award BPAs. Multiple award BPAs—awarded to more than one vendor for the same requirement—provide an opportunity to benefit from further competition when placing orders, but many contracting officers placed orders directly with one vendor without further competition. Congress recently enhanced competition requirements for multiple award contracts, but the application of this requirement to schedule BPAs has not yet been established. Some of the BPAs GAO reviewed had lengthy durations, exceeding 5 years.

GAO found no evidence that agencies sought discounts when 47 percent of the BPAs reviewed were established. In the other cases, some contracting officers explicitly requested, or even demanded, discounts, while others merely encouraged them. Agencies frequently received discounts when they requested them. For instance, the Justice Department was able to save \$20 million under a BPA where the contracting officer requested and received discounts. However, at times, such opportunities were missed when discounts were not requested, even when the estimated amount of the BPA was in the hundreds of millions of dollars.

Contracting officials rarely conducted the required annual reviews. The reviews for only 19 of the 320 BPAs that required them addressed all of the FAR elements. By not conducting annual reviews, agencies miss opportunities for savings and can run the risk of violating competition requirements. One contracting officer was unaware that the underlying GSA schedule contract had expired, and orders continued to be placed under the BPA—a potential violation of the Competition in Contracting Act.

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Abbreviations

BPA	Blanket Purchase Agreement
CECOM	Communications and Electronics Command
CICA	Competition in Contracting Act
DFARS	Defense Federal Acquisition Regulation Supplement
DHS	Department of Homeland Security
DLA	Defense Logistics Agency
DOD	Department of Defense
EDA	Electronic Document Access
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Service Administration
NIH	National Institutes of Health
TACOM	Tank-Automotive and Armaments Command
TSA	Transportation Security Administration

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United States Government Accountability Office
Washington, DC 20548

September 9, 2009

The Honorable Edolphus Towns
Chairman
The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Federal contracting officers can choose from a variety of contracting mechanisms when buying goods and services. For example, they can award new contracts, issue orders under existing contracts at their agency, or issue orders under other agencies' contracts. The General Services Administration's (GSA) Schedules program is an interagency contracting mechanism used by many federal agencies. Under this program, GSA awards contracts to multiple vendors for commercially available goods and services and federal agencies place orders under the contracts. Agencies may establish blanket purchase agreements (BPA) under GSA's schedule contracts.¹ BPAs are intended to be a simplified method of fulfilling repetitive needs for supplies and services that also provide an opportunity to seek reduced pricing from vendors' schedule prices. Agencies may award BPAs to one vendor (known as a single award BPA) or to more than one vendor (multiple award BPAs), and then issue individual orders to fulfill requirements for goods and services as they arise.

BPAs are not contracts, but rather agreements between government agencies and vendors with terms and conditions, including prices, in place for future use. The Federal Acquisition Regulation (FAR) was amended in 2004 to require agencies to follow certain procedures when establishing and ordering from schedule BPAs and to document annual reviews to determine: whether each BPA still represents the best value; whether the GSA schedule contract under which the schedule BPA was established is still in effect; and whether the agency has exceeded its initial estimated purchase amount under the BPA, indicating a potential for discounts when more orders are placed.

¹Another type of BPA, known as a traditional BPA, does not rely on GSA schedule contract terms and conditions and is subject to different regulations than schedule BPAs. In the remainder of this report, we use the term "schedule BPAs" to refer to BPAs established under GSA schedule contracts.

You expressed interest in understanding more about federal agencies' use of schedule BPAs. Accordingly, we assessed (1) the extent to which agencies use schedule BPAs, what they buy with them, and why agencies use them; (2) whether agencies are competing BPAs and the orders under them; (3) whether agencies are taking advantage of opportunities for savings by seeking discounts when using these BPAs; and (4) whether agencies are conducting the required annual reviews.

To conduct our work for each objective, we used an electronic data collection instrument to review 336 schedule BPAs and the largest fiscal year 2007 order under each, the most recent available data at the time we began our work.² Our scope included five civilian agencies and three defense agency locations. We reviewed 263 BPAs from the following agencies: the departments of Agriculture, Health and Human Services, Homeland Security, and Justice and the Social Security Administration. These agencies represented roughly 80 percent of the civilian dollars obligated under schedule BPAs in fiscal year 2007, based on data provided by GSA from the Federal Procurement Data System-Next Generation (FPDS-NG), the government's primary database for information on procurement actions.³ Because the Department of Homeland Security (DHS) had obligated the largest dollar amount, we selected all 155 of the department's BPAs under which orders were placed during fiscal year 2007. Therefore, our findings reflect the full universe of DHS schedule BPAs used in fiscal year 2007. We selected a random sample of 30 schedule BPAs from each of the other four civilian agencies; our findings for those agencies are projectable to those agencies. We were unable to review 12 of the BPAs in our sample because some agencies could not locate the files.

Because the Department of Defense (DOD) does not use available codes in FPDS-NG to identify its schedule BPAs, our methodology for selecting the defense locations (discussed in app. I) was more complex. We reviewed a random sample of 29 BPAs used by the Marine Corps Systems Command, 30 from the Naval Air Systems Command, Naval Air Warfare Center, and all 14 of the schedule BPAs the Air Force District of Washington used

² We reviewed 352 orders because, in some cases, more than one agency or component had issued an order under the same BPA.

³ GSA does not maintain specific information on the schedule BPAs established by federal agencies.

during fiscal year 2007. Our findings are projectable only to the DOD locations selected.

To assess the extent to which agencies are using schedule BPAs, we analyzed data from FPDS-NG for fiscal years 2004 to 2008 for civilian agencies. For DOD, given the data limitation discussed above, we constructed an estimate of its fiscal year 2008 usage based on our analysis of 100 randomly-selected procurements that we identified as BPAs using DOD's contract naming system. We identified, via DOD's online contract retrieval system, those in our sample that were in fact schedule BPAs and applied this percentage to DOD's total spending under BPAs in general.

For each objective, we supplemented our file reviews with follow-up questions when documentation in the file was insufficient. When agency officials did not respond to our questions or did not provide documentation that supported their response, we report these responses as providing no evidence. We also spoke with over 60 contracting officials across the agencies in our review about their use of schedule BPAs. Moreover, we spoke with officials from GSA to discuss the agency's role with respect to schedule BPAs and FAR requirements for competition, discounts, and annual reviews. We spoke with officials from the Office of Federal Procurement Policy about policies concerning schedule BPAs.

A more detailed description of our scope and methodology is presented in appendix I.

As we describe in our methodology, we performed extensive tests to assess the reliability of the automated information we used to select our collection of BPAs. For example, we confirmed that the information contained in the automated records reflected the information contained in the contract files. We based our estimate of DOD's use of schedule BPAs on information we verified using automated images of the contract records. Accordingly, we believe that the data we used to support our findings are reliable for our intended purposes.

We conducted this performance audit from June 2008 to August 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The FAR states that a BPA is a simplified method of filling anticipated repetitive needs for supplies or services that functions as a “charge account,” with terms and conditions agreed upon when the BPA is established. A BPA is not a contract; therefore, the government is not obligated to purchase a minimum quantity or dollar amount and the contractor is not obligated to perform until it accepts an order under the BPA. BPAs do not obligate funds; funds are obligated when an order subsequently is placed.⁴

Agencies may establish BPAs under GSA’s Schedule program contracts. Subpart 8.4 of the FAR provides procedures for using GSA schedule contracts, including establishing and ordering from BPAs. Prior to the issuance of the FAR in 1984 as the governmentwide procurement regulation, “blanket purchase arrangements,” a vehicle similar to BPAs, were permitted to be established with schedule contractors, if not inconsistent with the terms of the schedule contract, as early as the 1950s.

Schedule BPAs use the pre-established terms and conditions of the GSA contract (such as prices and delivery terms) as a starting point, but ordering agencies may add terms and conditions, such as discounted pricing, as long as they do not conflict with those of the GSA contract. Each schedule BPA must address the frequency with which orders will be placed; invoicing procedures; discounts; delivery locations; time and requirements, such as the amount or quantity the agency expects to purchase under the BPA and the work the vendor will perform. The potential volume of orders under a BPA, as indicated by the estimated amount or quantity, provides an opportunity to seek discounts from the GSA schedule contract prices.

From the first issuance of the FAR until 1994, agencies establishing schedule BPAs were required to follow the simplified acquisition procedures of Part 13, which emphasized “adequate” or “maximum practicable competition” at the time orders were placed. From 1994 until 1997, the FAR and subsequent GAO bid protest decisions indicated that the policies and procedures of Part 13 did not apply to schedule BPAs and that agencies were to follow the procedures of Subpart 8.4 for placing orders on schedule BPAs, but not for their establishment.⁵ Beginning in

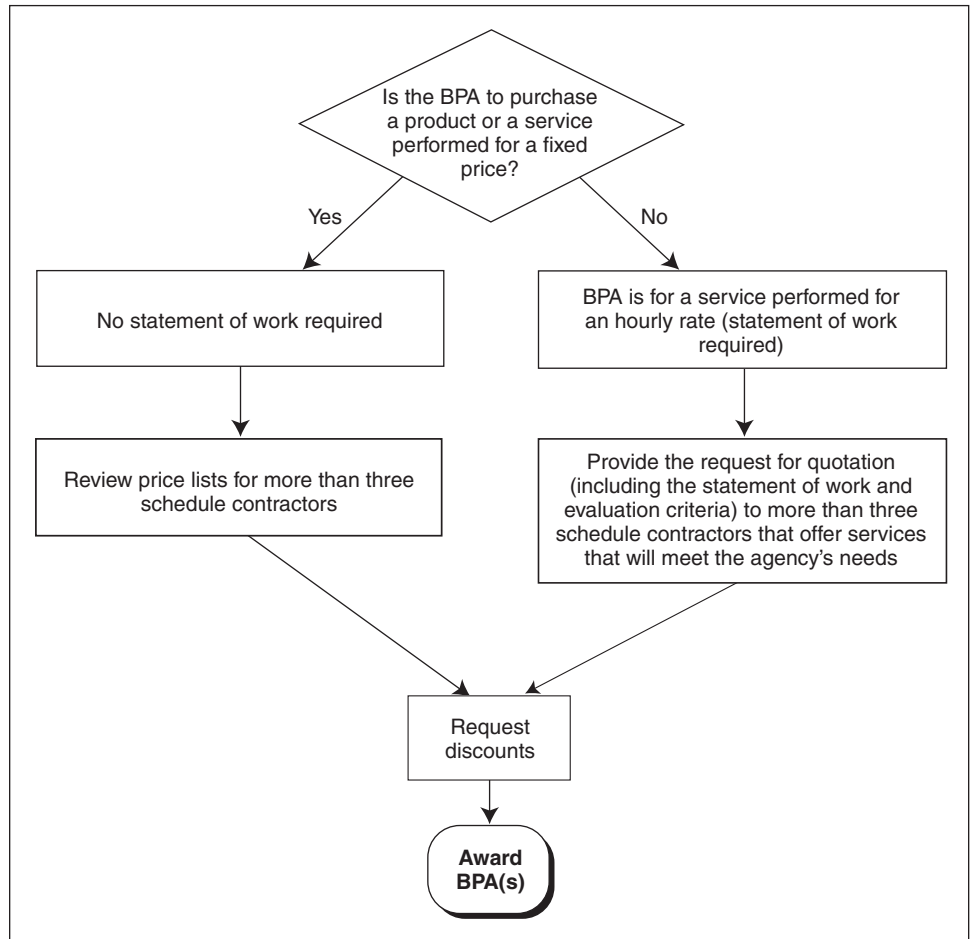
⁴ Throughout this report, when we discuss obligations under BPAs, we are referring to obligations using BPA orders.

⁵ The procedures of FAR Part 13 still apply to traditional BPAs.

1997, the FAR applied the ordering procedures in Subpart 8.4 to the establishment of schedule BPAs, including such steps as considering information about the supply or service offered under schedule contracts or reviewing the catalogs of schedule contractors. It also encouraged agencies to seek discounts when establishing schedule BPAs. A 2004 amendment to the FAR clarified the BPA ordering procedures under Subpart 8.4 and explicitly required agencies to seek discounts.

The FAR currently requires federal agencies to seek price reductions from vendors' schedule prices and to follow certain procedures when establishing schedule BPAs. Which procedures are to be followed depends on whether the BPA will be used to purchase a product or service performed for a fixed price or for a service performed at an hourly rate, and thus requiring a statement of work. Procedures for establishing schedule BPAs and seeking discounts are depicted in figure 1.

Figure 1: Procedures and Discounts when Establishing Schedule BPAs



Source: GAO analysis of FAR 8.4.

Agencies may award a schedule BPA to a single vendor or to multiple vendors to fulfill the same requirement. The decision is to be based on a strategy that is expected to maximize the effectiveness of the BPA(s). The FAR states that, in determining how many BPAs to establish, contracting officers are to consider:

- the scope and complexity of the requirement(s);
- the need to periodically compare multiple technical approaches or prices;
- the administrative costs of BPAs; and
- the technical qualifications of the schedule contractors.

After the BPA is established, requirements vary for considering more than one vendor when placing orders, as shown in table 1.

Table 1: Procedures when Placing Orders under Schedule BPAs

	Single award BPA	Multiple award BPAs
Requirement to consider other vendors	None required for the duration of the BPA.	No requirement to consider more than one vendor for orders under the micropurchase threshold (\$3,000). Above the micropurchase threshold, forward the requirement, or statement of work and the evaluation criteria, to an appropriate number of BPA holders, as established in the agency's ordering procedures.
		DOD-specific requirement: Each order exceeding \$100,000 shall be placed on a "competitive basis."

Sources: GAO analysis of FAR and DOD FAR Supplement.

DOD is required to adhere to more stringent competition requirements than are at present applicable to civilian agencies. Section 803 of the National Defense Authorization Act for Fiscal Year 2002 directed DOD to amend its regulations to require that any purchase of services exceeding \$100,000 under a multiple award contract be made on a competitive basis, subject to limited exceptions.⁶ DOD's implementation of this provision extended the competition requirement to orders under multiple award BPAs.⁷ Hence, for such orders exceeding \$100,000, DOD contracting officers are required to either (1) notify as many schedule contractors as practicable of the purchase to reasonably ensure that offers would be received from at least three contractors and receive three offers (or determine in writing that no additional contractors could be identified that can fulfill the requirement) or (2) notify all contractors offering the required services under the applicable schedule and afford all responding contractors a fair opportunity to submit an offer and have that offer fairly considered. Congress recently took action to apply multiple award competition requirements that are similar to those in the 2002 statute to all

⁶ Pub. L. No. 107-107, § 803 (2001) (repealed by the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, § 863(f) (2008)).

⁷ Defense Federal Acquisition Regulation Supplement (DFARS) 208.405-70. Current regulations also expand the application to the ordering of supplies.

executive agencies. The implementing regulations have not yet been promulgated.⁸

Civilian Agencies' Use of Schedule BPAs for Services Has Increased Significantly, but DOD Data Issues Preclude an Accurate Picture of Total Government Use

We estimate that the federal government obligated between \$3.7 billion and \$7.9 billion by placing orders under schedule BPAs during fiscal year 2008. Civilian agencies reported spending almost \$3.2 billion under schedule BPAs, with the five civilian agencies in our review obligating almost \$2.3 billion of this amount, or almost 72 percent of total civilian agency obligations. Although orders under schedule BPAs (for goods and services) comprised only about 2.3 percent of civilian agencies' reported obligations during fiscal year 2008, usage of schedule BPAs by civilian agencies has grown substantially over time, by 382 percent from fiscal year 2004 to 2008 (\$659 million to \$3.2 billion).⁹

We were unable to develop similar trend information for DOD due to the data's being unavailable, but for fiscal year 2008, we estimate that DOD obligated between \$0.5 billion and \$4.7 billion under schedule BPAs.¹⁰ Unlike civilian agencies, DOD does not use the available fields in FPDS-NG to distinguish its schedule BPAs from its traditional BPAs and indefinite delivery contracts.¹¹ Therefore we could not readily determine DOD's overall usage of schedule BPAs or what DOD is buying under these BPAs. We attempted to use data from DOD's own procurement database (the DD350 database) and information from defense agency officials to identify schedule BPAs, but found additional inaccuracies. For example, we identified possible schedule BPAs for several Army organizations with obligations totaling roughly \$319.8 million in fiscal year 2007. However, after further review and consultation with Army officials, we found that only about 16 percent of this amount had actually been obligated under

⁸Pub. L. No. 110-417, § 863. The legislation required that the FAR be amended no later than October 14, 2009. This legislation applies to all orders exceeding the simplified acquisition threshold (generally \$100,000) and to the purchase of property or services.

⁹Trend data are in constant fiscal year 2008 dollars.

¹⁰ Appendix I contains a detailed explanation of our methodology for arriving at this estimate.

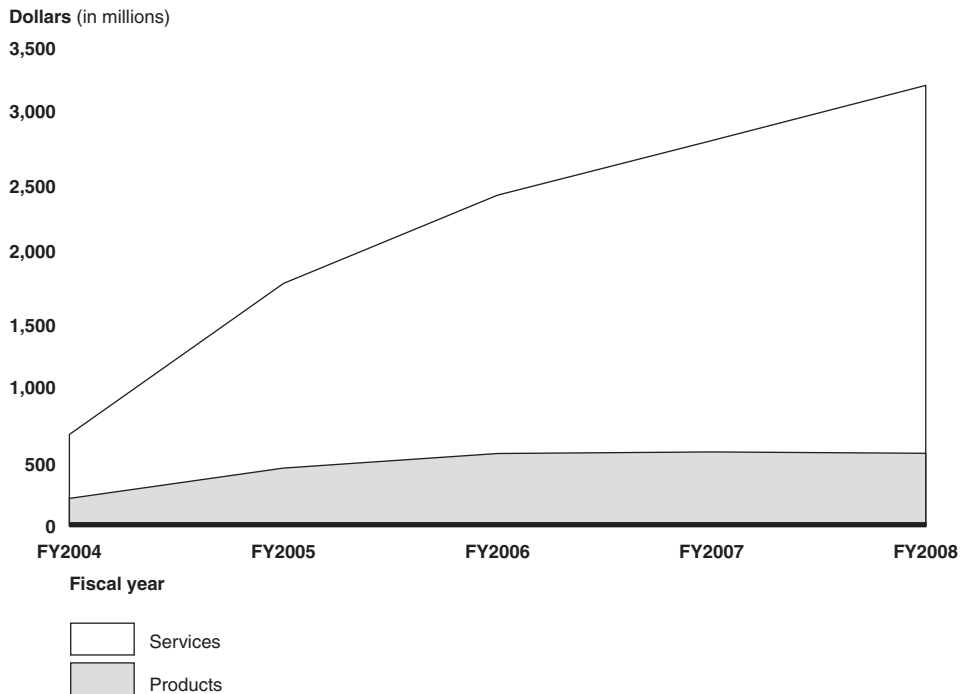
¹¹ DOD began feeding its procurement data directly into FPDS-NG in fiscal year 2007, a few years after civilian agencies. When DOD shifted from its DD 350 database to FPDS-NG, it carried with it some different coding conventions. We have previously reported on other coding differences. See GAO, *Defense Contracting: Improved Oversight and Controls Needed Over DOD's Time-and-Materials Contracts*, [GAO-07-273](#) (Washington, D.C.: June 29, 2007).

schedule BPAs. A DOD acquisition official informed us that the department is taking actions to implement new reporting procedures in FPDS-NG.

Significant Growth in Use of Schedule BPAs for Services

Civilian agencies' use of schedule BPAs to purchase services has increased vastly more than their overall growth in services contracting in recent years. From fiscal years 2004 to 2008, civilian agency schedule BPA obligations for services increased by 475 percent, compared to a slightly negative growth in their overall service contracting. In addition, civilian agency schedule BPA purchases of services increased far more than their purchases for goods during the same time period. Figure 2 illustrates the trend in civilian agency obligations under schedule BPAs for products and services. We could not portray a similar analysis for DOD because of the data issue discussed earlier.

Figure 2: Obligations for Orders under Schedule BPAs for Products and Services — Civilian Agencies, Fiscal Years 2004 to 2008 (in Constant Fiscal Year 2008 Dollars)



Source: GAO analysis of FPDS-NG data.

The majority of schedule BPAs in our sample—74 percent of the 336 DOD and civilian agency BPAs we reviewed—were established to acquire services as opposed to goods. The most frequently cited broad categories of services in the BPAs we reviewed were management support services, other professional services, and program management/support services. The estimated purchase amounts when the BPAs were established ranged from \$10,000 to \$734 million, with the average estimated dollar amount just over \$64 million.

Specific examples of services acquired under the schedule BPAs in our review include:

- a BPA established by DHS for a range of acquisition support services, including drafting performance work statements and quality assurance surveillance plans;
- a BPA established by the Federal Emergency Management Agency (FEMA) to provide program management support for implementing the Pre-Disaster Mitigation Program;
- several BPAs established by the Navy to obtain analytical support for budget formulation and execution and other activities; and
- a BPA established by the Food Safety and Inspection Service to obtain court reporting services.

When the agencies established the BPAs in our sample to acquire goods, the most frequently cited categories were for data processing software; software and system configuration; and printing, duplicating, and bookbinding. For example, the Social Security Administration established a BPA to buy color copiers, and the Navy established a BPA to obtain software. Other examples of goods purchased through schedule BPAs in our sample include:

- special purpose boats purchased by the Coast Guard for various law enforcement related missions;
- body armor purchased by the Air Force;
- laboratory equipment and supplies purchased by the Department of Health and Human Services; and
- fire engines purchased by the Forest Service.

Agencies Used BPAs for Flexibility, Speed, and to Meet Small Business Goals

In addition to saying they use schedule BPAs to fulfill recurring needs, many of the contracting officials we spoke with cited BPAs' flexibility and the speed with which they can be used as reasons they chose to use them as opposed to other contract vehicles, such as indefinite delivery contracts. Several contracting officials noted that schedule BPAs do not

require the government to commit to any minimum dollar obligation or amount, as would an indefinite delivery/indefinite quantity contract. For example, a contract specialist at DHS's Immigration and Customs Enforcement explained that his office does not receive funding, and therefore cannot obligate funds, until the budget is passed; in recent years, this has occurred during the second quarter of the fiscal year. Using a schedule BPA allows his office to be ready whenever it receives funds. Also, a contracting officer at FEMA said that she can establish a schedule BPA and have it ready for use when the agency has to respond to natural disasters and to conduct recovery operations without having to guarantee a minimum amount. However, some contracting officials noted that the lack of a binding contract can be a potential negative, since a vendor can decline to accept an order. One contracting official at the Marine Corps said that he prefers to have multiple BPA holders to ensure that vendors are available to meet the demand for goods and services.

Contracting officers also indicated that the speed with which they can both establish BPAs and place orders under them is an advantage. For example, a contracting officer at the Marine Corps noted that schedule BPAs do not take a long time to negotiate because the solicitation process is streamlined and contracting officers are not required to advertise the solicitation on FedBizOpps, the Web site where government business opportunities greater than \$25,000 are posted. As a result, he said it usually takes him a month or less to establish a schedule BPA, whereas it frequently takes him 3 to 4 months to award an indefinite delivery contract. Some contracting officers also told us that the ability to place BPA orders without competition is an advantage in terms of time saved. For example, a contracting officer at the Centers for Disease Control noted that a schedule BPA that has a broad scope of work makes it unnecessary to conduct a time-consuming competition each time he wants to place an order. A contracting officer at the Food Safety and Inspection Service stated that she can place orders under a single award BPA without further competition in less time than would be needed to meet the competition requirements for ordering directly from a GSA schedule contract.

Some agencies also use schedule BPAs to help meet their small business goals. A contracting officer at the Social Security Administration told us that he uses schedule BPAs in part because there are many companies on the GSA schedule that meet the requirements of the Small Business

Agencies Did Not Take Full Advantage of Opportunities for Competition

Administration's 8(a) business development program.¹² We also reviewed a number of schedule BPAs, established by the Air Force to provide a wide range of advisory and assistance services, that involved teams of vendors often led by small businesses serving as prime contractors.

Agencies in our sample competed BPAs when establishing them—meaning that, for purposes of this report, contracting officers considered more than one vendor—64 percent of the time.¹³ For a small number of BPAs in our sample (12 percent) contracting officers documented their rationale for not competing. We found no evidence that the remainder, 24 percent of the BPAs in our sample, were competed. For instance, at the National Institutes of Health (NIH), we found no evidence that 18 of the BPAs included in our sample were competed when established. Competition is the cornerstone of the acquisition system, and the benefits of competition are well established. It saves the taxpayer money, improves contractor performance, curbs fraud, and promotes accountability for results.

When orders are placed under GSA schedule contracts, the FAR allows contracting officers to limit the number of vendors they consider, which includes considering only one vendor. However, the FAR does not explicitly apply this provision to the establishment of BPAs. The FAR specifically lists some examples of circumstances in which limited competition may be justified, including instances when (1) the work is unique or specialized in nature and only one source is capable of responding; (2) the new work is a logical follow-on to a previous requirement; or (3) an urgent and compelling need exists.¹⁴ In assessing agencies' rationale for awarding BPAs directly to vendors without competition, we found justifications for doing so that were based on each of these circumstances. For example:

¹² The 8(a) program is one of the federal government's primary means for developing small businesses owned by socially and economically disadvantaged individuals. Firms approved as 8(a) participants can receive business development assistance from the Small Business Administration.

¹³ As noted earlier, prior to the amendments to the FAR in 1997, agencies were not required to consider more than one vendor when establishing a BPA. Eight of the 336 BPAs we reviewed were established prior to these changes and consequently were not required to be competed when established.

¹⁴ FAR 8.405-6.

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- Agencies purchased software from vendors who were the sole authorized vendors holding a GSA schedule contract.
 - The Social Security Administration awarded a BPA for program management, technical management, and administrative support because it was a logical follow-on to previous work.
 - The Coast Guard awarded a BPA to bridge the gap between the expiration of one contract and the competitive award of the next contract.

In addition, we found four instances in which schedule BPAs were issued directly to one vendor because the vendor was designated as a small business or as an Alaska Native Corporation-owned business.¹⁵

However, we also found examples of justifications for awarding BPAs directly to one vendor that are not specifically mentioned in the FAR, some of which may not conform with sound procurement policy. A Navy contracting officer stated that it was not necessary to compete a BPA for engineering and technical services because GSA had already determined the vendor's schedule pricing to be fair and reasonable.¹⁶ In two instances at the Justice Department, the contracting officer in one case stated that the vendor had performed well on a previous BPA, and in the other, that the vendor provided a deep discount.

We discussed the lack of clarity regarding the applicability of FAR provisions regarding limiting competition when establishing BPAs with officials from the Office of Federal Procurement Policy.¹⁷ They agreed that action is needed to clarify the relevant provisions of the FAR and noted that discussions are ongoing regarding implementation of the provisions of section 863 of the Duncan Hunter National Defense Authorization Act for

¹⁵Alaska Native Corporation-owned businesses, by statute, can participate in the Small Business Administration's 8(a) business development program. See GAO, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight*, GAO-06-399 (Washington, D.C.: Apr. 27, 2006).

¹⁶The FAR cites GSA's determination of fair and reasonable pricing in the context of not requiring a separate determination of fair and reasonable pricing, not as justification for not following the processes in the FAR for considering multiple vendors when establishing a BPA. See FAR 8.404(d).

¹⁷The Administrator of the Office of Federal Procurement Policy serves as chair of the Federal Acquisition Regulatory Council (FAR Council). The FAR Council—whose members include the DOD Director of Defense Procurement and Acquisition Policy, NASA's Associate Administrator for Procurement, and the GSA Chief Acquisition Officer—oversees development and maintenance of the FAR.

Fiscal Year 2009, regarding competition requirements under multiple award contracts.¹⁸

Frequent Use of Single Award BPAs Resulted in Lack of Competition of Orders

The FAR allows a contracting officer to decide whether to award a BPA to a single vendor or to multiple vendors for the same requirement. In determining how many BPAs to establish, the contracting officer is to consider such factors as the scope and complexity of the requirement and the administrative costs of the BPA. Over half of the BPAs in our sample (60 percent or 200) were single-award BPAs, and of these, we found no evidence of competition when the BPA was established for 19 percent or 37 of them.¹⁹ One of the single award BPAs, established in 2004, for which we found no evidence of competition had an estimated amount of nearly \$60 million.

Further, once a single award BPA is established, all orders may be issued directly with the vendor without additional competition. We found this to be the case for the vast majority of orders under the single award BPAs in our sample; only 10 percent had been competed. Indeed, a number of contracting officers we spoke with cited this feature of single award BPAs as an advantage. The dollar value of some of the non-competed orders was fairly significant; 45 of the orders not competed under single award BPAs were greater than \$1 million. For instance, DHS issued one of these orders for \$37.6 million for professional information analysis and intelligence support, and the Coast Guard issued a \$13.1 million order for network integration, software, and system integration support services.

Agencies established a number of single award BPAs of fairly long duration, resulting in an extended period of time under which orders could be placed without additional competition. The FAR currently suggests that schedule BPAs should not exceed five years in length, but permits BPAs of longer duration.²⁰ We found 28 instances in which agencies established single award BPAs with durations of at least 6 years, with a few single award BPAs in place for longer than 10 years, and one for over 20 years. Furthermore, of these 28 instances, we found evidence that competition

¹⁸ Pub. L. No. 110-417, § 863 (2008).

¹⁹ Four of these single award BPAs were established prior to the 1997 amendments to the FAR and consequently were not required to be competed when established.

²⁰ FAR 8.405-3(c).

occurred when establishing the BPAs in only ten cases and that competition occurred when placing orders in only four of the cases.

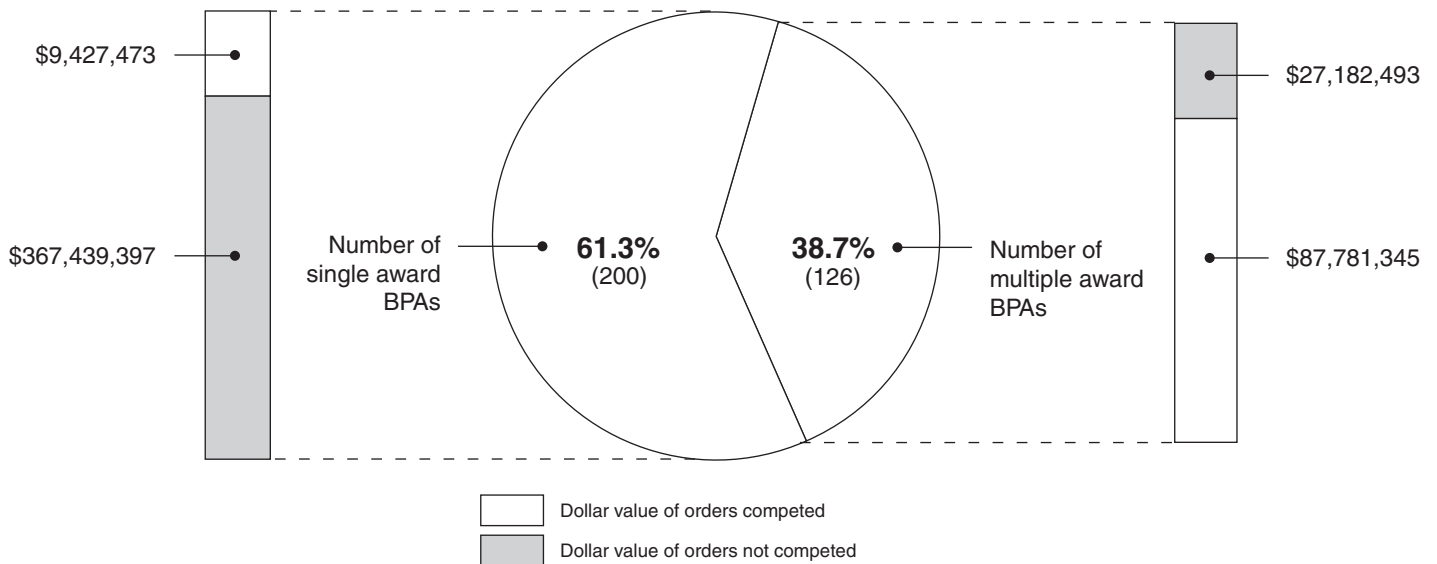
Agencies Did Not Take Full Advantage of Opportunities for Competition under Multiple Award BPAs

The FAR requires agencies to follow specific procedures to compete orders under multiple award BPAs that exceed the micropurchase threshold (\$3,000). Specifically, agencies are required to forward requirements, or statements of work and evaluation criteria, to an “appropriate number” of BPA holders, with the determination of what constitutes an appropriate number left to the discretion of the contracting officer.²¹ Contracting officers competed 49 percent of the orders above the micropurchase threshold with more than one vendor under the multiple award BPAs we reviewed.²² For 32 percent of the orders, contracting officers placed the order directly with one vendor and did not compete it with other vendors, the appropriate number effectively being one. For example, the Department of Agriculture did not compete an order worth \$1.2 million for fire engines. For the remaining 19 percent of these orders, we found no evidence that contracting officers competed the order with more than one vendor. We found no evidence, for example, to suggest that DHS competed a \$2.1 million order under one of its multiple award BPAs for information technology. Figure 3 shows the percentage of schedule BPAs in our sample that were established with a single vendor or with multiple vendors and the dollar value of orders competed and not competed for each type.

²¹ FAR 8.405-3(b)(2).

²² Prior to the 2004 amendments, the FAR did not always require agencies to consider more than one vendor when ordering from a BPA.

Figure 3: Order Competition under Single and Multiple Award BPAs



Source: GAO analysis of data obtained from contract files.

Note: We were not able to determine the type, single or multiple award, for 10 of the BPAs in our sample.

The defense supplement to the FAR contains additional competition requirements for DOD, specifically that DOD compete orders under schedule BPAs exceeding \$100,000 or justify the award if an order is not competed.²³ Of the 37 orders subject to this requirement included in our sample, DOD competed or properly justified as sole source 28 of them. For the remaining 9 orders, there was no evidence of competition. Recent legislation directs that acquisition regulations be amended to require executive agencies to place on a competitive basis any order exceeding \$100,000 that is made under a multiple award contract, but the implementing regulations are still pending and the extent to which this requirement will apply to orders under schedule BPAs is not certain.²⁴

²³ DFARS 208.405-70.

²⁴ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No. 110-417, § 863 (2008).

Agencies Often Did Not Seek or Receive Discounts from Schedule Pricing

Agencies frequently did not seek discounts when establishing schedule BPAs and rarely tried to obtain better pricing when placing orders.²⁵ We found no evidence that agencies requested a discount for 47 percent of the BPAs we reviewed, even though GSA notes that agencies' ability to negotiate discounts from schedule prices by leveraging their buying power through larger volume purchasing is one of the advantages of using schedule BPAs. By not requesting discounts when establishing schedule BPAs, agencies are missing opportunities to save money.

Agencies frequently received discounts from GSA schedule prices if they requested them when establishing BPAs. For the 179 BPAs in our sample for which agencies requested discounts, discounts were received for 75 percent of them. For example, the Department of Justice requested and subsequently received an 18 percent discount from the vendor's GSA schedule pricing for a BPA used to procure information technology services. This discount saved the government roughly \$20 million from fiscal year 2006, when the BPA was established, through July 2009 when the last order was placed, based on obligation data in FPDS-NG. In another instance, two BPAs awarded to the same vendor highlight the importance of requesting discounts. A contracting officer requested a discount when establishing a Navy BPA for analytical support services, and the vendor provided a 5 percent discount from its GSA schedule prices. In contrast, when establishing a different BPA for similar services from the same vendor, the contracting officer did not seek or receive a discount. If he had done so and received the same 5 percent discount applied to orders placed during the life of the BPA, the Navy would have saved almost \$87,000. In another instance, a contracting officer at the Marine Corps did not seek, and subsequently did not receive, a discount for a schedule BPA whose estimated value was \$205 million.

Some contracting officers did not appear to understand the current requirement to seek discounts. In some cases, their rationale for not seeking discounts was based upon the statement in the FAR that GSA has already determined prices in the underlying schedule contract to be "fair and reasonable." However, this FAR statement addresses the fact that ordering activities are not required to conduct additional price analyses when ordering supplies and services not requiring a statement of work

²⁵ Since 1997, seeking discounts when establishing schedule BPAs has been encouraged under FAR subpart 8.4, and in a 2004 amendment to the FAR this was explicitly required. Prior to 1997, the FAR did not always encourage or require seeking price reductions when establishing a schedule BPA.

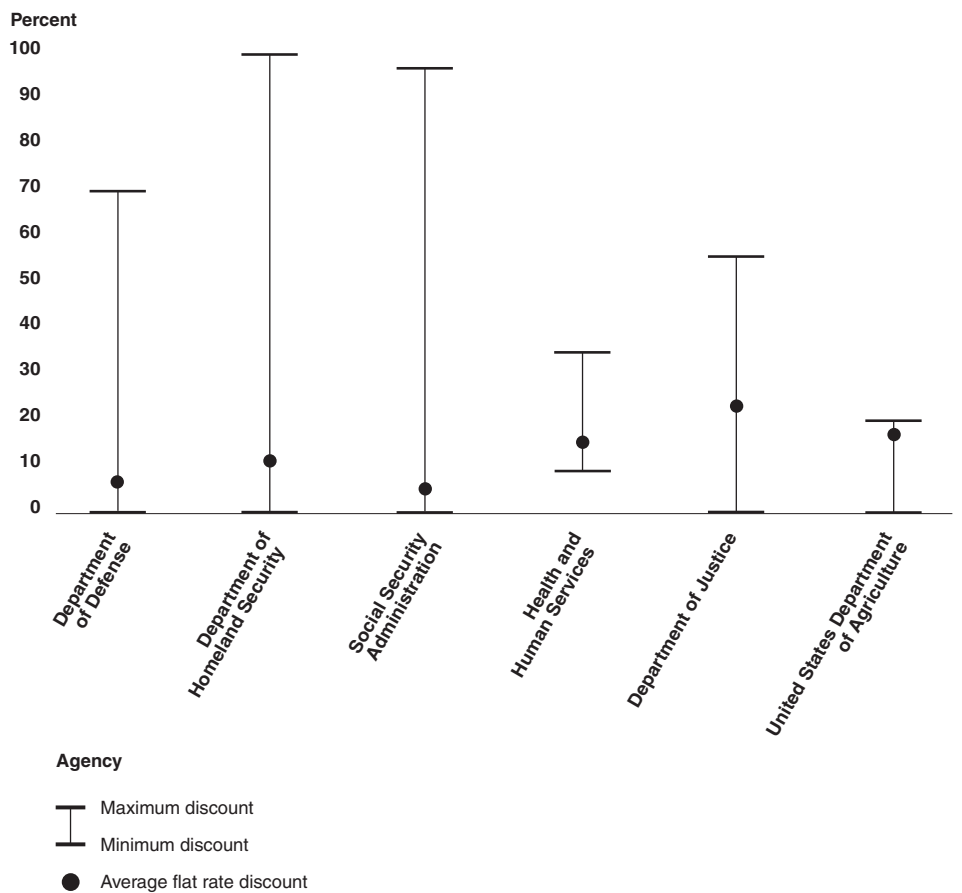
under the GSA schedule contracts. It does not negate the requirement to seek discounts when establishing schedule BPAs, which is clearly stated in FAR Subpart 8.4. One contracting officer said that using competition when establishing the BPA is the more significant determining factor for pricing, and thus he did not focus specifically on requesting discounts.

Contracting officers who did request a discount usually included such language in the solicitation when establishing the BPA. In some cases, the contracting officer even made the offer of a discount a condition for awarding the BPAs—in effect, demanding a discount. For example, the request for quotation for two Navy BPAs stated, “Quoted prices, inclusive of fees must be discounted below GSA schedule prices.” The Department of Agriculture included the following statement in the request for quotation for one BPA: “Provide a proposed discount off your normal GSA schedule rates for the entire BPA period of performance.” The Air Force stated the following: “the contractor is expected to offer their (sic) best prices at or below the schedule price list.” In other cases, the request for a discount was more tentative. For example, the solicitation for a FEMA BPA stated, “the Government requests that you consider offering a discount percentage beyond the GSA Schedule pricing...” In a few instances, the contracting officer requested discounts via email or during negotiations. For example, a DHS contracting officer requested discounts during negotiations to establish a schedule BPA to provide technical support services to the Office of Immigration Statistics.

The discounts agencies received when establishing BPAs varied widely. Vendors sometimes offered a single, flat rate discount for all items offered under the BPA, but we found it was more common for vendors to offer a range of discounts, with some goods or services more heavily discounted than others. Vendors’ flat rate discounts usually fell between 1 and 10 percent. For instance, the Air Force obtained a 10 percent discount when establishing an estimated \$99 million BPA to obtain advisory and assistance services. Some discounts were larger. DHS, for example, received a 76 percent flat rate discount on a \$22 million BPA established to purchase software and services. When vendors provided ranges of discounts, the minimum discount was most often between zero and 10 percent, while maximum discounts were more dispersed, with a majority ranging up to 30 percent. Some BPAs included discounts that varied by volume, while others included discounts that varied according to the product or service offered. For example, under a Department of Agriculture schedule BPA for software and associated maintenance, the vendor provided discounts ranging from 5 percent on a single order up to \$250,000 to 20 percent on a single order over \$1 million. The Social

Security Administration received discounts ranging from 15 percent off labor rates to 91 percent off software under one of its schedule BPAs used to purchase software, maintenance, consulting services, and training. Figure 4 demonstrates the wide range of discounts received by each of the agencies in our sample.

Figure 4: Range of Discounts Received by Agency



Source: GAO analysis of data obtained from contract files.
 Note: For DOD, data reflects contract files reviewed from the Marine Corps Systems Command; Naval Air Systems Command, Naval Air Warfare Center, and Air Force District of Washington.

Discounts Rarely Sought and Received for Orders

In addition to requesting a discount at the time the schedule BPA is established, agencies can request additional discounts when they issue orders, although the FAR does not require them to do so. The agencies in our review infrequently requested discounts when placing orders. Of the 352 orders we reviewed, agencies clearly requested discounts for 51 of

them. Contracting officers indicated that their rationale for not seeking additional discounts when placing orders was the fact that pricing was already established at the time the BPAs were awarded. As with discounts at the time a BPA is established, we found that agencies were more likely to receive discounts when they specifically requested them than when they did not. In some cases, agencies had negotiated discounts when establishing the schedule BPAs and were also able to obtain further discounts for orders. In the Department of Justice example noted above, in which the vendor provided an 18 percent discount for the BPA, the contracting officer received an additional 10 percent discount for a \$6.3 million order, saving \$630,000. A vendor also provided an additional 45 percent discount for a \$2.6 million order under a BPA for which the Social Security Administration had already received discounts when the BPA was established, resulting in a dollar savings of over \$1 million. As an illustrative example of the potential for savings, had the contracting officer in another case we reviewed negotiated even a 2 percent discount for a BPA with an estimated amount of \$205 million, it would have saved nearly \$4 million based on obligations under this BPA from its establishment in 2005.

Agencies Generally Did Not Comply with the Annual Review Requirement and Missed Opportunities for Savings

Contracting officers had not conducted the required annual reviews for the vast majority of the schedule BPAs we reviewed. The FAR requires contracting activities that establish schedule BPAs to conduct and document annual reviews containing three specific determinations: (1) the schedule contract, upon which the BPA was established, is still in effect; (2) the BPA still represents the best value to the government; and (3) quantities or amounts estimated when the BPA was established have been exceeded and additional price reductions can be obtained.²⁶ Only about one-fourth of the 320 BPAs that required annual reviews contained evidence that the contracting officer had conducted some form of review, and only 19 addressed each of the required elements. We found that some contracting officers lacked familiarity with the annual review requirement. By not conducting annual reviews, agencies are missing opportunities for savings and may also run the risk of violating competition requirements if they place orders when the underlying GSA contract is no longer in effect.

²⁶ FAR 8.405-3(d).

Few Contracting Officers Conducted Complete Annual Reviews

Contracting officers conducted annual reviews that addressed all of the required FAR elements for only 19 of the 320 BPAs in our sample that required an annual review.²⁷ A number of contracting officers stated that they were unfamiliar with the FAR's specific annual review requirements for schedule BPAs. Contracting officers also cited heavy workloads and a lack of acquisition personnel as additional reasons for not conducting annual reviews. Some contracting officers said that they did not know the requirement existed at all. For example, when we asked if an annual review had been conducted, one contracting official at FEMA asked to which FAR requirements we were referring.

In 63 additional instances, agencies did not complete all of the required elements of the annual review. In some cases, these reviews occurred while the contracting officers were conducting other activities associated with the BPAs. One contracting officer at the Department of Agriculture conducted a best value assessment when exercising an option year and verified that the GSA schedule contract was still in effect but did not document whether the original estimated BPA amount had been exceeded.²⁸ In a case from the Department of Justice, a contracting officer verified that the GSA schedule contract was still in effect when issuing modifications to the BPA, but did not address any of the other required elements of the annual review. In other cases, contracting officers cited parts of the FAR outside of Section 8.4 when conducting their annual reviews and in doing so often did not complete required elements. When conducting annual reviews following sections of the FAR other than Part 8, contracting officers often did not verify that the underlying schedule contract was still in effect or check to see if obligations under the BPA had exceeded the estimated amount. Some also failed to conduct a best value assessment that would inform decisions about whether the BPA should be continued. In seven cases, contracting officers at the Department of Agriculture and the Coast Guard documented annual reviews using FAR Section 13.303, which covers traditional BPAs, but did not make sure that the GSA schedule contract was still valid and did not determine whether the estimated amounts of the BPAs had been exceeded. In four other cases, contracting officers cited FAR Part 17 when conducting an annual

²⁷ Sixteen of the BPAs in our sample had a period of performance of one year or less or had been in effect for less than a year and therefore would not have required an annual review.

²⁸ Although a document in the file indicated that this contracting officer exercised an option year, we note that BPAs do not have options. In essence, this action extended the agreement by one year.

review, which includes requirements for the exercise of options. In another case, a contracting officer cited FAR Section 16.702, which covers basic agreements.

We found only two contracting activities that regularly conducted some sort of annual review. Contracting officers at DHS's Citizenship and Immigration Services conducted annual reviews for 10 of the agency's schedule BPAs we reviewed, although not all contained each of the required elements. The head of the contracting office attributed the consistency to an extremely low staff turnover rate as well as a mandatory back-up system that ensures that staff members' workloads are always covered. In addition, all but one of the BPA files we reviewed at NIH contained some form of annual review, although, again, not all elements were always covered. An official responsible for NIH's BPA program told us that contracting officials generally conducted the annual reviews to identify and terminate BPAs that were not being used.

Annual Reviews Present Opportunities for Savings

The required annual reviews present contracting officers with an opportunity to assess whether the BPA still represents the best value and to identify additional opportunities for discounts by determining whether the quantities or amounts estimated when the BPA was established have been exceeded and whether additional price reductions can be obtained. In some of the instances in which contracting officers conducted annual reviews, they determined that the schedule BPAs still represented the best value to the government in a variety of ways. For example, an annual review for a Health and Human Service BPA noted that the BPA still filled an existing need and provided continuity of service. A contracting officer managing a Marine Corps BPA checked that prices were still reasonable, while other annual reviews assessed whether market conditions had changed since the BPA was established. A contracting officer at the Social Security Administration used an annual review to obtain discounts. While conducting the review, he determined that the original estimated amount had been exceeded and successfully obtained discounts from the vendor. Contracting officers also informed us of instances in which conducting annual reviews helped them to better manage schedule BPAs. One contracting officer stated that when conducting annual reviews, she has occasionally found that prices for the schedule BPA have escalated, which led her to cease using those BPAs.

By not doing the annual reviews, contracting officers missed opportunities for additional savings. For some of the BPAs in our sample, the BPA amount originally estimated had been exceeded, but because annual

reviews were not conducted, agencies missed opportunities to obtain discounts. For instance, orders under a BPA established by the Marine Corps exceeded the BPA's estimated amount within the third year of a 10-year period of performance. Had the contracting officer conducted an annual review, he may have been able to use the volume of purchases as leverage to negotiate better prices with the vendor.

By Not Conducting Annual Reviews, Agencies Risk Violating Competition Rules

As part of the annual review process, contracting officers are required to verify that the underlying GSA schedule contract—under which the BPA is established—is still in effect. BPAs established under the schedule contract using the procedures of Subpart 8.4 are considered to be issued using full and open competition.²⁹ Thus, orders properly placed under a valid schedule contract, whether directly or via a BPA, meet the requirements for competition under the Competition in Contracting Act (CICA) of 1984.³⁰ In the absence of a valid schedule contract, any order placed using a schedule BPA does not meet those competition requirements, unless the procedures used to obtain the order independently satisfy the CICA requirements.³¹ Accordingly, if the underlying schedule contract has expired, subsequent orders using the schedule BPA may not be valid. We found one instance in which CICA was potentially violated among the BPAs and orders we reviewed. The underlying schedule contract for a Defense Logistics Agency BPA, under which the Navy placed an order in our sample, had expired. Although the Navy considered more than one schedule vendor when placing the order, this situation still involves a potential CICA violation because the underlying schedule contract had expired by the time the order was placed and it is not clear that statutory requirements for full and open competition were otherwise met.

Conclusions

Schedule BPAs can provide federal agencies with a flexible and streamlined contracting mechanism for meeting repetitive procurement needs. However, especially in light of the significant increase in obligations under schedule BPAs, these potential benefits must be

²⁹ FAR 8.404(a); 41 U.S.C. § 259(b)(3).

³⁰ Pub. L. No. 98-369, Div. B, Title VII, 98 Stat. 1175.

³¹ *Canon USA, Inc.*, B-311254.2, June 10, 2008. In this bid protest, Canon USA objected to the Army's cancellation of an order under its schedule BPA. We denied the protest because the GSA schedule contract upon which the BPA was established had expired and therefore the BPA was no longer valid.

balanced with ensuring that this mechanism is used appropriately and serves the best interests of the government and the taxpayer. Based on the failure of contracting officers across the agencies in our review to leverage competition, seek better pricing through discounts, and monitor the use of schedule BPAs by conducting annual reviews, it is apparent that those interests are not being met in many cases. This is particularly true for procedural requirements when establishing and ordering under schedule BPAs that require the consideration of multiple vendors. The high use of single award BPAs, under which no further competition is required when placing orders of any amount, reduces the potential to harness the benefits of competition, including additional savings for the taxpayer. And the FAR's lack of clarity about the circumstances under which agencies can limit the number of vendors considered when establishing schedule BPAs, including establishing them with only one vendor, can lead to situations, such as we found, where justifications appear inconsistent with sound procurement policy. Further, the fact that so many contracting officers are either unaware of the requirement for annual reviews or simply are not conducting them means that opportunities are being missed to ensure that competition requirements are met and to seek better pricing from vendors. Finally, while some contracting officers clearly sought discounts from schedule prices, sometimes leading to millions in savings, many others did not.

Recommendations for Executive Action

We are making the following three recommendations to the Administrator of the Office of Federal Procurement Policy:

To ensure that federal agencies take greater advantage of the opportunities that competition provides under schedule BPAs:

- take steps to amend the FAR to clarify when establishing a schedule BPA using the limited source justifications of the FAR, including when to only one vendor, is or is not appropriate; and
- consider including in the pending proposed FAR rule that implements the provisions of section 863 of the National Defense Authorization Act of 2009 an amendment to FAR 8.4 specifying that the requirement to place on a competitive basis any order above the simplified acquisition threshold (generally \$100,000) under multiple award contracts also applies to orders under single and multiple award BPAs.

To improve compliance with the FAR requirement to conduct annual reviews of schedule BPAs, increasing opportunities for additional savings and avoiding violations of competition rules, take steps to require federal

agencies to put procedures in place to ensure that annual reviews are conducted.

Further, to assist federal agencies in requesting and obtaining discounts when establishing schedule BPAs, we recommend that the GSA Administrator include in the guidance on GSA's Web site specific language which agencies can use in their requests for quotation to clearly request discounted pricing when establishing schedule BPAs.

Agency Comments and Our Evaluation

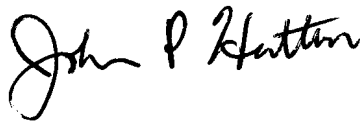
We requested comments on a draft of this report from the Office of Federal Procurement Policy; the departments of Agriculture, Defense, Health and Human Services, Homeland Security, and Justice; GSA; and the Social Security Administration. In oral comments, the Office of Federal Procurement Policy concurred with our recommendations. In written comments, included in appendix II, GSA concurred with our recommendation, noting that it will include in the guidance on its Web site specific language that agencies can use in their requests for quotation to clearly request discounted pricing when establishing schedule BPAs. The departments of Health and Human Services and Homeland Security generally agreed with our report and provided written comments, included in appendixes III and IV, respectively. The Department of Health and Human Services stated that it plans to take steps to reinforce compliance with BPA requirements. Health and Human Services also commented that while we found no evidence of competition for NIH's BPAs included in our sample, NIH's policy is to ensure that prices are competitive before awarding BPAs. Nonetheless, our review of the contract files for the 18 BPAs selected showed no evidence of competition. The Department of Homeland Security discussed several actions it plans to take to improve management and use of BPAs.

The Social Security Administration provided written comments, contained in appendix V, and provided new information regarding an example we had identified as a potential CICA violation that was discussed in our draft report. An annual review had not been conducted for the BPA, and the underlying GSA schedule contract had been canceled one year into a 7-year period of performance. The agency had continued to place orders, totaling \$3.4 million, under this BPA. In its comments, the Social Security Administration stated that there was no CICA violation because of changes made to the vendor's underlying schedule contract. Several of the vendor's schedule contracts had been consolidated into one single schedule contract, which was assigned a new contract number by GSA. The agency

stated that the contracting officer had failed to reference the correct schedule contract number when placing orders under the BPA, but that this action did not violate CICA because the BPA was competed. We independently verified this new information, which was not contained in the BPA file, and therefore removed the example from our report. The Administration further noted that it has issued a reminder to its contracting officers to review BPAs annually to ensure, in part, that the underlying GSA schedule contracts are still in effect.

In oral comments, the Department of Agriculture generally agreed with our report and did not provide additional comments. The departments of Defense and Justice did not provide comments.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this report. We will then send copies of this report to interested congressional committees; the Secretaries of Agriculture, Defense, Health and Human Services, and Homeland Security; the Attorney General; the Administrators of the General Services Administration and the Office of Federal Procurement Policy; and the Commissioner of the Social Security Administration. The report also is available at no charge on the GAO Web site at <http://www.gao.gov>. If you or your staff have any questions about this report, please contact me at (202) 512-4841 or huttonj@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.



John P. Hutton
Director
Acquisition and Sourcing Management

Appendix I: Scope and Methodology

The overall focus of this review was agencies' use of blanket purchase agreements (BPA) established under the General Administration Service's (GSA) schedules program. Our objectives were to determine: (1) the extent to which agencies use schedule BPAs, what they buy with them, and why agencies use them; (2) whether agencies are competing BPAs and the orders under them; (3) whether agencies are taking advantage of opportunities for savings by seeking discounts when using these BPAs; and (4) whether agencies are conducting the required annual reviews.

To conduct our work for each objective, we used an electronic data collection instrument to review 336 schedule BPAs and the largest associated order under each during fiscal year 2007, the most recent data available at the time we began our work. Our scope included five civilian agencies and three defense agency locations. We reviewed 263 BPAs from the following civilian agencies: the Departments of Agriculture, Health and Human Services, Homeland Security (DHS), and Justice and the Social Security Administration; and 73 BPAs from the following Department of Defense (DOD) components: Air Force, Marine Corps, and Navy.

The five civilian agencies in our review represented roughly 80 percent of civilian agency obligations using orders under schedule BPAs during fiscal year 2007, based on data provided by GSA from the Federal Procurement Data System–Next Generation (FPDS-NG) on the dollar value of orders at the time the orders were placed. We selected a random sample of 30 schedule BPAs per agency from the Departments of Agriculture, Health and Human Services, Justice, and the Social Security Administration, taken from the universe of all BPAs that the agencies ordered under during fiscal year 2007. Our findings for those agencies are projectable to those agencies. Because DHS had obligated the largest dollar amount to orders under schedule BPAs, we selected all 155 BPAs under which orders were placed during fiscal year 2007.¹ Our findings reflect the full universe of DHS's schedule BPAs used in fiscal year 2007.

In some instances, agency officials could not locate or provide the files associated with a given BPA. For example, Department of Agriculture officials could not locate the file for one of the BPAs in our sample, so we reviewed only 29 of Agriculture's schedule BPAs. Likewise, because DHS

¹ We excluded BPAs established or orders placed by the Transportation Security Administration (TSA) because TSA was not subject to the Federal Acquisition Regulation during fiscal year 2007.

officials could not locate and provide files for 11 of the BPAs, we reviewed 144 BPA files. Table 2 shows the number of BPAs selected and reviewed at each civilian agency.

Table 2: Number of Schedule BPAs Reviewed from Five Civilian Agencies

Civilian agencies/components	Number of BPAs selected/reviewed
Department of Agriculture	30/29
Department of Health and Human Services	30/30
Department of Justice	30/30
Social Security Administration	30/30
Department of Homeland Security	155/144
Total BPAs selected/reviewed	275/263

Source: GAO.

We attempted to identify the agencies at DOD that represented roughly 80 percent of DOD obligations to orders under schedule BPAs during fiscal year 2007, based on the dollar value of orders at the time the orders were placed, but were unable to do so because DOD was not using the fields in FPDS-NG that distinguish between BPAs and indefinite-delivery/indefinite-quantity contracts. We attempted to use the DD350 data (DOD’s former procurement database) to identify DOD obligations to orders under possible schedule BPAs during fiscal year 2007 but found inconsistencies in the coding. Based on FPDS-NG data on all DOD BPAs—schedule and traditional—the Army, Defense Logistics Agency, Marine Corps, and Navy represented about 80 percent of defense obligations under all BPAs, based on the dollar value of orders at the time the orders were placed. Because of DOD’s size and geographic dispersion, we selected the contracting activity/location with the most dollars obligated to orders under possible schedule BPAs in fiscal year 2007 within the selected services and agencies, based on the preliminary data. We then selected a random sample of possible schedule BPAs from the selected contracting activities/locations. Our findings are projectable only to the DOD locations selected.

We sought to determine whether the DOD BPAs in our sample were schedule BPAs by reviewing the documentation available in DOD’s Electronic Document Access System (EDA).² For the Marine Corps, all of

² EDA is an online document access system designed to provide acquisition related information for use by all of the Department of Defense.

the BPAs we selected were schedule BPAs. For the Navy contracting activity we had selected, only one of the original 30 BPAs we selected was not a schedule BPA (and therefore out of the scope of this review). We selected another BPA as a replacement. For the Defense Logistics Agency (DLA), the location that had the greatest obligations under BPAs was the Defense Supply Center-Philadelphia, Systems & Procedures Division. Because none of that location's BPAs were listed in EDA, we asked officials at the Systems & Procedures Division to tell us whether the 30 BPAs in our sample were schedule BPAs; they stated that none of them were schedule BPAs. We then contacted officials at another DLA location, the Defense Supply Center, Pacific Region, who stated that none of their BPAs were schedule BPAs. As a result, DLA dropped from our sample and we replaced it with the Air Force.

We provided the Air Force contracting activity (the Air Force District of Washington) with a list of 25 possible schedule BPAs—the total number that had orders placed under them during fiscal year 2007—and asked officials to identify which ones were in fact schedule BPAs. An official at the Air Force District of Washington indicated that all 25 were schedule BPAs; however, when we reviewed the BPA files, we discovered that 6 of them were not schedule BPAs and dropped them from our sample. In addition, the Air Force contracting activity could not locate one BPA file, and the 754th Electronic Systems Group, Maxwell Air Force Base-Gunter Annex failed to provide information for four of the BPAs under which the Air Force District of Washington placed orders.

With regard to the Army, based on FPDS-NG data, we identified the Army's Communications and Electronics Command (CECOM) in Ft. Monmouth, New Jersey, as having the greatest amount obligated to orders under schedule BPAs. By reviewing the BPAs available in EDA, we discovered that only 2 of the 17 BPAs identified were schedule BPAs. We next looked at the Army's Tank-Automotive and Armaments Command (TACOM) in Warren, Michigan. Because many of the BPAs used by TACOM were not available in EDA, we asked TACOM officials to identify which of the BPAs were schedule BPAs. They identified only 7 out of 63 BPAs as schedule BPAs. We next looked to the Army Contracting Command in Kuwait; an Army contracting official told us that all 76 of their BPAs were not schedule BPAs. Finally, we contacted the Army's Contracting Center of Excellence in Washington, D.C. to ask officials there to identify the schedule BPAs from a list of 50 candidates. An associate director from the Center of Excellence told us that the center was unable to identify the schedule BPAs. We did not replace the Army with another defense agency. Table 3 shows the number of reviewed at the selected defense agencies.

Table 3: Number of Schedule BPAs Reviewed from Defense Agencies

DOD agencies/components	Number of BPAs reviewed
Air Force — Air Force District of Washington	14
U.S. Marine Corps — Systems Command	29 ^a
U.S. Navy — Naval Air Systems Command	30
Total	73

Source: GAO.

^aWe initially selected 30 schedule BPAs used by the Marine Corps; we subsequently determined that one had also been included in our review of the Air Force’s BPAs.

For all agencies, both civilian and defense, we selected the BPAs based on the agency and location where the orders were placed. For example, the Navy location selected for our review, the Naval Air Systems Command, had placed orders under four schedule BPAs established by the Naval Inventory Control Point – Mechanicsburg. We included these four BPAs in our sample for the Naval Air Systems Command. In another instance, the Naval Air Systems Command ordered under a schedule BPA established by the Defense Information Systems Agency; again, the BPA was included in our sample.

We reviewed 352 orders under the BPAs in our sample. We selected the order placed during fiscal year 2007 that obligated the largest dollar value at the time of award. In some instances, more than one order was selected under a single BPA, resulting in a greater number of orders than BPAs selected. For example, at DHS, both Citizenship and Immigration Services and Immigration and Customs Enforcement placed orders under the same BPA; we selected the highest dollar value order placed under the BPA from each component for review. In addition, in some cases, where an agency could not provide the file for the BPA, the agency was able to provide the file for the order.

We used an electronic data collection instrument and verified the information on-site to conduct our review of the BPA and order files and to facilitate our analysis. We supplemented our file reviews with follow-up questions when documentation in the file was not available, insufficient, or unclear. In some instances, we received additional documentation from agency officials, which we analyzed and incorporated in our final results when appropriate. When agency officials did not provide documentation that supported their response, we reported the response to our question as “not documented” or “no evidence.” In some cases, we interviewed the contracting officer or contract specialist to obtain clarification.

To assess the extent to which agencies use schedule BPAs, what they buy with them, and why agencies use them, we used data from FPDS-NG, data from our file review, and information provided by contracting officials. More specifically, we analyzed data from FPDS-NG on civilian agency procurements for fiscal years 2004 to 2008 to determine the 5-year trend in BPA use among civilian agencies and to compare the use of schedule BPAs to obtain services with the overall growth in contracting for services. To do so, we converted the data into fiscal year 2008 constant dollars using the Bureau of Economic Analysis price index for services in the federal consumption expenditures category. To determine why agency officials chose to establish and use schedule BPAs rather than other contracting vehicles, we interviewed contracting officials across the agencies included in our review about their use of schedule BPAs. To determine what products and services agencies intended to purchase using the schedule BPAs in our sample, we analyzed data from our file review.

To estimate DOD's usage of schedule BPAs for fiscal year 2008, we used DOD's contract coding system to identify the BPAs in FPDS-NG under which DOD agencies placed orders during fiscal year 2008. From that universe, we selected a random sample of BPAs. We used the EDA, DOD's online contract retrieval system, to review the BPAs. In the event that a BPA was not available in EDA, we replaced it with the next BPA on our list until we had 100 BPAs. In the three instances in which the documentation in EDA was insufficient to make a determination as to whether the BPA was a schedule BPA, we contacted the agency for clarification. In two of these instances, the contacting officer did not respond, and we replaced the BPAs with the next on our list. Next, we obtained data from FPDS-NG on the amount obligated using orders under these BPAs during fiscal year 2008. We found that 25 of the BPAs in our sample of 100 were schedule BPAs; orders under the 25 schedule BPAs obligated \$106,011,561 of the \$143,711,789 obligated to orders under the 100 BPAs in our sample. Based on this information, we estimate that 852 of the 5,178 DOD BPAs in FPDS-NG are schedule BPAs, with the 95 percent confidence interval between 589 and 1200 BPAs. We estimate their value as \$3.3 billion, about 65 percent of the \$5.1 billion value of all BPAs, with the 95 percent confidence interval between \$0.5 and \$4.7 billion.

To determine whether agencies are competing BPAs and the orders under them and whether agencies are taking advantage of opportunities for savings by seeking discounts when using these BPAs, we analyzed the data we obtained during reviews of the BPA and order files concerning competition and discounts, following up when necessary with additional

questions and interviews of contracting officials. We reviewed BPA files to determine whether the requirement was competed when the BPA was established and when an order was placed by determining whether more than one vendor had been contacted. We also identified the ordering procedures in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) and the level of competition required under them. We discussed with contracting officials what factors were considered when deciding to establish single vs. multiple award BPAs. To determine whether contracting officials sought discounts and whether the contractor provided discounts either when the BPA was established or when orders were placed, we reviewed files for the BPA and the order. We then followed up with contracting officers or contract specialists as needed.

To determine whether the agencies in our sample are conducting the required annual reviews, we examined the files for the schedule BPAs in our sample for documentary evidence of each element of the annual review as listed in FAR 8.405-3(d). Where there was no documentation of annual reviews in the contract file, we asked agency officials to provide us with the appropriate documentation. We conducted interviews with agency contracting officials, to determine how they interpreted the relevant FAR provision and clarify information in the BPA files. We reviewed the contract files to determine whether the GSA schedule contracts had expired. If there was no GSA schedule data in the BPA file or the file suggested that the schedule contract had expired, we searched the GSA website (GSA e-Library) to determine whether the GSA schedule contracts were still in effect. For those schedule contracts that were no longer listed on GSA e-Library, we contacted GSA to obtain documentation of either the date the schedule contract expired or the current expiration date. We reviewed the BPA files to determine if the contracting officer or contract specialist checked to see if estimated amounts had been exceeded.

We visited or contacted the following offices for our review:

Department of Agriculture:

- Agricultural Research Service, Beltsville, Maryland
- Food and Nutrition Service, Alexandria, Virginia
- Food Safety and Inspection Service, Beltsville, Maryland
- U.S. Forest Service
 - Arlington, Virginia

- Atlanta, Georgia
- Northwest Oregon Contracting Area, Sandy, Oregon
- National Finance Center, New Orleans, Louisiana
- Office of Procurement and Property Management
 - Washington, D.C.
 - Fort Collins, Colorado

General Services Administration, Washington, D.C.

Department of Health and Human Services:

- Health Resources and Services Administration, Rockville, Maryland
- National Institutes of Health, Rockville, Maryland
- Office of the Assistant Secretary for Administration and Management, Washington, D.C.

Department of Homeland Security:

- Citizenship and Immigration Services, Williston, Vermont
- Customs and Border Protection
 - Washington, D.C.
 - Indianapolis, Indiana
- Federal Emergency Management Agency
 - Atlanta, Georgia
 - Chicago, Illinois
 - Austin, Texas
 - Mt. Weather, Virginia
 - New Orleans, Louisiana
 - Washington, D.C.
- Immigration and Customs Enforcement
 - Dallas, Texas
 - Denver, Colorado
 - Grand Prairie, Texas
 - Philadelphia, Pennsylvania
 - Washington, D.C.
- Office of Procurement Operations, Washington, D.C.
- U.S. Coast Guard
 - Baltimore, Maryland
 - Washington, D.C.

Department of Justice:

- Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, D.C.
- Federal Bureau of Prisons, Washington, D.C.
- Drug Enforcement Administration, Arlington, Virginia
- Justice Management Division, Washington, D.C.
- Office of the Federal Detention Trustee, Arlington, Virginia

Office of Federal Procurement Policy, Washington, D.C.

Social Security Administration, Baltimore, Maryland

Department of Defense:

- Defense Procurement and Acquisition Policy, Arlington, Virginia
- Department of the Air Force
 - Air Force District of Washington, Washington, D.C.
- Department of the Army
 - Office of the Deputy Assistant Secretary of the Army, Arlington, Virginia
 - Army Contracting Agency, Contracting Center of Excellence, Alexandria, Virginia
 - Tank-Automotive and Armaments Command, Warren, Michigan
- U.S. Marine Corps, Quantico, Virginia
- Department of the Navy
 - Naval Air Warfare Center – Aircraft Division, Patuxent River, Maryland
 - Naval Inventory Control Point, Mechanicsburg, Pennsylvania
 - Space and Naval Warfare Systems Command Systems Center, San Diego, California
- Defense Information Systems Agency, Defense Information Technology Contracting Organization, Scott Air Force Base, Illinois
- Defense Logistics Agency
 - Defense Supply Center Philadelphia, Pacific Region, Pearl Harbor, Hawaii
 - Defense Supply Center Philadelphia, Philadelphia, Pennsylvania
 - Enterprise Support Base Contracting Office, Fort Belvoir, Virginia

As we describe in our methodology, we performed extensive tests to assess the reliability of the automated information we used to select our collection of BPAs. For example, we confirmed that the information contained in the automated records reflected the information contained in

the contract files. We based our estimate of DOD's use of schedule BPAs on information we verified using automated images of the contract records. Accordingly, we believe that the data we used to support our findings are reliable for our intended purposes.

We conducted this performance audit from June 2008 to August 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the General Services Administration



GSA Administrator

September 1, 2009

The Honorable Gene L. Dodaro
Acting Comptroller General of the United States
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Dodaro:

Thank you for the opportunity to comment on the U.S. Government Accountability Office (GAO) draft report, "CONTRACT MANAGEMENT: Agencies Are Not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements despite Significant Increase in Usage" (GAO-09-792).

We agree with the GAO findings and recommendations pertaining to the U.S. General Services Administration and agree to include in the guidance on our website specific language that agencies can use in their requests for quotation to clearly request discounted pricing when establishing Schedule Blanket Purchase Agreements.

Should you have any questions, please contact me. Staff inquiries may be directed to Mr. Steven Kempf, Assistant Commissioner, Office of Acquisition Management. He can be reached at (703) 605-5527.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul F. Prouty".

Paul F. Prouty
Acting Administrator

cc: Mr. John P. Hutton, Director, Acquisition Sourcing Management, GAO

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
Telephone: (202) 501-0800
Fax: (202) 219-1243
www.gsa.gov

Appendix III: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

AUG 28 2009

John P. Hutton
Director, Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Hutton:

Enclosed are the Department's comments on the U.S. Government Accountability Office's (GAO) draft report entitled: *Contract Management: Agencies Are Not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements Despite Significant Increase in Usage* (GAO-09-792).

The Department appreciates the opportunity to review and comment on this draft report before its publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Palm", written over a horizontal line.

Andrea Palm
Acting Assistant Secretary for Legislation

Enclosure

GENERAL COMMENTS OF THE DEPARTMENT OF U.S. HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, CONTRACT MANAGEMENT: AGENCIES ARE NOT MAXIMIZING OPPORTUNITIES FOR COMPETITION OR SAVINGS UNDER BLANKET PURCHASE AGREEMENTS DESPITE SIGNIFICANT INCREASE IN USAGE (GAO-09-792)

While GAO made no specific recommendations to the Department, HHS continues to reinforce the need for our contracting officers to comply with requirements for Blanket Purchase Agreements (BPAs) established against the U.S. General Services Administration schedule contracts. As such, this will be accomplished through: (a) conducting additional training; (b) discussing GAO's findings and sharing successful practices at our quarterly Executive Committee for Acquisition (ECA) meetings; and (c) incorporating compliance with the requirements of the Federal Acquisition Regulation Part 8.405-3 for Blanket Purchase Agreements in our Procurement Management Review protocols.

More specifically, GAO concluded that no evidence of competition was found in 18 BPAs sampled from HHS' National Institutes of Health (NIH). We note that it is NIH's policy to ensure the prices are competitive before the award is made. To this end, NIH pre-screens vendors by reviewing their proposed prices and discounts while comparing the vendor's prices with market prices and other vendor prices. Once this is accomplished the vendor's marketing strategies are discussed to ascertain the value of having a BPA with the specific vendor. Each subsequent order is competed amongst at least three vendors and a best value determination is made prior to order placement.

Appendix IV: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

September 4, 2009

John P. Hutton
Director
Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G St, NW
Washington, DC 20548

Dear Mr. Hutton:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO's) Draft Report GAO-09-792 entitled *Contract Management: Agencies Are Not Maximizing Opportunities for Competition or Savings Under Blanket Purchase Agreements Despite Significant Increase in Usage*.

The Office of the Chief Procurement Officer (OCPO) concurs with the recommendations included within the draft GAO report. While many of these recommendations are targeted at other agencies (e.g., Federal Acquisition Regulation (FAR) Council for FAR revisions, GSA for the GSA website), DHS' OCPO will take the following actions:

The draft GAO report makes the following 3 recommendations to the Administrator of the Office of Federal Procurement Policy:

Recommendation 1: To ensure that federal agencies take greater advantage of the opportunities that competition provides under schedule BPAs:

- take steps to amend the FAR to clarify when establishing a schedule BPA using the limited source justifications of the FAR, including to only one vendor, is or is not appropriate; and
- consider including in the pending proposed FAR rule implementing the provisions of section 863 of the National Defense Authorization Act of 2009, an amendment to FAR 8.4 specifying that the requirement to place on a competitive basis any order above the simplified acquisition threshold (generally \$100,000) under multiple award contracts also applies to orders under single and multiple award BPAs.

Response: The OCPO will issue guidance to the Department's Head of Contracting Activities (HCA's) regarding the usage of Blanket Purchase Agreements (BPA's), with an emphasis on (a) the FAR requirement for annual reviews of all BPAs, to include all mandatory elements; (b) awarding BPA's on the basis of competition (and if not, the

justification requirements); (c) the use of sole source versus multiple award BPA's, and (d) pricing of both BPAs and orders;

Recommendation 2: To improve compliance with the FAR requirement to conduct annual reviews of schedule BPAs, increasing opportunities for additional savings and avoiding violations of competition rules, take steps to require federal agencies to put procedures in place to ensure that annual reviews are conducted.

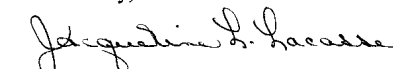
Response: Upon issuance of the final FAR rule, OCPO will review the Homeland Security Acquisition Manual (HSAM) to determine if additional guidance is needed with respect to the usage of BPAs within the Department.

Recommendation 3: Further, to assist federal agencies in requesting and obtaining discounts when establishing schedule BPAs, we recommend that the GSA Administrator include in the guidance on its Website specific language that agencies can use in their requests for quotation to clearly request discounted pricing when establishing schedule BPAs.

Response: OCPO will revise the curriculum of the existing pricing course currently offered to all DHS Components to include additional training with respect to BPAs and OCPO will conduct a special oversight review regarding the DHS Components' usage of BPAs during fiscal year 2010.

Thank you again for the opportunity to comment on this Draft Report and we look forward to working with you on future homeland security issues.

Sincerely,



Gerald E. Levine

Director

Departmental Audit Liaison Office

Appendix V: Comments from the Social Security Administration



SOCIAL SECURITY

AUG 31 2009

Mr. John P. Hutton
Director, Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Hutton:

Thank you for the opportunity to review and comment on the draft report, "CONTRACT MANAGEMENT: Agencies are not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements despite Significant Increase in Usage" (GAO-09-792).

We have one comment. On page 24, the report states, "For instance, at the Social Security Administration, an annual review had not been conducted for the BPA, and the underlying GSA schedule contract had been canceled one year into a 7-year period of performance. The agency had continued to place orders, totaling \$3.4 million, under this BPA, a potential violation of the CICA." We do not believe this statement is accurate, because we do not believe there was a Competition in Contracting Act (CICA) violation.

Consistent with CICA, we conducted a competition among General Services Administration (GSA) schedule vendors for a blanket purchase agreement (BPA) for services. The competition resulted in us awarding a BPA to General Physics Corporation (GPC) against one of its existing schedule contracts. Subsequent to our award of the BPA to GPC, GSA requested that GPC consolidate several of its existing schedule contracts into one single schedule contract. GPC complied with GSA's request, and GPC's schedule contracts, including the one referenced in our BPA, were consolidated into one contract. GSA gave this consolidated contract a new contract number and issued the following guidance:

"You will continue performance of any existing orders/BPAs under the terms and conditions which existed at the time of award for the duration of the order's/BPA's period of performance. Agencies will NOT be required to modify existing orders/BPAs."

The orders we placed against the BPA did not violate CICA. We properly competed the BPA, and GPC had a schedule contract in place when we placed the orders. However, we recognize that our contracting officer failed to reference the correct GSA schedule contract number when placing orders against the BPA. The contracting officer's reference to GPC's old schedule contract number on the orders was not a violation of CICA.

SOCIAL SECURITY ADMINISTRATION BALTIMORE MD 21235-0001

Appendix V: Comments from the Social Security Administration

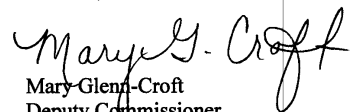
Page 2 – Mr. John P. Hutton

In July 2009, we issued a reminder to contracting officers to review BPAs annually. We will issue another reminder by the end of September 2009. Contracting officers will perform these reviews to ensure we are still obtaining the best value, and the underlying GSA schedule contracts are still in effect and are properly referenced in all of our orders.

Given this explanation, if you believe a comment is still necessary, we suggest the following language: “For instance, at the Social Security Administration, an annual review had not been conducted for the BPA, and the underlying GSA schedule contract had been given a new number by GSA one year into a 7-year period of performance. The agency placed orders, totaling \$3.4 million under this BPA, without referencing the new contract number.”

If you have any questions, please contact Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Sincerely,


Mary Glenn-Croft
Deputy Commissioner
for Budget, Finance and Management

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

John P. Hutton, (202) 512-4841 or huttonj@gao.gov

Acknowledgments

In addition to the contact named above, Michele Mackin, Assistant Director; Kathryn Edelman; Bridget Grimes; Paula J. Haurilesko; Art James, Jr.; Brandon Jones; Julia Kennon; Arthur Lord; Susan Neill; Kenneth Patton; Caitlin A. Tobin; and Alyssa Weir made key contributions to this report.

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