(i) The schedule contract, upon which the BPA was established, is still in effect;

(ii) The BPA still represents the best value (see 8.404(d)); and

(iii) Estimated quantities/amounts have been exceeded and additional price reductions can be obtained.

(2) The ordering activity shall document the results of its review.

[69 FR 34234, June 18, 2004, as amended at 70 FR 43579, July 27, 2005]

8.405–4 Price reductions.

In addition to seeking price reductions before placing an order exceeding the maximum order threshold (see 8.405–1(d)), or in conjunction with the annual BPA review, there may be other reasons to request a price reduction. For example, ordering activities should seek a price reduction when the supply or service is available elsewhere at a lower price, or when establishing a BPA to fill recurring requirements. The potential volume of orders under BPAs, regardless of the size of individual orders, offers the opportunity to secure greater discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order.

8.405–5 Small business.

(a) Although the mandatory preference programs of Part 19 do not apply, orders placed against schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.

(b) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small

business, or small disadvantaged business schedule contractor(s). GSA Advantage! and Schedules e-Library at *http://www.gsa.gov/fss* contain information on the small business representations of Schedule contractors.

(c) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

8.405–6 Limited sources justification and approval.

(a) Orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when restricting consideration—

(1) Of schedule contractors to fewer than required in 8.405–1 or 8.405–2; or

(2) To an item peculiar to one manufacturer (*e.g.*, a particular brand name, product, or a feature of a product, peculiar to one manufacturer). A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product, or feature is essential to the Government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's needs.

(b) Circumstances that may justify restriction cited in paragraph (a)(1) of this subsection include—

(1) Only one source is capable of responding due to the unique or specialized nature of the work;

(2) The new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order must not have been previously issued under sole source or limited source procedures;

(3) An urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

(c) Ordering activities shall procure such requirements only if the need to