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SCHEDULING SUCCESS? ISSUES AND OPPORTUNITIES FOR SMALL BUSINESSES ON THE GSA SCHEDULES

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SUBCOMMITTEE ON CONTRACTING AND WORKFORCE

OF THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

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SCHEDULING SUCCESS? ISSUES AND OPPORTUNITIES FOR SMALL BUSINESSES ON THE GSA SCHEDULES

THURSDAY, JUNE 7, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:35 p.m., in room 2360, Rayburn House Office Building. Hon. Mick Mulvaney (chairman of the subcommittee) presiding.

Present: Representatives Mulvaney, King, Coffman, Landry, West, Ellmers, Barletta, Chu, Schrader, Critz, and Richmond.

Chairman MULVANEY. All right. We will go ahead and call this meeting to order. I apologize in advance for the brief delay in getting started. We had a couple of votes. We should not be interrupted, I think, again. This time we should be great. So with that, I have an opening statement. Thanks everybody for coming very much.

Over the past few months, the Public Building Service of the General Services Administration has received a great deal of attention for its outrageous use of taxpayer dollars. However, in those discussions, it was easy to forget about the other side of the GSA. The Federal Acquisition Service serves as the core buying agency for the federal government. This division oversees the distinctive area of Multiple Award Schedules, or what we call Schedules, which is a program that poses unique challenges and opportunities for small businesses.

As we are all aware, the federal government spends half a trillion dollars every single year through federal contracting. What most people do not realize is that one out of every 10 of those dollars is spent using these Schedules, and that amounts to roughly $50 billion per year. About 80 percent of the 19,000 Schedule contractors are small businesses, and they receive about 35 percent of the money. This is no meager feat. GSA requires detailed records from a small business before awarding a Schedule. Many small businesses are forced to hire expensive outside proposal preparation services and invest in new record keeping systems in order to compete for Schedule contracts.

Despite the expense associated with receiving an initial GSA award, many small businesses still feel it necessary to enter the federal procurement process. However, recent changes in law, budget challenges, and new initiatives are now changing how small

businesses relate to the Schedules. This Subcommittee seeks to ensure that small companies who invested in GSA Schedules are not forgotten, and that those small businesses who may wish to participate in the future are not unfairly prejudiced. Today, we will examine four primary issues paramount to this discussion, including: The Brooks Act, strategic sourcing, voluntary set-asides, and the demand based efficiency model. Our questions will focus on ensuring that as the GSA advances in these areas, small business opportunities are preserved.

In order to have an accurate understanding of these issues, our first panel is composed of small businesses, and our second panel will feature two government witnesses. We will hear testimony from small business owners who have felt both the benefits and the burdens of the GSA's change in contract awards under the Federal Strategic Sourcing Initiative (FSSI). We will also have industry experts testify on the effects of altering the Schedules to demand based efficiency and learn whether the GSA is truly complying with small business set-asides and the Brooks Act.

I would like to thank everybody in advance for being here. We will get a chance to do that again before you leave, but I do appreciate your time. We look forward to everybody's testimony. And with that I will turn over to Mrs. Chu for her opening comments.

Ms. CHU. Thank you, Chairman Mulvaney.

I would like to thank you for calling this hearing today, and thank our two panels of witnesses for joining us to offer their insight, experience, and expertise on small business federal contracting and the GSA Schedules.

As we noted, federal contracting is an important source of opportunities for small businesses and can often be a first step toward growth for many small businesses. When entrepreneurs are hired by the federal government, they bring on new employees, create opportunities in their industries and in their communities. For our economic recovery to continue, small businesses must continue getting customers through their doors, and that is why it is this Committee's responsibility and my personal priority to ensure that we do all that we can to help small businesses thrive. And that is why we are here today, to ensure that the General Service Administration's Multiple Award Schedule Program is in place for small businesses to succeed and grow.

After all, according to SBA, getting a GSA Schedule contract is the lowest cost entry into government contracting and a great way for small businesses to achieve credibility in the federal contracting marketplace. Reforming and modernizing the Schedule is necessary to keep pace with changes in the economy, as well as the evolving needs of agencies and the GSA must lead by example. Initiatives that promote small business participation, increase efficiency and reduce waste are indeed critical, but we are here to examine some of the more recent and proposed changes to the GSA Schedules program just to ensure that they meet those vital goals.

In particular, we need to review proposals that may reduce the participation of small firms on the GSA Schedule. Such an outcome would not only shortchange entrepreneurs but also government agencies who could benefit from more and not less competition for their businesses.

GSA Schedules have been highly effective for small businesses, and they are growing rapidly. However, since the GSA Schedules are the only procurement program that does not require set-asides, it is critical that we ensure that small businesses are not at a disadvantage, especially as contract award vehicles are added or changed. We have seen over and over again that the federal government's commitment to small business has at times been disappointing. It fails to meet statutory benchmarks year after year, not just for small firms but also disadvantaged entrepreneurs like veterans, women, and minorities.

As the GSA Schedule evolves, it is critical that small businesses are consulted and prioritized. Improving the GSA Schedule and empowering more small firms to grow with the government is vital to our economic recovery. Ultimately, the questions are simple. Are small businesses benefiting from the changes at the GSA? Is government maximizing small business participation even while streamlining processes and transitioning to a more cost-effective system? Does GSA need to make small business participation in the Schedule more of a priority?

Well, the answers, of course, are not so simple, but I am eager to hear from our panelists and work with my colleagues to make sure that we tackle these challenges before us responsibly.

Chairman MULVANEY. Thank you, Ms. Chu.

STATEMENTS OF THOMAS JACOBS, PRINCIPAL, KRUECK SEXTON ARCHITECTS, CHICAGO, IL, ON BEHALF OF AMERICAN INSTITUTE OF ARCHITECTS; LARRY ALLEN, PRESIDENT, ALLEN FEDERAL BUSINESS PARTNERS, MCLEAN, VA; CHARLES FORMAN, EXECUTIVE VICE PRESIDENT, INDEPENDENT STATIONERS, INDIANAPOLIS, IN; MIKE TUCKER, OWNER, GEORGE W. ALLEN COMPANY, BELTSVILLE, MD, ON BEHALF OF THE NATIONAL OFFICE PRODUCTS ALLIANCE

Chairman MULVANEY. Now, the witnesses today, the first panel is usually our businesses. The first witness will be Mr. Thomas Jacobs, a principal with Krueck Sexton Architects, a small firm in Chicago. He is testifying on behalf of the American Institute of Architects, who last month awarded Mr. Jacobs their 2012 Young Architect award. Thank you, Mr. Jacobs, for being here.

Next to him is Mr. Larry Allen. He started Microsoft? No, president of Allen Federal Business Partners, a small business in McLean, Virginia, that helps small and large businesses navigate the GSA Schedules. Mr. Allen has authored or co-authored three books on the Schedules.

The third witness is Mr. Charles Forman, executive vice president of Independent Stationers in Indianapolis, Indiana. His company holds a GSA office supply blanket purchase agreement or BPA that allows approximately 117 small businesses to participate in the Federal Strategic Sourcing Initiative. Welcome, Mr. Forman.

And Ms. Chu will introduce our final witness.

Ms. CHU. Yes. It is my pleasure to introduce Mr. Mike Tucker. Mr. Tucker serves as a chairman of the Independent Office Products and Furniture Dealers Association, which is a division of the National Office Products Alliance. And this represents over 900 businesses in the office products industry. He is also the owner of

a small business, George W. Allen Company, located in Beltsville, Maryland. Welcome, Mr. Tucker.

Chairman MULVANEY. Gentlemen, thank you. Here is how the housekeeping works. We have asked you to limit your statements to five minutes, although typically in the Subcommittee we will not enforce that rule very strictly. If you decide to go a few minutes over, that is fine. If you start hearing me tap very quietly on the desk that means make some effort to please wrap it up. But please do not feel constrained by the five minutes. We are here. Many of you have traveled a good ways to be here. We would rather hear what you have to say than arbitrarily enforce a five-minute rule.

Secondly, what we will do is we will start with Mr. Jacobs, go down, and let all of you give your testimony first. Then, Ms. Chu will have an opportunity to ask questions. I will go last. And finally, and this is a little bit different in this Subcommittee. We usually do the businesses first and then the government witnesses second. But we welcome your questions of them. So if you have things that you want us to ask those folks, please let us know. And for the government witnesses, and I do not recognize their faces, please be aware that we may very well ask you questions based upon the opening testimony. So that is an opportunity that we afford you folks.

Mr. Jacobs, please fire away and we will go to Mr. Allen when you have completed.

STATEMENT OF THOMAS JACOBS

Mr. JACOBS. Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee, I am Thomas Jacobs, AIA, principal at Krueck Sexton Architects, an 11-person architectural firm based in Chicago. Illinois. I would like to thank you for the opportunity to testify today on behalf of my firm and the American Institute of Architects.

The current economic crisis has affected every American, but it has hit small businesses particularly hard. Architects are, by and large, small business people. Ninety-five percent of U.S. architecture firms employ 50 or fewer staff. In fact, the vast majority practice in one or two person firms. Because of a lack of financing in the private market, public sector work has literally been a lifeline for many small design firms. However, working with GSA and other agencies can be challenging for small firms.

Federal agencies are required to procure architectural services through qualifications-based selection under the Brooks Act. The Brooks Act does not mean that price is not a component of the negotiation. The price must be negotiated with the firm that best meets the qualifications for the project. This is similar to how private sector clients select architects for their projects.

However, some agencies avoid using rooks Act by obtaining architects through the Federal Supply Service. To participate in the Federal Supply Service, the contractor provider must post a price list for agency use. The agency then determines the best value by reviewing prices and other optional criteria. This "best value" process is in direct conflict with the Brooks Act because it focuses almost entirely on price and not the qualifications needed to protect the health, safety, and welfare of the people who use the buildings.

Moreover, in some states, architects are prohibited from competing on price. This puts architects in an untenable position of either violating ethical obligations or being locked out of the federal marketplace. GSA must cease to use the Federal Supply Service program for architecture as it violates the Brooks Act.

Another issue small design firms face is in how GSA selects architects for design build projects. The rewards are high, but cost to compete is increasingly prohibitive for small firms. To prepare for a design build competition, an architecture firm spends an average $260,000 by creating plans, models, and other materials. In almost 87 percent of federal design build competitions, there are no stipends for the firm. Instead, the firm must hope that they win to make up the lost costs.

Agencies have taken advantage of their purchasing power during the recession and have expanded the number of short-listed teams. In the past, three finalists were typical, but now there may be as many as 8 to 10 teams on the final list. The odds of being selected have dropped significantly. Small firms also face competition from larger firms who can more easily absorb the cost. We ask the Committee to look at reducing the number of finalists on these types of projects so that all firms participate in this market.

Finally, I ask, the Committee to urge GSA and other agencies to expand the participation of small firms in the GSA Design Excellence Program. My firm has been a successful participant in this program, which streamlines the selection process while stressing creativity in designing buildings which represent the dignity, vigor, strength, and enterprise of the U.S. government.

When we were shortlisted for our project, we were the only small firm competing against five large architectural firms. Because we had the talent, the design, and we were a small business, we won. Once under contract, we designed a 475,000 square foot new federal office building in record time with construction bids coming in below budget. Small firms are competitive.

At a time when federal government is facing unprecedented deficits, we need to ensure that every taxpayer dollar is spent wisely. Ensuring that the most qualified designers are selected at the outset of the project reaps financial benefits and true value for years to come.

In conclusion, I would like to thank the members of the Subcommittee for giving me the opportunity to testify today and for your dedication helping small business drive the recovery. I am happy to take any questions that the Subcommittee may have. Thank you.

Chairman MULVANEY. Thank you, Mr. Jacobs. Again, we will do questions all together at the end. So, Mr. Allen.

STATEMENT OF LARRY ALLEN

Mr. ALLEN. Thank you, Mr. Chairman, and good afternoon to you Madam Ranking Member and other members of the Subcommittee.

It is an honor to have this opportunity to testify today before you on the GSA Schedules program. This is a program I have worked in for nearly 23 years. For 20 years I led the Coalition for Government Procurement, an association principally made up of small business GSA Schedule contract holders, as well as businesses of

other sizes. I served on the Multiple Award Schedule Advisory Panel and continue to teach and advise companies on government business matters.

The Multiple Award Schedule Program, in my view, is the single best avenue for small businesses to compete for and win government business in today's environment. Having a Scheduled contract allows small firms to win and compete against larger businesses every day. The thousands of successful small firms that hold GSA Scheduled contracts are a testament to the creativity, nimble solutions, and dedication to service that are emblematic of small businesses everywhere. For over 20 years, small businesses have received between 30 and 33 percent of Schedule task orders. It is clear that small businesses have succeeded as the Schedules program has succeeded. No procurement program open to businesses of all sizes can match this consistent successful rate of small business success.

Yet, even this percentage of direct contracting tells only part of the story. Thousands more small firms participate in the program as dealers or subcontractors. Whether a small firm holds its own contract or participates in a contract held by another, the Schedules program supports thousands of small businesses across the country and hundreds of thousands of jobs.

Today, the Schedules program has new capabilities to further enhance the ability of small firms. New rules allow agencies to specifically set aside procurement for small business. Although this rule is only seven months old, I believe the data collected at the end of the fiscal year will show that small businesses have already realized a steady portion of Schedules-based work even at a time when Schedule sales overall may have declined.

The current wording of this regulation, which may set aside procurements for small businesses, I believe is more beneficial than a must standard. Mandating set-asides on the Schedules program is not, I believe, in the best interest of the Schedules program or the small businesses that succeed on it. New mandates that make the Schedules program more difficult to use will drive buyers to other programs, many of which do not have anywhere near the successful small business track record of the Schedules program. Any mandate that hurts the Schedules program therefore will have a proportional, if not greater, negative impact on small firms.

It is imperative that the Small Business Administration therefore more cautiously during its current round of rulemaking. It is always appropriate to look for ways to maximize small business participation but care is needed to ensure that there are not any unintended consequences from new rules. I recommend that the SBA examine other government contracts that did not already exceed the government's small business contracting goal by 10 percent.

Today's hearing also covers the topic of GSA's Federal Strategic Sourcing Initiative for Office Supplies. I am well acquainted with this procurement and the varying opinions surrounding it. I believe that an entire hearing could be held to discuss this program. The harmonization of positive political and acquisition outcomes is often something difficult to achieve. My hope is that GSA FSSI managers will exercise sound business judgment when setting the future

course for this program, and like many of my colleagues, I await eagerly what happened next with this acquisition.

GSA's Schedule managers have recently proposed demand based changes that could affect small business Schedule contract holders. One is a proposal to shut down Schedule contracts or parts of Schedules. The other is to move more swiftly to remove companies from the program that have not recorded any sales. For a period of nearly 20 years, GSA consistently accepted new offers and created new special item numbers and never had to close the program. Over the last several years, however, they have elected to look at closing the Schedules program. And although unintended, there may be some opportunities here that GSA does not realize when it closes the program. These closures may assist GSA in managing its workload, but previously, when contracts were only one to maybe three years in duration, they could be justified as the closure time was typically short.

Today, however, Schedule contracts are awarded for a five-year base period with three five-year options, and the Schedules program finds itself in a highly competitive contracting arena. Hundreds of smaller IQ contracts exist, and some agencies openly talk about plans to set up their own strategic sourcing initiatives, and at least one agency has developed plans to create its own Schedules program. GSA should be looking for ways to make its Schedules program as competitive as possible and remain open to new offers in innovations.

The issues surrounding GSA's desire to close part of its Schedules are real. The staffing issues are, in fact, acute and must be addressed by the agency. In the meantime, GSA leaders should have the flexibility to bring resources in from other parts of the agency. Periodic closings of your marquis procurement program should be a last option, not the first proposal out of the gate.

GSA leaders estimate that many of their 18,000 Schedule contract holders record no Schedule sales. Schedule rules state that a contractor must have 25,000 in sales within the first two years to maintain that contract. While GSA is also technically liable to pay each contractor that records zero sales $2,500, I have never seen that happen in my 23 years in the business. GSA does have the right to cancel contracts that realize zero federal sales, and companies are told in writing that they have to achieve minimums. However, many companies obtained a Schedule contract because an executive with a state or local government asked them to obtain a Schedule contract to get it easier for them to do business with that state or local government, and this provides a benefit to the small businesses, at the same time posing a challenge to GSA.

GSA must now deal with the reality of being the auxiliary arm of state government acquisition organizations. Businesses were told by an important customer of theirs to obtain a Schedule contract. GSA at the same time, however, must be allowed to recover the cost for performing this service. GSA should examine and Congress support if necessary the right of the agency to collect Schedule industrial funding fees from states that use local like contracts. Giving GSA the ability to reach out to states that already rely on its work will allow GSA to recover costs it is already incurring, and this approach would also allow the agency to hire and train addi-

tional contracting professionals and it will save hundreds, if not thousands of small business Schedule contracts and the related jobs tied to them.

Mr. Chairman, Madam Ranking Member, members of the Subcommittee, I am a strong supporter of GSA and its Schedules program. I believe the program fulfills an important need in the acquisition system. While we may differ on specifics, I believe that today's management team wants to move the Schedules forward. With a little tweaking, the program's success and that of its small business partners will only get better. I appreciate this opportunity again to testify and look forward to your questions.

Chairman MULVANEY. Mr. Allen, thank you very much.

Mr. Forman.

STATEMENT OF CHARLES FORMAN

Mr. FORMAN. Thank you, Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee. I am pleased to be testifying before you today about the Multiple Award Schedule Program specific to Schedule 75 and the Federal Strategic Sourcing Initiative Generation 2 Blanket Purchase Agreement.

My name is Charles Forman and I am the executive vice president of Independent Stationers, and I have been in the office products industry for 23 years. Independent Stationers is structured as a dealer-owned cooperative headquartered in Indianapolis, Indiana, and has been in the office supplies and related industries since 1977. Our small business dealer-owners have varied tenure in the office products industry with some dating back to the early 1900s.

Independent Stationers was certified as a small business by the SBA in 2003, and is comprised of 351 members and affiliates. Our dealer owners are small businesses and many hold other socioeconomic designations. Today, 117 of our members are certified and approved by GSA as participants of our federal sales program and as such can utilize our MAS Schedule 75 contract and related FSSI OS2 BPA.

Our model is similar to other successful cooperative business models such as Ace Hardware, credit unions, and many of the other nearly 30,000 cooperatives in the United States. There are many different types of cooperatives, including agricultural, financial institution, health care, housing. However, some are formed for purchasing, which applies to Independent Stationers. The reason Independent Stationers is in existence is to give our small business dealer owners the tools and resources they need to level the playing field with their big box competitors. Like the federal government leverages its purchasing power, we aggregate volume from our small business dealer owners giving them lower cost of goods. The net result is Independent Stationers dealer owners have the most efficient re-supply operations model in the industry today allowing them to deliver the highest value to federal government customers. The independent dealer channel is the high-service, high-touch customer care solution for the federal government.

In 2002, Independent Stationers was awarded a MAS 75 for office supplies. Independent Stationers, together with GSA, paved the way for federal government acceptance of GSA contracts awarded to industry consortiums. To our knowledge, this model

was the first in the office products industry and has resulted in significant savings to federal government consumers and enabled more small businesses to sell in the federal government marketplace.

In 2007, Independent Stationers was awarded under the first generation of strategic sourcing for office supplies in the categories of general office supplies and paper. Although the first generation BPA did not meet expectations, Independent Stationers took GSA at their word pertaining to the support that would be given for the second generation of the FSSI OS2 BPA. In 2010, Independent Stationers submitted a proposal based upon our proven cooperative business model that had brought us and our small business dealer owners success over the previous eight years. Not only did Independent Stationers' proposal answer the desire for focus on socioeconomic factors, it was deemed competitive and valuable to the federal government as evidenced with the FSSI OS2 BPA award in Pool 1. In essence, the award to Independent Stationers was made to more than 100 small businesses that would ultimately benefit, not just a single corporation.

Since the FSSI OS2 BPA began in June 2010, Independent Stationers has enabled GSA and the commodity team members to meet their goals of achieving savings; capturing data; enabling achievement of socioeconomic goals; driving compliance with mandates, acts, and orders; conforming with agency business practice; and been easy to use.

Independent Stationers' dealer owners have seen significant sales growth. In Calendar Year 2011, our participating small business members experienced a 302 percent increase in sales over Calendar Year 2010 in selling to the federal government. It is our estimate, through the Federal Strategic Sourcing Initiative OS2 BPA, that those sales represent a 36 percent savings as compared to our MAS 75 pricing.

In summary, participation in a cooperative business model is beneficial to small business and the federal government through cost savings and through small business participation. We applaud GSA for recognizing the benefits our cooperative business model afford small businesses with their award to Independent Stationers. We understand and acknowledge the common complaints expressed by those small businesses not possessing an FSSI OS2 BPA, and we believe we are a solution for those small businesses that fit our dealer-owned cooperative model, to sell to the federal government agencies through the FSSI OS2 BPA purchasing vehicle.

Thank you for the opportunity to testify.

Chairman MULVANEY. Thank you for the testimony, Mr. Forman. We will come back to the questions in just a second after Mr. Tucker is finished.

STATEMENT OF MIKE TUCKER

Mr. TUCKER. Chairman Mulvaney, Ranking Member Chu, members of the Subcommittee, I am Mike Tucker, chairman of the Independent Office Products and Furniture Dealers Association, and an owner of the George W. Allen Company located in Beltsville, Maryland. I am here today representing one of the IOP FDA's two memberships, the National Office Products Alliance.

The Independent Office Products and Furniture Dealers Association is a not-for-profit trade association established in 1904 that represents and serves more than 1,000 small, independent commercial dealers throughout the United States along with their key suppliers.

I appreciate the opportunity to speak to the Subcommittee today about the need to ensure small businesses in our industry have fair, ongoing access to opportunities in the federal market. There have been a number of developments since 2010 with respect to management of the GSA Schedule 75 program in general, and implementation of the second generation Federal Strategic Sourcing Initiative for office supplies in particular, that have broadly impacted our members. I will highlight these developments in my testimony today.

First and foremost, NOPA is greatly concerned about the abrupt and widespread impact on small businesses in our industry due to the General Services Administration's implementation of the current FSSI program for office supplies. We acknowledge that the FSSI program has generated new opportunities for small businesses in our industry, including some of our very capable members. At the same time, there have been many other members who have invested with government encouragement in obtaining their own Schedule 75 contracts, only to see their current opportunity dramatically reduced as a result of the near-mandatory, government-wide implementation of this program.

Given the government-wide scope of this FSSI and the large number of small businesses that were participating in this market in Fiscal Year 2010, NOPA was surprised that GSA did not undertake a small business impact study before launching its second generation FSSI for office supplies. It then went a step further and without any such study as required under the Regulatory Flexibility Act, published a proposed rule in June 2010 that called for creation of a special reference for Federal Strategic Sourcing Initiatives within the FAR.

As an association, we have worked to find the middle ground within our membership on this issue. We do not wish to impair the new opportunities of members who competed for and were awarded FSSI blanket purchase agreements. At the same time, we would be remiss if we did not highlight our concerns about FSSI has been implemented.

After monitoring FSSI implementation for six to nine months, and seeing its far-reaching impacts, we agreed within the NOPA Board to urge GSA and the administration as a whole to issue a Statement of Administration Policy to clarify to federal agencies what our industry had been told by GSA and the administration just prior to the bid process: that FSSI would be implemented on a non-mandatory basis, allowing non-awarded GSA Schedule 75 holders to continue to compete for federal business. Since that time, it has become clear that FSSI volume and its share of total federal spending on office supplies would continue to grow as more and more major agencies issued guidance to buyers that FSSI use was mandatory except in unusual situations.

NOPA has maintained a dialogue with GSA and the Office of Federal Procurement Policy on FSSI implementation since 2010

and I am here today to urge this Committee, the full Congress, and the administration acknowledge and address the impact of strategic sourcing on our industry in a forthright way. The solution is simple and relies on allowing more competition and flexibility in purchasing as ways to achieve FSSI's goals and reduce job loss pressures in our industry.

First, the administration needs to issue a very clear Statement of Administrative Policy that restores full competition within the federal market for our industry's products. This approach, if communicated and implemented broadly, will ensure genuine ongoing choice of procurement vehicles for agencies and will help the administration achieve the overall budgetary savings it hopes to achieve through the FSSI program. Mandatory implementation of FSSI on a government-wide basis represents a massive form of contract bundling, which has and will continue to reduce the opportunities and the ultimate level of small business participation and healthy, long-term competition in federal markets.

Second, there needs to be more flexibility to allow individual dealers with their own GSA Schedules to participate in FSSI as authorized participating dealers with dealers who have received awards. Authorized dealers should be subject to reasonable ground rules, but this should not mean they must give up their rights to compete for non-FSSI federal business opportunities using their regular GSA Schedule contracts. This is essential since APDs will need to bear significant administrative fees from GSA and their chosen FSSI BPA partner, as well as normal costs associated with properly servicing federal accounts. NOPA is in dialogue with GSA regarding the APD option, and we ask this Committee to strongly encourage them to work toward an expeditious and balanced conclusion.

We hope that this Committee will reflect on the history of FSSI implementation in our industry and consider how the small business impacts can be mitigated in the future. At the end of Fiscal Year 2010 there were 550 mostly small companies and a few dealer-based organizations competing for federal business with one or more departments and agencies under the regular GSA Schedule 75 contract program who were using individual blanket purchase agreements. However, with the rapid and orchestrated push by GSA and OFPP for use of FSSI on a government-wide basis using just 2 large and 13 small vendors, the economic fallout has been swift and dramatic for most of the remaining Schedule 75 contract holders.

The office products industry is one where small businesses owned and operated by women, minorities, service disabled veterans and second and third generation entrepreneurial families have been well represented and highly successful against much larger national competitors. It is hard to understand how an FSSI program was implemented that did significantly more harm than good to this already fragile community of businesses.

We do not believe that this result, a new economic loss for small business, is what Congress or the administration intended or is what our nation needs as our economy is showing uneven signs of recovery.

More competition, not less, is the solution and can readily be restored in the federal market for office products by making the FSSI program truly one option, rather than a mandatory or quasi-mandatory option among those that have been in place and work ineffectively for some time.

I ask that my testimony be made part of the official record of this hearing and thank you for inviting me to testify on behalf of NOPA.

Chairman MULVANEY. Thank you, Mr. Tucker. And just a point to all of you, your testimony that you have prepared in advance is part of the record. As will the questions and answers. So as is my custom, I will defer to my ranking member and give her as much time as she wishes.

Ms. CHU. Thank you, Mr. Chair.

I would like to follow up with you, Mr. Tucker, in terms of the problems you talked about with regard to the Federal Strategic Sourcing Initiative. You mention in your testimony that despite GSA's assurance that FSSI would not be mandatory, that in reality it has become that, and that agency's issue guidance to buyers is that FSSI use is mandatory. I want you to talk about how it is communicated to the buyers that it is mandatory. And also, can you explain how mandatory FSSI has prejudiced buyers away from regular Schedule 75 vendors and to what degree this has impacted non-awarded small business?

Mr. TUCKER. It is varied by agency, but basically they put out an agency directive that you are required to use this program and these 13 small businesses and two large businesses for your office supplies. And if a cardholder wants to veer away from that they either have a very, you know, strenuous group of hurdles they have to go through to make that happen and with official language are threatened with losing their card because they are not following the guidelines of the agency. But it was a very strong-arm push. There was nothing non-mandatory about it. It was very strongly worded. I have samples of those letters from all the agencies if you would like to see copies of them.

Ms. CHU. I am assuming then there was a dramatic drop in business for the other ones, for the other Schedule 75 vendors.

Mr. TUCKER. Well, we are Schedule holders, so our sales reps would show up at agencies that we had been doing business with for years and we would just be flat-out told, "Sorry, we love you. Your pricing is good and your service is great, but we cannot do business with you anymore." And it had a dramatic impact on our business very quickly. Our sales are off 60 percent from what they used to be and we have lost nine employees as a result of it.

Ms. CHU. I have also heard that the award application process for the blanket purchase agreements is confusing and there are many restrictive requirements. And as a result, many of these small businesses were not able to apply for Schedule 75 BPAs and that this drastically limited the pool of small businesses that could benefit from the opportunity. What would you say about this application process? And was it transparent? Why or why not?

Mr. TUCKER. I have done a lot of proposals and I have won a lot of BPAs over the years. This one was very different. I think I heard that somewhere in the neighborhood of maybe 50 companies out of

the 550 actually put proposals in. To Mr. Forman's point, there were consortiums that also put proposals in. His was the only one that was able to win it this time, but it was very price-based where in the past a lot of these solicitations have had a lot more technical requirements in terms of past performance and ability to deliver on a national basis and meet other technical requirements for reporting and computer systems. Those were very much minimized in the new bid. And it was primarily about price and then they also had a calculator at the end of the bid that was based on volume discounts that you would offer the government if you hit benchmarks of $25, $50, $75, or $100 million. And you could put a number in there. And most people, a responsible number might have been a 1, 2, or 3 percent. There were people that put 6, 12, 18, 22 percent in those figures which made their bid package come in ridiculously low compared to a more responsible bid. But there was no accountability as to how you would get to those discounts if you ever did reach those sales but it did very much affect the award pool that came out of the solicitation.

Ms. CHU. And let me ask also about the voluntary set-aside because GSA is one of the few agencies that does not have a mandatory set-aside for small business. And therefore, that would seem to also lessen the opportunities for small business. Have you participated in government contracting out of GSA where there is the mandatory set-aside? And do you see a difference here?

Mr. TUCKER. Only on the furniture side for me. We also have a furniture Schedule and we work with 8(a) partners or partners with other minority designations when primarily the military would have some kind of a set-aside where they had to spend a certain amount of dollars with those and we were able to work with a contracting partner on that. I really have not seen much of that on the supply side and because so much of the procurements are under the micro purchase threshold and its credit card transactions, I do not think it lends itself to a set-aside program. I know at some point they used to have set-asides for under $25,000 if things were competed, but I think the business has gone to more of a credit card base with smaller pockets of business as opposed to supply rooms and large procurements for full agencies or departments.

Ms. CHU. Mr. Allen, you talked about the $25,000 sales minimum threshold and the effect that canceling contracts with no sales will have on state governments that rely on GSA Schedules for selecting vendors for their state programs. There is this $25,000 minimum but canceling those particular contracts right now could have, of course, a very difficult effect. And in fact, in my own state of California, having a federal Schedule contract makes it easier for a business to get onto the state's own Schedule. But, you know, of course, being canceled would really have a deleterious effect. So what effect will GSA's enforcement of this contracting provision have on the ability of businesses to compete in federal and state markets?

Mr. ALLEN. Well, Madam Ranking Member, I think that the process is GSA needs to look and see what businesses that record zero federal sales are actually doing on some of these state contracts and the example that you mention, the CMAS program is

certainly one of the most visible state contracts that is based heavily on the federal program. And being able to see that there are businesses that are doing robust state government business and may very well have the intent but because they are small, lack the bandwidth to sell federally right now, is an important factor that needs to be considered before those contracts are canceled. Unlike somebody who may have gotten a Schedule contract four years ago to transaction one specific piece of business and has never done anything since, the types of contracts that are awarded that are essentially the backbone of a state government contract do have a purpose and I think that purpose needs to be investigated and realized before there are any cancelations that take place.

Ms. CHU. And for anybody on the panel, the whole panel on this $25,000 minimum, have you experienced this or know small businesses that have had trouble meeting this annual minimum? Would it be particularly difficult for a small business to meet this threshold?

Mr. ALLEN. Well, in my experience, Madam Ranking Member, I have seen small businesses that have struggled over a couple years to achieve $25,000 in sales. Usually the ones that have a dedicated or halfway dedicated federal program can achieve that level in a couple of years, maybe three years, and if they are showing good progress, historically GSA has been willing to allow that contract to continue in anticipation that they will build a base of business.

GSA's enforcement of the $25,000 limit has not always been consistent over time. Now, I am speaking as somebody who has 23 years of experience with the program. More recently, they have become a little bit more consistent about looking at companies that have no sales, but again, no sales really should mean no public sector sales and not just no sales to the federal government.

Ms. CHU. Well, thank you. And I yield back.

Chairman MULVANEY. Thank you, Ms. Chu. We now recognize the gentlelady from North Carolina, Ms. Ellmers.

Ms. ELLMERS. Thank you, Mr. Chairman. And thank you to our panel for being here today on this issue.

Mr. Allen, my questions are for you. I have a couple of situations that I have run into with constituents, small businesses back in North Carolina, on basically the GSA scheduling issues. I would like to ask you about some of the or what the process is sometimes if there is the possibility of some of the abuses that could happen. One directly would be if a small business is deemed to be not a small business and something other than or larger than a small business but has received funding, what is the process that would happen if they have already received some funding? What is the process that should take place? How prevalent is this? And how are abuses like that monitored?

Mr. ALLEN. Well, some of it is dependent upon the basis upon which the initial contract award was made. So if the initial contract award was made based on small business size standard and the business in question is no longer small, proper notifications should be given by the business to the government agency that it is no longer small and then it is up to the agency to decide whether they need to actually keep this as a set-aside piece of business, in which case they would at some point in the not too distant future

after receiving that information, cancel the current contract and then go out and recompete among eligible small businesses. Contracting officers in the government as well have the ability to ask businesses of any size to recertify their size status at the time of any task order being issued against that contract, and small businesses have to answer.

Your question, however, is a very good one because that is what is supposed to happen. In reality, there is not always the communication that should take place between the contractor and the buying agency, and the buying agency sometimes does not ask the questions that perhaps it should ask about a company's small business status. Typically, it is usually up to a competitor company to call attention to change in size status or some other issue with an existing contract and then again, it is up to the agency usually to decide, well, do we want to maintain this as a small business set-aside or are there other opportunities that we can do as small business set-asides and still continue to do business with a company that is no longer small but is meeting our needs?

Ms. CHU. Just as a follow-up question to that, and this is a very specific situation, if the Small Business Administration had been the one to basically point out that that business was no longer considered small on more than one occasion, would you not feel that that was more than justification for that process to end?

Mr. ALLEN. Yes, ma'am. There is no question. If the SBA says formally or even semi-formally that this business is no longer small, that should be the last word.

Ms. ELLMERS. Okay. Well, thank you so much, Mr. Allen. And I yield back the remainder of my time.

Chairman MULVANEY. Thank you, Ms. Ellmers.

Mr. Jacobs, a couple of questions for you. We talked—because I have not had a chance to talk much about the Brooks Act—you talked about the qualification-based selection system where supposedly you are not competing on price, you compete on qualifications and then the government will negotiate with the most qualified provider. And I think you compared it to what we call the best value process. Did I get that right? Is that what they——

Mr. JACOBS. I think in my testimony, best value was used in conjunction with the Federal Supply Service. But I think the definition of value has inherently to do with what I think we are trying to communicate.

Chairman MULVANEY. My understanding of the Brooks Act, which is fairly limited, is that if we did that that would be in violation of the Brooks Act. Would it not?

Mr. JACOBS. Correct. If Architectural Services are awarded based on the Federal Supply Schedule, that would be in violation of the Brooks Act because—and I think this has everything to do with the nature of architectural services as opposed to a physical commodity which I believe is the intent to be covered by the Federal Supply Service. So the professional services that we sell consist of time, experience, ingenuity, and we are, you know, we spend time with our clients, with agencies very early on in a process that frequently takes a number of years. And so I may be able to give you one example how I think we can affect cost control specifically much more accurately at the very upfront end of a job as opposed to, and even

if you might have built your own house, the worst thing that can happen is two weeks before you want to move in something does not work and now you have to make changes. It is very cost prohibitive to do this because everybody is already onsite and now you have to order materials and so forth.

If you compare that with the ability that we, as planners and problem solvers, have at the beginning of a multi-year process that it takes to design and engineer a building, we can run various scenarios that upfront can show which design or which approach can yield long-term savings. And so this is think fundamentally how the architectural profession sees its values or its value with regards to providing accurate information for decision makers. So if we do our job right, it puts the government in a position to make informed and the most accurate decisions, and those are the ones upfront that can actually save real dollars long term.

Chairman MULVANEY. You also mentioned something, and I have done some work with architects in my previous life, but you mentioned something that I was not familiar with. Did I hear you say correctly that architects are prohibited in some states from competing on price?

Mr. JACOBS. That is correct.

Chairman MULVANEY. Give me an example. What states would that be?

Mr. JACOBS. I would actually have to look that up. I am generally informed that out of the 50 states I think two, and I cannot point you to which ones they are, but two of those, that the statutes of the profession in those state prohibit people from just competing on price.

Chairman MULVANEY. All right. Let us assume for the sake of this discussion that is correct. I have no reason to think that it is not. If the government is actually employing this best value process in either intentional or unintentional violation of the Brooks Act, would that not automatically disqualify every single architect in those two states from competing?

Mr. JACOBS. I think based on professional ethics standards, yes, it would. But I think this is somewhat of a gray area in that it puts architects in this difficult position. As you know, the economic climate is such that I think firms in a case like that may have to—may be forced to make a decision in interpreting their professional ethics standards or basically still applying for federal work.

Chairman MULVANEY. In your last comment, and I am going to ask each of you this before it is finished, in your last comment you urged the GSA to do something regarding expanding participation. I could not write as fast as you were speaking. Say that for me again because I am going to have the GSA come up in a second. I will be happy to pursue that topic with them.

Mr. JACOBS. Yes. We would like the Committee to consider urging the GSA to expand the Design Excellent program. And this is the exact program that we were involved in in this federal office building that I described. And I think this is for probably three primary reasons. This Design Excellence program explicitly meets the intent of the Brooks Act in our opinion because it is a two-stage selection process. And actually, before you get to that process, all of these opportunities are posted on Fed Biz Ops, completely open

and transparent and easily accessible to all. And then this two-stage selection process is first a broad qualification of experience and expertise. And based on that, the government then creates a short list. And typically, members of that short list get to an interview or in a competition mode where they literally are pitted against each other in terms of who is more experienced, innovative, and actually might have some real ideas with design.

So because that process is literally set out to give the government sort of the benefits of the competitive environment we are in, we believe, and our experience is that that yields a very good result.

Chairman MULVANEY. Thank you, Mr. Jacobs.

Mr. Forman, a couple of questions for you. Walk me through the process. I ran a small business. I had some encounters with the SBA but I never did what you all are testifying about today. Walk me through the process by which you all won the OS2 BPA, and tell me if you participated in any of the GSA outreach programs as they developed the requirements for that contract.

Mr. FORMAN. Chairman Mulvaney, I will answer the second question first if that is all right. We did participate in some of the outreach meetings that GSA had, and we provided input and we worked many times with NOPA on providing that input and trying to affect change on those types of solicitations. In terms of responding to the bid, as I indicated in my testimony, we have been a Schedule 75 holder since 2002. We meet the requirements, and so when it came to responding to the technical requirements of the bid and the competitiveness of the bid in bidding on the market basket items and how that filters down to other items outside of just the market basket, I would state we were the third, I believe, lowest bidder on the market basket. So we competed both on a technical—from a technical standpoint met the requirements of reporting and whatnot and the socioeconomic, being a small business, and also price.

Chairman MULVANEY. You mentioned in your testimony that the GSA had pledged to be more helpful to small business through this OS2 BPA process. How did they do, in fairness? Again, I am going to ask them the same question in a few minutes.

Mr. FORMAN. Sure. I think to some degree numbers speak for themselves, and there is a higher degree of the overall spend going through small business today than there was in the past. But I think that it is a higher dollar—is a higher percentage of the spend to a fewer number of small businesses. So I would say that you would have to look at it both ways. Fewer number dealers are getting a bigger piece of the pie. And in the case of us, we are a, again, cooperative, viewed as a consortium of dealers by the federal government, and we have a number of dealers who never had any piece of that business in the past and have been able to participate in our program and share in some of the sales to the federal government.

Chairman MULVANEY. Thank you, Mr. Forman.

Mr. Allen, I have some questions for you, very similar to what Ms. Ellmers asked you, and in consideration of time I am instructed we are going to have votes in about 45 minutes, I am going to skip you now and go to Mr. Tucker.

Mr. Tucker, very briefly, I take it you oppose the OS2 BPA process?

Mr. TUCKER. Not so much that I oppose the process as much as the way it was implemented and the way it limited the participation of eligible dealers who were qualified to perform under the program. And there were two other teaming agreements that were in place before the second FSSI that did not get awards. The group that I was running with had over 100 members. There was another group called AOPD with 50 or 60 members. Those two groups basically got washed out of the process and other GSA contract holders, either that did not participate or wanted to participate in the program, were given the restrictions of having to limit the products that they offered on their GSA Schedule as a condition of participation as a dealer in another program. So a company like mine, we would have had to basically wipe out the last 40 percent of our business with agencies that we had other agreements that we were still fulfilling in order to try and jump over and be a participating dealer with an awarded company.

Chairman MULVANEY. And is the circumstance that you just described which you were referring to when you said that the FSSI process was sort of a de factor or in essence a form of contract bundling. Is that what you are talking about when you use those words?

Mr. TUCKER. That is how it appears to me that it came. Because you had 400, well, about 400 dealers competitively participating for the business. And especially in pocket markets. So you have small companies with a contract that maybe were outside a military base or next to a veterans hospital or something where getting a Schedule, you know, they had a great opportunity to do business. But they did not have the wherewithal to compete for a national contract or a national BPA like this, and as a result they got swept away by the wave when this came through. And even us being in the Washington, D.C. area and a veteran company by most measures, you know, we did not have a way to effectively get in the game even though we were right on the cusp of being qualified for an award.

Chairman MULVANEY. All right. I am going to press you on something that actually was not in your presentation today but it is in your written testimony, which deals with the Statement of Administrative Policy, the SAP, because I think you are encouraging the GSA apply that instead of the traditional rulemaking. As a lawmaker, did I mischaracterize that?

Mr. TUCKER. No, I think, I mean, we represent a lot of companies and some got awards and some did not. We saw that as a compromise vehicle that could allow other companies to get in. If the guy outside the veterans hospital or the military base had something in writing from the administration that says FSSI is not mandatory, he may be able to use that to counter the written guidelines that that agency put in place that made FSSI mandatory.

Chairman MULVANEY. And I will just ask you, Mr. Tucker, as a lawmaker, SAP does not appeal to me very much. You recognize, of course, number one, it does not have the force of law, so it may not be as powerful a tool as you think that it is. And perhaps more

importantly, it does not provide for comment period input from the business community. It is sort of a fete accompli. It is a done deal once the administration issues it. So I guess I do not have a question for you but I just tell you there will be folks who will press you on that simply because we would like to participate in the process.

Mr. TUCKER. That was a compromise solution to try and come up with something that could help our members.

Chairman MULVANEY. Thank you. Gentlemen, again, I am not trying to rush anybody through but they do tell me that we are operating under some loose time constraints. A quick question to each of you. Mr. Jacobs, I think I know the answer to what your question is, so I will start with Mr. Allen. Mr. Allen, in a few minutes here the GSA is going to come up and other folks from the government. Any questions you want me to put to them?

Mr. ALLEN. I think the biggest question for GSA, Mr. Chairman, is what they are going to do in terms of these discussions that we talked about, the demand based changes. I think that on some level, an administrative level, I understand what they are trying to achieve but I do not know that the process that they are going to propose to go through is the best way. What other processes, what other alternatives are there that would allow them to manage their administrative challenges without causing this type of disruption to their overall business?

Chairman MULVANEY. Thank you. That is one of the questions we had as well.

Mr. Forman.

Mr. FORMAN. If I were to ask a question it would be would there be additional consideration of the cooperative business model as a means to help GSA achieve some of its goal in terms of reducing administrative burden in terms of managing hundreds of contracts when it can utilize a cooperative and in essence support small business, numbers of small businesses through one contract?

Chairman MULVANEY. Mr. Tucker.

Mr. TUCKER. Just that they would continue the dialogue with us and with a short-term solution in mind of trying to get more participation from companies that have held GSA contracts in the past and without any burdensome requirements.

Chairman MULVANEY. Thank you, gentlemen. I thank all of you for your time, for your effort, for your input. I especially thank those of you who traveled today for this. And I will tell you what I tell everybody who comes to these things, because some folks come in and they say, Mr. Mulvaney, no one showed up for this. Was this a complete waste of time? I can assure you that it is not. I can assure you that this is where the dialogue starts on policymaking, on rulemaking, on everything.

You might have made a comment today, Mr. Jacobs, regarding the Design Excellence Program that someone sitting in the back will pick up and write about in one of the local trades and it will end up being a discussion item at your next symposium and a year from now it will end up being a piece of legislation. We see that every single time. And so please do not be discouraged by the fact that there was not a lot of media, a lot of press. This is an extraordinarily helpful part of the process, and you gentlemen have con-

tributed greatly to the dialogue today and I really appreciate your time. So thank you for coming in. With that we will excuse you and ask the next folks to come up.

Chairman MULVANEY. Gentlemen, thank you. We will introduce you very briefly and go right to the testimony.

STEVEN J. KEMPF, COMMISSIONER, FEDERAL ACQUISITIONS SERVICES, GENERAL SERVICES ADMINISTRATION, WASHINGTON, D.C.; WILLIAM T. WOODS, DIRECTOR, ACQUISITION AND SOURCING MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

Chairman MULVANEY. So for the record we know who you are, the first witness is Commissioner Kempf, Steve Kempf. He is the commissioner of GSA's Federal Acquisition Services, which manages and oversees the Schedules. While Mr. Kempf has been commissioner for about two years now, he has been with GSA since he started there as an intern in 1947. Is that what it says here? 1992. So am confident he will be able to answer the questions.

Our second witness is Bill Woods, the director of Acquisition and Sourcing Management. That team is at the U.S. Government Accountability Office. He is responsible for providing overall direction for the GAO review of contracting activities at defense and civilian agencies. Last fall, under his direction, GAO issued a report on GSA's Federal Strategic Sourcing Initiative for office supplies.

Gentlemen, thank you as always for being here. Commissioner Kempf, I think you are first.

STATEMENT OF STEVEN J. KEMPF

Mr. KEMPF. Good afternoon, Chairman Mulvaney, Ranking Member Chu, and members of the Committee staff.

My name is Steven Kempf, and I am the commissioner of the United States General Services Administration's Federal Acquisition Service. I want to thank you for providing me the opportunity to discuss GSA's accomplishments and continued efforts to improve the efficiency and effectiveness of the Multiple Award Schedule's program (MAS). Over time, the Schedules have proven to be the most effective contracting vehicle for small business in the government marketplace.

I would like to discuss three specific initiatives and have I addressed several related programs in my written testimony that operate to ensure the success of MAS and maximize the use of taxpayer dollars. These three things are: implementing the Small Business Jobs Act of 2010; the Federal Strategic Sourcing Initiative; and finally, the MAS Demand Based Model.

The MAS is the most successful government contracting program in terms of creating opportunities for small businesses. The MAS program routinely exceeds the government-wide business contracting goal of 23 percent. Specifically, more than 70 percent of all MAS vendors are small businesses, and approximately 34 percent of all dollars spent in the MAS go to small businesses. This success is not accidental; it is the result of robust programs and a commitment to the success of small businesses across our agency.

Our expectation is that the full implementation of Section 1331 of the Small Business Jobs Act of 2010 will drive even more market

share to small businesses. Since promulgation of the FAR Rule in November of 2011, GSA has trained approximately 1,700 members of the federal acquisition workforce.

While we are pleased with our progress, we continue to identify additional ways to ensure that the authority continues to be a success. For example, in partnership with the Federal Acquisition Institute and Defense Acquisition University (DAU), FAS has launched a four-hour course on how to use the new authority, and we are in the process of working with the Office of Federal Procurement Policy (FAI) and DAU to make the case that MAS training, and as a consequence, training on Section 1331, should be a required component of the federal acquisition certification. We look forward to continuing to work with you to ensure success of this program.

Over the last few years, we have placed renewed effort in GSA on data collection, analysis, and enhanced competition. These are the things that allow us to make the best purchases at the best prices. Such leveraging of government spending is at the heart of the Federal Strategic Sourcing Initiative. FSSI is governed by the Office of Management and Budget in concert with the Chief Acquisition Officer Council's Strategic Sourcing Working Group. It is important to understand that price is only one of FSSI's key priorities. Socioeconomic goals, including small businesses, understanding the government's spending patterns, ease of use, and removing government cost drivers are other key goals. To accomplish these goals on each specific initiative, we work closely with other agencies to develop features and requirements, as well as obtain industry feedback and expertise. This thoughtful process has resulted in significant savings and smarter acquisitions in all of the initiatives we have undertaken.

The MAS is a great acquisition tool. However, fundamental MAS business models have not changed since 1992, despite significant market changes since that time. The MAS model needs to change to address new realities, and we must ensure that our vendors are able to respond effectively and efficiently to market demands. This is why GSA is committed to implementing a new business model we call Demand Based Model. The MAS program, with limited exceptions, is perpetually open to qualified new offers. And while vibrant markets exist in some of our Schedules, we have reached the point of saturation in others. In some instances, well over 60 percent of the contract holders receive little or no business. Furthermore, competition that takes place in an oversaturated environment is often not effective.

These concerns form the basis behind our Demand Based Model. This model allows us to focus our limited resources and capacity on the most critical areas.

Over the last several years, the volume of MAS offers received has roughly doubled, and the number of modifications has nearly tripled. Much of this increase is the result of numerous contractors offering the same items at different price points. GSA projects that well over 50 percent of the MAS contracts awarded in 2011 will not have significant sales, and the government will spend over $20 million to support and manage low or no sales contracts. The current fiscal challenges facing agencies require GSA to refocus its acquisi-

tion professionals on helping agencies use the MAS program more effectively by bringing new solutions to the market faster, improving pricing and simplifying the buying process.

Small businesses will only succeed if GSA is positioned and able to provide opportunities, respond quickly, and offer the technical assistance needed to navigate the procurement process. The Demand Based Model will increase our agility, provide agencies with faster and better access to emerging solutions, send clear signals to the marketplace so contractors can identify where the demand lies, and respond accordingly.

On behalf of GSA's Federal Acquisition Service, I again thank you for this opportunity, and I would be happy to answer your questions.

Chairman MULVANEY. Thank you, Commissioner.

Director Woods.

STATEMENT OF WILLIAM T. WOODS

Mr. WOODS. Thank you, Mr. Chairman, Ranking Member Chu.

I would like to cover three areas this afternoon. One is a GSA study on office products that they completed on behalf of the Appropriations Committee. Secondly, our observations on the conclusions in that study. And then thirdly, to talk about the Office Supplies II contract that we have heard about already this afternoon.

The Appropriations Committee has heard, as have many others, that the prices on GSA Schedule contracts were not nearly as good as some agencies could obtain on the open market, and they asked GSA to conduct a study to either confirm or deny that. GSA spent about a year performing that study, and their conclusion was that about 58 percent of office supply purchases were made outside the Schedule. And when those purchases were made, the agencies were paying price premiums, a higher price buying off the Schedule than they would buying under the Schedule. Those price premiums were significant. Seventy-five percent higher prices paid off Schedule than they would have paid purchasing under the Schedule, and some 86 percent higher making purchases off Schedule than they would under the OSII program.

We spent time looking at the data that GSA had collected, as well as their methodologies, and we had some concerns about their findings. The finding on the amount of the price premium we thought was too high. And the reason is that they did not properly account for variations in quantities. Let me give you just one example. They used part numbers in order to be able to determine whether a purchase that was listed as a pen was a single item, a box of three items, or a box of a dozen or more. That simply was not a sound methodology to allow them to come to the conclusion that they did. We questioned the magnitude of the finding. We did not question the direction because we still believe that agencies can do better under the Schedule than they can do on an open market basis.

Other studies confirmed our view and GSA's view that agencies could do better under the Schedule and through leveraged purchasing. We talked to the Air Force. We talked to the Department of Homeland Security. They had conducted their own studies and

came to the same conclusion. But we were concerned about the magnitude of the cost savings that the GSA study found.

The other thing I would like to mention in the time we have available is the Office Supplies II initiative that we have heard so much about this afternoon. That has tremendous benefits, and let me just list a few. Saving money is number one. GSA estimates that buyers save about eight percent when agencies use OSII versus using the Schedules program. They estimate that agencies in total have saved some $39 million so far just in the last couple of years by using OSII. Further savings are possible. This is a big market of about $1.8 billion, so we can see that further savings are indeed possible. But there are other advantages as well. This is part of a Strategic Sourcing Initiative, and the essence of strategic sourcing is that entities, whether they are government agencies or private businesses, need to know where their money is going, how much they are spending, what they are spending it on, and who they are spending it with. And the Strategic Sourcing Initiative, by collecting data from vendors and doing that kind of market analysis, allows agencies to make very informed decisions.

It also allows them to better manage their vendors. They can spot more quickly when vendors are failing to comply with their contractual requirements and they can take specific action. And we found, in fact, a number of instances where the General Services Administration had issued notices or, known as cure notices, to vendors that were not measuring up and demanding that they improve their performance.

And then lastly, another advantage that we identified and the GSA is rightly very proud of is that when agencies make purchases using the purchase card, they do not have to identify themselves as making a purchase under OSII. That is automatic. If they use the purchase card, if the card gets swiped, they get the OSII price. They also get relief from state sales taxes, which is important. That in itself is an enormous saving.

So we have concluded that there are benefits from the OSII initiative. It is not without problems. There are certainly some growing pains, but fundamentally, the government is better off using OSII than otherwise. Thank you.

Chairman MULVANEY. Thank you, Director Woods.

Ms. Chu.

Ms. CHU. Commissioner, the Small Business Jobs Act allows agencies to voluntarily apply set-asides to Schedule orders. However, the GSA Schedule is the only procurement program that does not mandate set-asides. Why should the Schedule be exempt from these mandatory small business set-asides?

Mr. KEMPF. Well, I would focus on the results that we have shown thus far. I think that the program has exceeded almost any other measure that you might have in terms of results. And when we are talking about 34 percent results over to small businesses across the program, that is substantial. It is well above the targets that many, many agencies and programs do not meet.

But I really want to focus in on what we have seen since we have implemented the discretionary set-asides. That happened last November. We were ready right out of the gate to help the agencies understand how to use it. We provided the training to them. We

have, as one of the tools we offer as part of this Schedules program, something called eBuy, which is an electronic marketplace for ordering and doing RFQs. And in the last two months we have been able to track the number of procurements in eBuy where they have actually used the discretionary authority. And in the last two months, we saw 1,776 actual set-asides being done by the agencies.

So when you look at the uptake, and that is out of 12,000 actual procurements that were actually put into eBuy, and that is not the entirety of what happens on the Schedules program. So when you look at the amount of uptake and as quickly as it occurred.

Additionally, when we have been out to train, I have a couple of anecdotal responses that we saw at the agencies. At the Air Force we saw them move a full and open procurement to the Schedules and use as a set-aside a $40 million procurement. Additionally, when training the Energy department, we saw them move or set-aside, expect a set-aside a $200 million and a $50 million procurement. These are not small procurements. They are having the opportunity to actually really impact their numbers, and those are two agencies that have struggled. And it is tough for them because of what they buy to actually meet their small business goals. So I think, you know, as we are seeing the voluntary or discretionary set-aside, we are seeing real impact on the program. And what we expect and hope is that it drives that number up from 30, 33, 34 into the higher 30s.

Ms. CHU. I just wanted to have some idea of how long this program has been in effect and the kind of data that you have, like how many agencies are participating and how many orders have gone through the voluntary set-aside system versus the regular GSA Schedule system. So how long has this program been in effect? And also, how many orders have been placed through the voluntary set-asides?

Mr. KEMPF. Again, the discretionary authority was granted in I think it was November of last year. So we are talking from November through now. We have only actually been able to identify in the eBuy system the last two months. It took a while for us to change the system so that we could track those orders that were actually set-asides. It takes us a while. We have got some old systems that need help. So when we change things, it takes us a while to get them running. But again, over the last two months we have been able to track. Again, I do not know exactly what the percentage is, but 1,776 out of roughly 12,000. So you are seeing about 14 percent of the orders actually being set aside through the electronic system.

Now, agencies, like I said, they do not all use eBuy when they do the purchases. But it is one indices that we are looking at where we are tracking and seeing that the agencies are actually picking up that discretionary and using it. Plus, you know, the number that we have been able to—the number of people we have been able to train, 1,700 across the federal government, and then again, we have seen about 7,000 hits on the webinars and the information that we have on our websites looking for the information on how to use.

Ms. CHU. And how many small businesses are receiving orders through voluntary set-asides versus the regular Schedules? And what are the relative volumes of sales?

Mr. KEMPF. That I do not know that we can even track, at least at the moment. So I would have to defer on that. I just really do not know that.

What I would really like to look and watch for is do we see a market increase in the amount of business actually going to small business by the end of the year? If we see that number moving and nothing else has really substantially changed, I think we can, you know, we will have a better indication of what kind of real impact it had to small businesses. And like I said, we are really expecting to see some of the impact coming by the end of the year. So I think we will know by the end of the year—expect to see some substantial impact.

Ms. CHU. So, well, apparently you are putting the system in place to track the effect of the voluntary set-aside program, but can we get that data?

Mr. KEMPF. We would be able to see actually if the actual—sometimes people use the eBuy system to do part of the procurement and then they finish it up in their own agency acquisition system. Sometimes they actually use the system to actually make the procurement. We would probably be able to tell the set-asides that were actually done in eBuy because we would be able to track that. So that data we would be able to tell. So those that use the eBuy system, we would be able to see which ones were actual set-asides. On the agencies, I do not know if we would be able to see that data in FPDS on set-asides and FPDS NG. I just do not know enough to answer that.

Ms. CHU. I am asking if you can look into that.

Mr. KEMPF. We will look into that and provide more information to you.

Ms. CHU. On the Blanket Purchase Agreements, the BPAs have not raised complaints from small businesses in four out of the five GSA Schedules when they were introduced. But in the Office Supply Schedule, the Schedule 75, there were complaints as what you have heard today. So what is different about Schedule 75 that caused the sales volume and opportunities to climb for small businesses that were not awarded the BPAs?

Mr. KEMPF. Well, most of the other areas where we have done the FSSI initiatives were generally large businesses, were players. So for instance, ground domestic delivery, as you can imagine, you are talking about the FedEx and UPSs of the world. So it has caused some concern for us. Whenever there are winners and losers there is always people who are disappointed and upset with the process when they do not win. And we have, of course, heard from that. And in all of the procurements that we have had, that is normal.

But I think the problem here in the strategic sourcing around the office products is that this is an area that has been under a lot of intense market pressures generally. So this has been a very tough business to be in. I have a lot of empathy for those who are in this business, but we have—this is our second generation. We learned a lot from the first generation. I think Director Woods points to some of the lessons we applied that brought us some good results. I wish we were further along than we are. When I look at we are about 120 million this year in a marketplace where the government

will be spending well over a billion. So we are not capturing everything. The government is still spending more than they need to by not using FSSI OSII. So we are not even capturing a majority of the market.

And there are agencies that are doing a great job. A lot of them are with us in Office Supplies I, so for them they had already instituted the discipline within their purchasing community to actually use this. So when we changed over to OSII, they moved over very quickly. Their people were already disciplined in doing that as part of their agency trying to save money. Others are just getting along.

When you look at the way the government buys office supplies, it is probably one of the most distributed purchasing patterns in the entire federal government. So it is really hard to change buyer behavior when you have literally hundreds of thousands of people buying and with authority to buy.

Ms. CHU. So is it true that you are mandating that the federal agencies purchase all goods within the BPA awarded vendors even if the goods and services are not part of the basket of goods covered by the BPA? Is this a mandate?

Mr. KEMPF. GSA is a non-mandatory source, so we provide the services, among them OSII. What agencies do within their own agencies and their authorities and how they direct their purchases to be made within their own agencies is up to them. Now, I know some agencies have done—they have said we are going to use this so if you are not going to use this you need an exception. Other agencies have said here it is, use it. Other agencies have tried something in between. So you have a lot of agencies doing different things. And for some of them it is about getting small business credits. For some of them it is about saving money. For some of them it is about getting the data that we provide so they know what they are spending and where it is going to.

Ms. CHU. So you are saying that it is not a mandate?

Mr. KEMPF. Not from GSA.

Ms. CHU. Because you heard the gentleman, Mr. Tucker?

Mr. KEMPF. Well, I think what he is responding to is agency mandates. So individual agencies have set up their own policies about how they buy, what they buy, what discretion the people in their agencies have. And like I said, some of them, for legitimate business reasons, have chosen to set up constraints around the buying within their agencies.

Ms. CHU. Well, let me ask about the $25,000 annual sales minimum that small businesses have a hard time meeting. And you have heard Mr. Allen talk about that. While you are having success with this voluntary set-aside program, there are small businesses that will have a hard time meeting this $25,000 minimum. Can you respond to what Mr. Allen said?

Mr. KEMPF. Sure. We have had, as part of the Schedules program for many, many years, a minimum sales clause as part of the agreement that we enter into with industry. And we have had over the years differing approaches to actually following through with enforcing that agreement. And what we have been looking at and what we have been seeing in some of our Schedules is just the enormous number of Schedule contractors. We are right now up to well over 19,000 contractors on the Schedules program just in the

GSA portion of it. And we are seeing some things that cause us concern in terms of the numbers, not the least of which is what it is costing us to operate it. And then also what we are seeing with what is happening within the specific agencies.

So at some level we have become a little bit more aggressive in enforcing the provisions of the agreement that we have with the vendors. We have never raised the $25,000 minimum sales guarantee. It has been the same for probably 20, 25 years. When you consider that the average Schedule order is about 67,000, what we are asking them to do is get less than half of an average order in two years and then to continue that for the next three years.

I understand that navigating the federal marketplace is very difficult, but we have done some things, too, that I think are helpful to industry. We have had a mentorship protégé program. We have developed a business breakthrough program. There is online support to help industry understand how to market to the federal government. And one of the things we are trying to do is help industry understand upfront before they actually get into the program, that it is the right time for them to come. And what we have seen is that a lot of industry has been jumping into the program probably at the urging of folk who get paid for helping them into the program because it is a must do for them. And for some of them it is just not the right time to be in.

At a recent GSA expo, I went to a session with our mentor protégés, and one of the protégés was there telling the story about he had his Schedule contract RFP in hand and his mentor said, "Hang onto that. Hang onto that till you are ready." So he waited two years and he said it was the smartest thing he ever told me. I was not ready. I would not have sold anything. And it was not the right time.

And so what we are asking industry to do before they get in is really look at where you are. Are you ready to come into the program? Are you going to be successful? We have a Pathways to Success course that we ask small businesses to take, I think we actually require at this point, before they come in. We want the right kind of people in, but we also want people who are going to be successful. We do not want people coming in having a bad experience and then leaving frustrated that they spent all this money to get in and then it just did not go anywhere for them.

The other thing that I would like to say is that we use a lot of discretion. Typically, when people are at that point where we have to make a decision, oftentimes the industry comes to us and says, "I am getting there. I have got three procurements that I am waiting to hear from." We extend for them. But on the other hand, we have a lot of people who have just turned off to GSA. They are just not even participating anymore. And I think it is time to sort of cull the numbers down. They are not really participating and they are costing the government money. The users do not really need them around so they will send them an RFQ and nothing comes back.

Ms. CHU. Well, I am wondering about this discretion. So you are saying that a business could intervene before their contract is ended? Because in my state of California, a GSA Schedule contract is a prerequisite for state level contracting.

Mr. KEMPF. We reached out to both California and Texas and we talked to them. I think their discussion with us was that they use our Schedule as a marketing tool, a market research tool. So they use it to find price, but it was not actually a prerequisite for joining. And we reached out to both Texas and California because that is also what we understood, too, was you get on GSA's Schedule, then you get on California. And actually, when we reached out to both of them, they were both experiencing some of the same problems we had. They had a lot of vendors who had no sales and they had a lot more and the increase of the number of offers and modifications that they were doing was beginning to cause them problems as well.

Ms. CHU. I see. Okay, thank you. I yield back.

Chairman MULVANEY. Gentlemen, I have got some questions all over the place. I am going to go in no particular order, although I want to try to start with you, Director Woods. You heard Commissioner Kempf talk about his frustration at the participation rates as far as agencies using OS2. I hope I stated that correctly. And then you mentioned something that caught my attention regarding about 58 percent of purchases are made off the Schedules, which I assume in this circumstance means not using the Schedules.

Mr. WOODS. That is correct. At retail stores.

Chairman MULVANEY. That number surprises me. Did it surprise you that it was that high?

Mr. WOODS. I personally was surprised it was that high. Yes. Because GSA goes to a lot of effort to make the Schedules available and they publicize the availability of Schedules and companies do a lot to sharpen their pencils to make sure that their prices are good. So that number did surprise me.

Chairman MULVANEY. That is the whole concept here behind the Schedules, is that you all negotiate on behalf of the federal government as a whole, try to get the best possible price for our agencies, and our agencies take advantage of that work that you performed in order to buy products at the lowest possible price. That is the basic summation of the system. Right?

Mr. WOODS. That is exactly right.

Chairman MULVANEY. And if we have 58 percent of purchases of office products—I guess that is office products. Is that what you are talking about?

Mr. WOODS. That is right. Just for office products.

Chairman MULVANEY. So they are going down the corner to Office Depot? Not that I have anything against Office Depot, but it sort of defeats the purpose, does it not?

Mr. WOODS. That is right.

Chairman MULVANEY. How can we fix that? I read the rule, by the way, and it is exactly, not surprisingly, as Commissioner Kempf said, that they are encouraged to use it but there is no requirement. How do we help fix this?

Mr. WOODS. We need to make it as easy as possible for the consumer, government agencies to be able to make purchases using the GSA Schedule.

Chairman MULVANEY. Did you ask any of the folks why they were not using the Schedules?

Mr. WOODS. Convenience, I think, is probably a fair characterization of the reason. And that is why GSA needs to make every effort to make it as simple and easy as possible for agency users to use either the Schedule program or OSII.

Chairman MULVANEY. And when you say convenience, give me a practical example. What does that mean? If I am the Air Force and I want to go out and buy pens, why do they say—and again, this is hypothetical—why would they say that it is not convenient to use the Schedules? Whereas, it is more convenient to go down the street?

Mr. WOODS. Well, delivery time is probably the best example. If a user just goes down the street they get it today. If they order off the Schedule, it is unlikely they are going to get same day delivery.

Chairman MULVANEY. Could pressure on them to keep their inventories down because of costs contribute to this circumstance?

Mr. WOODS. That is possible. Agencies sometimes will inventory quantities of office supplies to make them available, and I know many organizations, both public and private are cutting back on inventories in order to streamline operations.

Chairman MULVANEY. Thank you, Director Woods.

Commissioner Kempf, a couple different questions for you. We have got some numbers about some of the set-asides which six months ago were at zero and in the last two months have actually picked up considerably, looking like 14.8 percent. Are you concerned that implementing DBEM right now may negatively impact that positive trend?

Mr. KEMPF. DBEM?

Chairman MULVANEY. The Demand Based Efficiency.

Mr. KEMPF. Oh, Demand Based.

Chairman MULVANEY. Did I get that wrong? DBEM. I am sorry. Just ask me an alphabet soup question.

Mr. KEMPF. It is now. I did not even recognize my own acronym.

Here is what we are actually looking to do. We know that there are some Schedules that we manage that have enormous numbers of people who are not getting any business. Some of them upwards of 60 percent. We also know on some of them that the demand is going south. And in some cases substantially, like shipping and packing Schedule, photographic equipment, the people that sell typewriters. There is nothing that we are going to be able to do that is going to change that demand curve. However——

Chairman MULVANEY. What is the harm in just leaving them there?

Mr. KEMPF [continuing]. Well, the harm in leaving them there is it costs us money to just leave them there. Well, actually, let us separate people who are not meeting their minimum sales guarantees and the Demand Based Efficiency Model. They are two different things.

Chairman MULVANEY. Okay.

Mr. KEMPF. So Demand Based Efficiency Model, we have looked at some Schedules where we know we really do not need any more competitions. And when we looked at that, we have looked at areas where we know there is substantially no innovation going on. We have looked at areas—in many of these cases we have 400 or 500 contractors on the Schedule already. One of the things we are hop-

ing to do is just at least preserve the market for those that are already on. So people who have invested in getting on the Schedule, let us not divide that market up by adding 50 more people and divide the pie up just a little bit more.

And we have talked to our customers. And our customers have told us if I have got 500 choices and I am not really buying that much, why are you wasting your time adding more people when you could be dropping the time it takes to get on the Schedules where I do have demand, where there is innovation, where I do need people? Also, they are saying to us can you go out and do some more of this Federal Strategic Sourcing Initiative? Or can you help us understand how to do Strategic Sourcing Initiative? Or for our industry partners, can you go out and train people how to use the Schedule better? Help them write difficult statements of work so that we can actually use GSA's Schedule better, much to what Director Woods is saying. Can you make yourself easier to do business with or help us understand how to do business? So you drive up the pie that is actually being spent under the Schedules program.

We only have limited resources in the Federal Acquisition Service, and what we are looking to do is shift some of those resources, some to help industry and drive higher sales, some to work with our agency customers and develop secondary uses of the Schedule or help them understand how to use it. But in any case, what we have done is we have actually looked at—we expect that if we implement this as we are planning right now, we would only be impacting about 25 percent of the Schedule sales. So for 75 percent of the Schedules and 75 percent of the sales—and by the way, the growing part of those sales, it will be open and it will continue to be open.

And one other benefit to industry, it identifies the dead-ends. And it also identifies the opportunities. And I think this has some value for industry, which is basically this. Helping them understand where the government is not going to be buying, where it would be a waste of their time and money to come into the program. And we are not doing that right now. So we are just saying we are taking all comers. So in many ways, diluting some of the potential partners that once they get in—and I get these calls from vendors. I just got in. I am so excited. And some of these areas I just know there is no business coming. So it is helpful to them.

Chairman MULVANEY. And I cannot argue with the logic, although in this sea of paper I have on my desk now, staff just handed me something that said that the special item numbers that you all are proposing closing as part of DBEM, they represent over $8 billion in sales, or about 16 percent of all the GSA Schedule sales. Is that not a fairly—it does not sound to me like it is typewriters. Does it buy that many typewriters?

Mr. KEMPF. It is a lot of things. It is two whole Schedules and parts of, I think, 14 others. But again, we selected those special item numbers or SINs based on where the government—where we have seen sales go down, where we know there is no innovation, and where we have, you know, in many of these areas we have looked and seen what the number of Schedule holders with low or

no volume sales are. And in most of these areas it is upwards of 40 percent, and in many of them, upwards of 60 or 80 percent.

Chairman MULVANEY. Before we leave DBEM, one more question. The written testimony that you submitted claims that the GSA will save roughly $20 million using DBEM, but prior written materials provided by your office say that the savings have been scaled back to about $6 million. Is that apples to apples? Did something change? Tell me about the discrepancy between those two numbers.

Mr. KEMPF. I think the discrepancy between the two numbers had to do with when we first started this we were looking at actually closing a lot more SINs than we ended up. So after talking with stakeholders with OFPP and others, we pulled that number back to a smaller number of SINs being closed. Additionally, some of the numbers actually take into account both the savings from folks being—their Schedules being ended due to low or no volume sales, in addition to the DBEM model.

Chairman MULVANEY. Let us transition now to the issue that Ranking Member Chu mentioned to you briefly and that I think Mr. Allen raised during the first panel discussion regarding the use in various states of these Schedules. And all I can tell you is that in our preparation for the research for this hearing, we reached out to Texas and talked to the Texas controller's office. That may have been the wrong person with whom to speak, but they said they never talked to anybody about GSA. So clearly there may be a misunderstanding at some point, and I would encourage you to reach out to both Texas and I suppose California, although you said you spoke with them as well because they are telling us that they anticipate if the vendors in year 3 or later of a contract that are not meeting the threshold and if removed it would affect nearly $25 million in state purchases or about 15 percent of the Texas Multiple Award Schedule purchases, almost all of whom are small businesses. I think Texas thinks there may be a problem. Texas may think there may be a negative effect, a pejorative effect on small business in that state because of what is going through. So I encourage you to reach out to them if you get a chance.

But it raises a question for me which is coming back to the point about why not just leave these folks on the list? I think if I can sell my $25,000 worth of stuff every single year, I think I pay you $187, $200. Why not just charge me $250 to stay on the list?

Mr. KEMPF. Well, we looked at a lot of different things that we could do. We looked at closing them for a while. Right now we normally just look at the end of the five-year period and if they have not had any sales in five years we do not renew their option. We have looked at a lot of things but it does cost us money. And actually, oftentimes the nonparticipating Schedule holders are the ones that cause us the most cost because they are not really playing. So when we have mass mods—when I say mass mods, mods that everybody needs to do—we have a process for doing that. They do not respond, so we have to hunt them down and follow through with them. So oftentimes, they tend to be the ones that cause us the most. We also have contract administration duties that we have to do with all of our contract holders, whether they are making sales or not. So it is a costly thing for us.

Chairman MULVANEY. I just encourage you as you go forward to consider the fact, as you know, because you know more about this than probably anybody, and certainly than I do, that there are folks that are using this, not for the purpose of selling to you folks or to us, but to selling to their various states. So maybe to figure out a way to allow them to continue to do that without prejudicing their ability to deal with the states.

Mr. KEMPF. Two things about that. We did talk to Texas. I believe we talked to the people that actually run the Texas Schedule, so there may be some perception. We will probably go back to them and make sure we have that right.

The other thing is that state and local authorities do have the authority on some of our Schedules to actually buy directly from us. So on the IT Schedule, Schedule 84, the Security Schedule, and during times of emergency, most of them have the authority, or actually, all of them have the authority, at least from our perspective, to buy from us directly. And they do.

Chairman MULVANEY. All right. And as I promised the first panelists I would, I will pass on their questions to the best of my ability. Mr. Jacobs raised the issue about the Design Excellence Program. I do not know to whom to address this, but tell me your thoughts about the program and whether or not you are exploring the possibility of expanding it.

Mr. KEMPF. Well, I do not think you have either of the people here who should be. That is actually part of the Public Building Service side of GSA.

Chairman MULVANEY. Thank you.

Mr. KEMPF. So that would probably be directed best to them. I understand vaguely what it is but I am not competent to comment.

Chairman MULVANEY. Now, the Brooks Act. You? Somebody else? Mr. Kempf?

Mr. KEMPF. I can tell you what we do with respect to the Brooks Act.

Chairman MULVANEY. An allegation is not the right word but you heard what the concern was, which is that in some circumstances the GSA might not be following the Brooks Act to the letter and they may be looking at price instead of just qualifications. How would you respond to that?

Mr. KEMPF. We have for years highlighted on training, on our websites, in our direction to contracting officers who use the Schedule that work under the Brooks Act should not be purchased and cannot be purchased under the Schedules. It is outside the scope of the Schedules. And we have done some things in the last years to actually validate and verify that.

Chairman MULVANEY. How do you do that? How do you enforce this?

Mr. KEMPF. We have industrial operations analysts, people who actually go out and sit with the contractors and say show me your files. What is going on? What are you selling? They do some scope reviews. In particular, they look for this once in a while. We have asked. There is a group called Cup Face that we have had discussions with over 13 years, and we have said if you see violations of this would you send them to us and we will follow them. In fact, one of them sent me one two weeks ago and we are running it

down to see, in fact, if it really is or if it is an interpretation issue. We also have addressed this with Public Building Service, our sister service, who actually buys these kinds of things. And we have had their chief architect and others actually go through the files of the task orders that they have written under the Schedules to look to see if they feel that they have purchased anything that was really irrelevant under the Brooks Act, and they have come back empty-handed with that. And in fact, one of the individuals who looked at that to me said, "I am surprised at what I found." And what he was saying to me was he was surprised at some of the work that the architectural engineering firms had done, which he indicated seemed to be an indication of the tough times that they had fallen on, that they were taking work well outside the typical architecture and engineering work and actually taking work that normally an architectural firm would not be doing if they could get architectural work. It just is not around.

Chairman MULVANEY. Before I move on, I suppose if I have a question about the design build process and possible ways to make that more accessible to small business, that would be for the Public Building folks as well?

Mr. KEMPF. Certainly.

Chairman MULVANEY. Okay. Mr. Forman asked a question about additional consideration of the Cooperative Business Model. Talk to me about that for a second.

Mr. KEMPF. I believe he is talking about—we have been in discussion with NOPA for quite some time about ways that people who are not or contractors that are not part of the OSII could actually be part of the program much like the other witness had spoken about where they have a consortium and there is a way that they could partner a team with the existing vendors. And we are actually working with them on that. I think he alluded to that fact that we are actually working with them and looking into that. We have not come to a conclusion yet; we are still in discussions with them.

Chairman MULVANEY. Go back to the Brooks Act for just a second. If someone like Mr. Jacobs believed that he was prejudiced by a violation of that act, what would be the best steps for him to take?

Mr. KEMPF. If he would just send me something, we would look at it and see, in fact, if we felt there was an actual violation. We would work with the agency who had written the order to look at, you know.

Chairman MULVANEY. Can you do that anonymously? Can you do it anonymously?

Mr. KEMPF. Well, one of the ways people have done that in the past, and not necessarily about the Brooks Act violation, but to a hotline complaint, to our IG. I have actually even gotten letters in the mail, unsigned, saying I think this is wrong. This happened. So sometimes it is not even the IG that gets it. We usually follow those up and see. As long as they seem reasonable.

Chairman MULVANEY. I get my letters in the mail all the time. It is usually very interesting.

Mr. WOODS. Mr. Chairman.

Chairman MULVANEY. Yes, sir.

Mr. WOODS. On the Brooks Act point, a couple of areas where the Government Accountability Office might be of assistance to Mr. Jacobson. One is that we have a bid protest function so that if any offeror or an interested party feels that the process was not followed properly, they have the option to file a bid protest with the Government Accountability Office and we will review that.

Secondly, we are starting some work at the Department of Veterans Affairs looking at their construction procurement operation. And of course, that will involve A&E Services. And we can be on the lookout for instance where there might be possible misuse of the Schedules.

Chairman MULVANEY. Thank you. Gentlemen, I appreciate your candor. I appreciate your participation. I especially appreciate your forthrightness. I think Ms. Chu and I both try and give the impression that we are not here to beat up anybody; we are actually pulling in the same direction on this. All we are interested in is making sure that small businesses are having every opportunity that we can give them. So I appreciate you doing that.

That said, I understand that we are getting ready to vote very shortly on a fairly significant item that we will need to step out and prepare for. And I have a couple extra questions and what I would like to do is simply send them to you in writing. And if you could get back to us that would be greatly appreciated.

Mr. WOODS. Absolutely. We will be happy to receive those.

Mr. KEMPF. Absolutely.

Chairman MULVANEY. With that, unless you have anything else?

Ms. CHU. No.

Chairman MULVANEY. Thank you all very much for coming. And thanks again everybody for participating. That will adjourn the meeting.

[Whereupon, at 4:27 p.m., the Subcommittee was adjourned.]

THE AMERICAN INSTITUTE OF ARCHITECTS

STATEMENT OF
THOMAS JACOBS, AIA

"Procurement Benefits and Issues with the Architectural Profession and the General Services Administration"

United States House of Representatives
Committee on Small Business

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June 7, 2012
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Introduction

Chairman Mulvaney, Ranking Member Chu, and members of the Committee, I am Thomas Jacobs, AIA, Principal at Krueck Sexton Architects, an eleven-person architectural firm based in Chicago, Illinois, and a member of the American Institute of Architects (AIA). I want to thank you for the opportunity to testify today on behalf of my firm and the AIA.

The current economic crisis has affected every American, but, as this Committee knows all too well, it has hit small businesses particularly hard. However, we have experienced some stability through our diversified work portfolio, which includes designing buildings under the General Services Administration Design Excellence program. I look forward to discussing the benefits and issues with how the federal government procures architectural services with you today.

Architectural Profession and the General Services Administration:

Architects are, by and large, small business people; 95 percent of U.S. architecture firms employ 50 or fewer people.[1] In fact, the vast majority practice in one or two person firms. The recession has accelerated this trend as medium sized firms have been purchased by large firms and some architects, having been laid off by their firms, have begun their own businesses. Architects are the starting point for construction of homes, offices, retail spaces, hospitals, educational institutions, government buildings, and more. Architects are licensed by each state to protect the health, safety and welfare for the buildings' inhabitants. Architects are truly the engine that drives the design and construction industry.

Architects are job catalysts – they are the first workers to be involved in the construction process when they develop designs. Hiring an architect leads to employment in other construction-related fields, from engineers and manufacturers, to steel and electrical contractors. In fact, there is one architectural service worker for every 34 construction industry workers in this country,[2] creating over $1 trillion in economic activity in 2008.[3] In fact, a study by the George Mason University

[1] http://info.aia.org/aiarchitect/thisweek09/1009/1009b_firmsurvey.cfm
[2] U.S. Department of Labor
[3] www.census.gov/const/C30/total.pdf

Center for Regional Analysis found that every $1 million invested in design and construction creates 28.5 new full-time jobs.[4]

The construction industry has been devastated by this recession, with the most recent job numbers showing that the construction industry lost 28,000 jobs last month[5]. Because of a lack of financing in the private market, public sector work has literally been a lifeline for many small design firms. Government procurement, including at the federal level, has helped to keep the doors open at numerous firms across the nation. However, small firms are losing some of the contracts available because larger firms are "bottom feeding." They are going after projects they never would have even considered several years ago just to pay their bills. In addition, clients are also negotiating fees downward, using the threat that they can always find someone to do the project for a greatly reduced price. My firm successfully competed as a finalist for a GSA Design Excellence project with five other firms, none of which qualified as a small business. But many small firms are not able to compete with larger businesses.

Federal Supply Schedule and Architecture

One of the challenges that architects face when working with GSA or other agencies is how the federal government can obtain our services. Many firms have sub-specialties in federal work, due to the complexity of the regulations and the specializations required for federal buildings. Federal agencies are required to procure architectural services through qualifications based procedures under the Brooks Act. This Act sets forth a process that requires agencies to select firms based on qualifications rather than solely the price of architectural and engineering services. Representative Jack Brooks had a strong concern about government buildings and their procurement when he wrote this legislation. His concern was that agencies would focus only on the cost of the service being provided by architects to the detriment of the qualifications of the architects providing the designs. Therefore, less qualified firms could compete based solely on price which would eliminate talented architects and engineers from participating in the federal design process.[6] The Brooks Act does not mean that price is not a component of the negotiation

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[4] www.naiop.org/foundation/contdev.pdf

5 Bureau of Labor Statitstics, US Department of Labor, News Release June 1, 2012. www.bls.gov/news.release/pdf/empsit.pdf (last visited on June 4, 2012)

[6] "If routine contract negotiation procedures were used and the amount of the fee to be paid the AE firm discussed incident to the determination of qualifications, less responsible firms could quote a lower fee and have an advantage in obtaining the contract, and then make up for the reduction in

between the architect and the federal agency. Rather, the price must be negotiated with the firm that best meets the qualifications for the project. This is similar to how private sector clients select and interview architects for their projects.

However, there are ways for agencies to avoid using the Brooks Act for the procurement of architectural services; namely through grants, which are generally not covered by the Brooks Act, or by obtaining services through the Federal Supply Service (FSS). The FSS allows federal agencies to take advantage of volume purchasing for the entire government. In order to participate in the FSS, the contract provider must first apply to participate in the FSS and then post a price list for agency use. The price listed should represent the best price available to the government. Agencies are then required to gather prices for three service providers by reviewing the posted pricelists. The agency then determines "best value" by reviewing price and other option criteria, like past performance, warranties, delivery terms and maintenance availability.

Under "best value," the selection of architectural services is focused on price. This process is in direct conflict to the Brooks Act requirement which focuses first on ensuring that the best qualified architect is identified and then ensures that architect provides a reasonable price. The focus by the agency under the FSS schedule is on price, and not the professional qualifications needed to protect the health, safety and welfare of the people who use the building. Moreover, in some states, architects are prohibited from competing on price. This puts architects in an untenable position of either violating ethical obligations, or preventing them from participating in business.

The FSS issue in not limited solely to architecture, but also includes engineering services, mapping services, and geographic information services. COFPAES, the Council on Federal Procurement of Architectural and Engineering Services, has presented the argument to GSA over the past 13 years that these services must be withdrawn from the FSS. GSA has pledged to COFPAES they will remove these services, but they are still on the schedules.

GSA may argue that there are clear disclaimers on the schedules to prohibit contracting personnel from incorrectly using the FSS when the appropriate contracting vehicle is the Brooks Act.

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fee by delivering lower quality plans and specifications to the Government." 118 CONG. REC. 25487 (1972)

However, these provisions are either at the bottom of the webpage or buried within the FAQ regarding GSA schedules.[7] Moreover, because Brooks Act-covered architecture, engineering and other related construction services are still listed on the FSS, there is an implicit contradiction between the disclaimer's directive to use Brooks Act for architecture and engineering services, while listing those design services on the schedule.

The FSS provides many benefits to the federal government. However, by procuring architectural services through the FSS program, which focuses on price rather than qualifications, agencies threaten public health, safety and welfare. GSA must cease to use the FSS program for architecture as it violates the Brooks Act.

Design-Build Issues and the GSA

Another procurement issue small design firms face is the burden of the federal design-build construction model on architects. On average, the federal design build fee is approximately $1.5 million. The rewards are high for these projects, but the cost to enter is increasingly prohibitive to small firms. When design-build occurs, an architecture firm spends on average $260,000 to compete for design-build project, by making plans, models and other material.[8] In almost 87% of federal design-build competitions, there are no stipends delivered to the architectural firm.[9] Instead, the firm must hope that they win, with their teamed organization, to make up the costs.

The costs of competing for these projects are sizable because of the large amount of effort that goes into preparing a bid. First, in order for the design build team to get an accurate price, the architect must develop a full set of schematic designs developed for the building. The amount of work required from an architect is larger than any other partner. The team must know the overall building design, what is required in the building, and what the individual specifications are in order to accurately price out the bid for the building owner. A significantly large percentage of the design occurs before there is a contract, in order to get the price of the bid developed. Clearly, the architect is bearing the brunt of the risk and the work for the bid for the federal design-build contracts.

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[7] http://www.gsa.gov/portal/content/203021#9 (last visited on June 1, 2012)
8 AIA Large Firm Roundtable , *Competition Survey Results,* May 31, 2012 at 9.
9 Ibid at 12.

Second, agencies have taken advantage of their purchasing power during the recession and have expanded the number of final list teams. In the past, there were typically three teams who competed for a project. Now, there are reports that as many as eight to ten teams are on the final list. The odds of being selected have dropped significantly, even as the cost to compete still goes up. Because jobs are scarce, small firms face competition from larger firms that can easily absorb the cost. Due to the current recession, firms face the Hobson's choice of "betting it all" on a contract they may not get, or self-selecting out of the federal design-build market. We ask the committee to look at reducing the number of finalists on these types of construction positions, so that all firms can accurately determine the risks and rewards of participating in this market.

Design Excellence as an Alternative Method of Procurement

My firm has been a successful participant in the GSA's Design Excellence program. We respectfully ask the committee to urge GSA and other agencies to expand the participation of small firms in this competitive program. The Design Excellence program streamlines the architect/engineering selection process while stressing creativity in designing the buildings. Because of this streamlined process, the cost of competing for GSA contracts is greatly reduced, but the quality of design and efficiency of the projects is greatly enhanced. When we competed for our project, we were the only small firm competing against five other large architectural firms for this project. However, because we had the talent, the design and were a small business, we won the project.

Another benefit of the Design Excellence program is that it follows the procurement policies outlined in the Brooks Act. Firms must qualify to compete for the project, so when the competition began, the selection focused on which firm had the best design, rather than which firm could compete at the lowest price. While price must play a role in procurement, and it is a valid factor in the selection of architects, the focus must be on how the government values the long-term cost of the building. At a time when the federal government is facing unprecedented deficits, we need to ensure that every dollar spent on federal facilities is spent wisely. Ensuring the most qualified designers are selected at the outset of the project reaps financial benefits for years to come.

In conclusion, I would like to thank Chairman Mulvaney, Ranking Member Chu, and members of the Committee for giving me the opportunity to testify before you today. I want to commend you for your dedication to the problems that small businesses face in this economy and your

leadership in advancing legislation that helps small businesses drive the recovery. The challenges that we as small businesspeople face are serious, but so is our commitment to play a leading role in rebuilding and renewing our country.

TESTIMONY OF

LARRY ALLEN

President

Allen Federal Business Partners

Before The

House Small Business Subcommittee on Contracting and Workforce

SCHEDULDING SUCCESS? ISSUES AND OPPORTUNITIES FOR

SMALL BUSINESSES ON THE GSA SCHEDULES

June 7, 2012

Good morning Mr. Chairman and Madam Ranking Member. It is an honor to have this opportunity to testify today before the House Small Business Committee Subcommittee on Contracting and Workforce. Today's topic, "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules" is of high interest to me and many of my colleagues in the realm of government procurement. Small businesses comprise a vital part of the government's supplier base and the GSA Schedules program is one of the largest programs through which the government acquires commercial services, products and solutions.

I have worked in the field of GSA Multiple Award Schedule contracting for nearly 23 years. Over that time I have worked extensively with Congress, the General Services Administration and the Office of Management and Budget to shape the Schedules program into a program that offers fair and streamlined competition, reasonable rules, and a speed of use that enables the Schedules program to quickly meet the needs of an evolving federal government. For 20 years I led the Coalition for Government Procurement, a leading association of Schedule contract holders. I have written or contributed to four books on government contracting, including two specifically on the Schedules program. I served on the Multiple Award Schedule Advisory Panel established near the end of the Bush Administration that made several recommendations to GSA leaders on ways to improve the Schedules program so that it could continue to grow and evolve to serve its government customers in the best possible way. I continue to teach and advise companies on government business matters.

HISTORY

The Multiple Award Schedules program operated by the General Services Administration is the single best avenue for small businesses to compete for government business in today's environment. Having a Schedule contract allows small firms to vie for, and win, federal contracts every day. The thousands of successful small firms that hold GSA Schedule contracts are a testament to the creativity, nimble solutions, and dedication to service that are emblematic of small businesses everywhere.

The Schedules program has an impressive historical record of supporting small businesses as well. For over 20 years small firms have received between 30 and 33% of Schedule task orders. This was true when total Schedule sales were $3-5 billion a year, but is also true today as Schedule sales exceed $40 billion. It is clear that small businesses have succeeded as the Schedules program has succeeded. No procurement program open to businesses of all sizes can match the consistent, highly successful rate of small business contracting success that is a hallmark of the GSA Multiple Award Schedules program.

Yet, even the impressive percentage of direct small business contracting, nearly 10% over the government's statutory small business use goal, tells only part of the story about the ways in

which the Schedules program benefits small businesses. Thousands more small firms participate in the program as dealers or subcontractors. Certain market segments, such as office furniture, rely on a robust network of dealers – most of them small firms – to serve federal clients. While a large business may be the actual contract holder, that contractor is reliant on its small business dealer network for things like design, installation, and service. There is no way the large business could be successful, or the government customer happy, without the services of these small businesses.

Similarly, each Schedule contract awarded to a large business has its own small business subcontracting plan. Large businesses have to demonstrate that they have a viable plan to use small firms as a condition of holding a Schedule contract. These plans also have specific targets for different socio-economic groups, such as service-disabled veteran or women-owned businesses. Large businesses are consistently reviewed and evaluated by both GSA and SBA officials to ensure that they are making adequate progress toward achieving their goals.

So, whether a small firm holds its own Schedule contract, or participates via a contract held by another business, the Schedules program supports thousands of small businesses across the country, representing hundreds of thousands of jobs.

CURRENT FLEXIBILITY

Today, the Schedules program has new capabilities to further enhance the ability of small firms to compete for and win government business. Rules implemented in November of last year allow agencies to specifically set-aside procurements for small businesses when they elect to use the Schedules program as their purchasing vehicle. While Schedule customers were previously allowed to consider small business size as one of many evaluation factors, the new rules allow for a specific Schedule procurement to be set-aside for small firms if the contracting officer making the purchase decides that doing so is in the best interest of the government.

I believe that this flexibility will draw more federal agencies to the Schedules program as they look to take advantage of the thousands of small businesses represented on it and take advantage of the streamlined ordering procedures of Schedule contracts themselves. I believe these current rules strike a very good balance by allowing contracting officers the flexibility to conduct Schedules-based set-asides when they believe that such an action is in the best interest of the government, while not mandating that certain procurements must, at all times, be set aside.

Although the current rule is only 7 months old, I believe that data collected at the end of the current fiscal year will show that small businesses have realized a steady portion of Schedules-based work, even at a time when Schedule sales overall may have declined somewhat due to

GSA has taken good initial steps to train federal agencies on this new capability. They regularly hold training classes for buyers and even have training material available on their web site. While there are thousands of contracting professionals in government acquisition, GSA is making a decent effort to keep them abreast of this new small business capability.

Maintaining the option to choose ensures that the ease of use always attributed to Schedule contracts remains so that the government can meet its needs given a truly broad set of circumstances. The current "may" wording in the applicable statutes and regulations, I believe, is more beneficial than the adoption of a "must" standard. Mandating set asides on the Schedules program is not in the best interests of the Schedules program itself, or in the best interests of the many small firms that now succeed on the program.

New mandates that make the Schedules program more difficult to use by proscribing previously allowed actions will have the net impact of driving buyers away from use GSA Schedules. Today's government contract landscape is highly competitive. The GSA Schedules program, while large and well-known, is by no means the only Indefinite Delivery/Indefinite Quantity (IDIQ) contract through which federal agencies purchase commercial services and products. Placing unique rules on the Schedules will drive buyers to other programs. Many of these programs have nowhere near the successful small business track record of the Schedules. Any mandate that hurts the Schedules program, therefore, will have a proportional, if not greater, negative impact on small businesses that today enjoy success.

It is imperative that the Small Business Administration, therefore, move cautiously during its current round of rule- making. Initiatives to ensure that businesses that call themselves "small" are actually small are very appropriate. The government should ensure that companies properly classify themselves as to business size. It is similarly important, however, to ensure that the government's own systems have the flexibility and coordination to handle changes in size status that a company may have to report. The company can't be blamed if the government's systems do not allow for a consistent, transparent method to change size status. Anecdotal evidence suggests that current government registration systems may not always be up to this task.

Similarly, the SBA has a legitimate interest in ensuring that business awarded to a small firm is done by a small firm. "Store front" businesses take business away from legitimate small firms. Proper oversight, whether in this area or others, is always in best interests of those who want to maintain an effective government procurement system.

While it is always appropriate to look for ways to maximize small business participation, caution is needed to ensure that unintended consequences do not result in new rules that drive federal buyers away from the Schedules program and the small businesses that succeed on it. Since it has been only 7 months since the last SBA rule-making changed Schedule ordering rules, it may

be too early to again make changes in this same area. It may, for example, be a better use of the SBA's time to examine other government contracts that do not already exceed the government's small business contracting goal by 10%, as do the Schedules. The SBA is likely to find ample opportunity to increase small business use in these vehicles. Focusing on one program often creates the impression that there are issues only with that program. This is, as SBA mostly likely is aware, not the case here.

THE FEDERAL STRATEGIC SOURCING INITIATIVE FOR OFFICE SUPPLIES

Today's hearing also covers the topic of GSA's Federal Strategic Sourcing Initiative (FSSI) for Office Supplies. I am well-acquainted with this procurement and the varying opinions surrounding it. I believe that an entire hearing could be held to discuss this procurement program. The harmonization of positive political and acquisition outcomes is often something difficult to achieve. Historically speaking, the GSA initiative is the only multi-agency strategic sourcing operation I have ever seen come as far as this one has.

My own hope is that GSA FSSI managers will exercise sound *business* judgment when setting the future course for this procurement. It must be a viable business contract for those who hold it, and opportunities must be presented for companies not on the program to join it at appropriate, regularly-scheduled intervals.

Like many of my colleagues, I await what happens next with anticipation.

PROPOSED GSA "DEMAND BASED" CHANGES

GSA's own Schedule managers have recently proposed changes that could affect small business Schedule contract holders. Inside these "Demand Based" changes, are two proposals that are of potential concern to small businesses. One is a proposal to shut down Schedule contracts, or parts of Schedules known as Special Item Numbers (SIN's), to new offers for specific periods of time. The other is to move more swiftly to remove companies from the program that have not recorded any federal Schedule sales for a specified period of time. Each of these proposals should be evaluated for their possible impact on small business Schedule contract holders.

Closing Schedules or SIN's

Until GSA temporarily closed Schedule 75 for Office Products in late 2010 and into 2011, the agency had not closed all or part of a Schedule for new offers since approximately 1991. For a period of nearly 20 years GSA accepted new offers and created new SIN's to meet the evolving needs of federal agencies and to recognize the consistent development of new technologies and solutions in industry. GSA leaders knew that it made no sense to close the door on a customer

who wanted to use a Schedule contract to obtain "today's technology today". Not serving that customer meant that the would-be buyer either had to start his own procurement from scratch, or look for another existing federal contract to meet his needs. Either of these approaches certainly took additional time and may well have resulted in increased costs for the government, due to the competitive nature of Schedule sales. GSA leaders understood that closing Schedules effectively meant that GSA as an agency was not fulfilling a key part of its overall mission.

Prior to 1991, GSA did have routine "open" and "closed" seasons during which no new offers were accepted. It is important to note, however, that the contract period of most Schedule contracts at that time was only 1 year, with only a few contracts lasting for 3 years. Today, a standard base Schedule contract is awarded for 5 years with three five year options. These short closures were implemented to assist GSA contracting personnel in better managing their contract workload and could be justified as the closure period was typically short and the Schedules program overall was only about $3 billion in size.

When GSA made the decision to move to a perpetual "open season" it was an acknowledgement that the agency had to move forward and improve customer service if the Schedules program was to meet its core mission of assisting federal buyers in obtaining the latest commercial solutions at fair and reasonable prices. This change, coupled with new procurement laws such as the Federal Acquisition Streamlining Act, resulted in significant Schedules growth.

Today, the Schedules program finds itself in a highly competitive contracting arena. There are hundreds of smaller IDIQ contracts for information technology and some professional services. Some agencies speak openly about plans to set up their own Strategic Sourcing initiatives to by-pass and augment GSA's existing office supplies and print management vehicles. At least one federal agency has already developed plans to create its own Schedules program should GSA's program no longer meet its needs.

Given these competitive pressures GSA should be looking for ways to ensure that the Schedules program remains open to new offers and innovations. Few commercial entities could thrive if they routinely closed off part of their stores to new items. Customers would simply go to the next available store and would be more likely to return to a reliable, open supplier than one that might not be able to offer the latest solution. The fact that many of these innovations also come from small firms would seem to be the icing on the cake for this approach.

The Multiple Award Schedule Advisory Panel, of which I was a member, did recommend that GSA periodically evaluate specific Schedules and SIN's to ensure that the current structures met customer needs. If Schedules or SIN's were obsolete, the agency should have the power to close or modify them as market conditions indicated. The intent of this recommendation was that

GSA leadership should ensure that the Schedules program continued to evolve to meet changing times so that it would remain a robust contracting program.

It should be noted, however, that this is not the main reason why GSA Schedule managers are considering temporary closures now. While some tweaking of the SIN structure may or may not take place, GSA's primary motivating factor behind the proposal to close parts of the program is that the agency is confronting a serious staffing shortage of qualified contracting professionals. At least one GSA Schedule office has publicly said that new offers may wait 12 months or more before an award could be considered. Other offices can take nearly as long to process new offers, or even modifications from existing contract holders.

These staffing issues are real and must be addressed by the agency, the Office of Personnel Management, and the relevant Congressional oversight committees. They should not, however, preclude GSA from continuing to meet its core mission of being the central buying agency for the federal government. The Department of Defense, for example, does not refuse to provide national security services when it faces difficult times. It rather ensures that priority operations areas receive priority attention, even if that means diverting resources from other areas.

The GSA Multiple Award Schedule program is the largest centralized commercial item acquisition contract in government. It is *the* vital program on which customers and contractors alike rely upon to get business done. GSA leaders should have the flexibility to bring resources from other parts of the agency to ensure that its marquis program continues to meet these important needs. Periodic closings should be a last option, not the first proposal out of the gate.

Cancelling Contracts That Have No Sales

GSA leaders estimate that a sizeable number of their 18,000 Schedule contract holders record no sales through their contracts. GSA rules state that a contractor must achieve at least $25,000 in sales in the first one or two years it holds a contract in order for that contract to be maintained by the agency. GSA is also technically liable to pay each contractor that records zero sales $2,500 as that is the minimum amount of business ascribed to a Schedule contract in the GSA solicitation document. In my 23 years of experience with the program, however, I have never seen any company request their $2,500 from the agency. It is much more likely that the contractor would either succeed well beyond that amount, or that GSA would cancel the contract in question.

GSA does have the right to cancel contracts that consistently realize zero federal sales. Companies are told, in writing, that failure to achieve minimum federal Schedule sales can result in the termination of their federal contract. It takes time and resources to award each contract.

Subsequent modifications also require resources. GSA needs to be smart about how it matches its scarce personnel resources to its core mission of serving federal customers.

There are many potential reasons a company may obtain a Schedule contract, only to register zero sales through it over a period of years. Many companies obtained a Schedule contract because someone had told them that having a contract was required in order to do business with the government. Others obtained a Schedule contract to conduct one piece of business through it. Still other companies received contracts to make it easier for them to obtain state multiple award contracts, especially those administered by the states of Texas and California. Each of these is a likely scenario as to why so many businesses record no Schedule business. Some obviously require more time from GSA contracting officials after an initial award than others.

In the case of state contracts, small businesses, especially, have been advised by officials in several states to obtain a GSA Schedule contract in order to be on the fast track for a state award. Companies will, therefore, get a GSA contract with little or no intention of ever selling to the federal government. This provides a benefit to the small businesses, but poses a challenge to GSA.

While there may be different estimates of the cost to GSA of managing these contracts, it is undeniable that awarding a GSA Schedule contract to a firm that has no intention of ever selling to the federal government does divert resources away from the award or modification of a contract that is intended primarily for federal use. Even a company that sells primarily to a state customer must ensure that its underlying Schedule contract is periodically modified so that, in turn, its state contract stays fresh.

Although unintended, GSA must now deal with the reality of essentially being the auxiliary arm of some state government acquisition organizations. Businesses were told by an important customer of theirs to obtain a Schedule contract. They followed those rules and many are now achieving good state and local government business because of this. Terminating the underlying federal contract should not be done haphazardly and put small firms at risk. GSA at the same time, however, must be allowed to recover its costs if it is to continue to essentially subsidize the work of state agencies.

GSA recovers a .75% Industrial Funding Fee on every Schedule transaction. Collected like a sales tax, the IFF allows GSA to fund the operation of the Schedules program, as well as offset the costs of other GSA activities. Because of this, GSA's Federal Acquisition Service does not have to ask Congress for direct appropriations to cover the costs of these operations.

GSA should examine, and Congress should support if necessary, the right of the agency to collect the IFF from states that use "look-alike" contracts based on the federal Schedule.

Programs such as the TEXMAS contracts in Texas and California's CMAS are easily identifiable as programs set up to essentially mirror the federal Schedule program. Extending the ability for GSA to reach out to those states already well known for relying on its work to collect a fee for that work would allow GSA to recover costs it is already incurring and also allow the agency to continue to service the contracts of those who have obtained contracts primarily to serve non-federal customers.

Such a program could work much like the IFF already works now. Each federal Schedule price already includes the IFF in it. The federal government customer, not the contractor, actually pays the IFF, though it is the contractor who collects and remits it on a quarterly basis to GSA. Extending this program to state piggyback contracts could be done with little or no impact to the contractor. The contractor, who has a federal Schedule as the basis of its TEXMAS, would collect and remit the IFF on a TEXMAS sale, for example, just as it would if it were selling to the Department of Agriculture. Each quarter, the contractor would remit the collected IFF along with a report of its TEXMAS sales. This is consistent with the reporting requirements already expected of a Schedule contract holder for federal sales.

This approach would allow GSA to collect a fee for services it is already providing to state governments. It would allow the agency to hire and train additional contracting professionals to ease the burden on backlogs that exist throughout the system and possibly alleviate the need to close Schedules or SIN's due to personnel shortages. It will result in the saving of hundreds, if not thousands, of small business Schedule contracts and ensure that those contracts the agency does cancel are those only through which no public sector entity makes a purchase.

CONCLUSION

Mr. Chairman and Madam Ranking Member, I am a strong supporter of GSA and its Multiple Award Schedules program. I believe that the program fulfills an important need in the federal acquisition system. I believe that the agency has an effective Schedules management team in place. While we may occasionally differ on specific initiatives, I believe that today's management team generally wants to move the Schedules program forward to make it the very best contracting program in government. It is a program that already has a great small business success story to tell. With a little tweaking, the program's success, and that of its small business partners, will only get better over time.

I appreciate this opportunity to testify this morning and look forward to your questions.

Testimony of
Charles Forman
Executive Vice President
Independent Stationers, Inc.

Before The
Subcommittee on Contracting and Workforce
Committee on Small Business
U.S. House of Representatives

"Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"

June 7, 2012

Thank you Chairman Mulvaney, Ranking Member Chu and members of the Subcommittee. I am pleased to be testifying before you today about the MAS 75 program and FSSI OS2 BPA.

My name is Charles Forman and I am the Executive Vice President of Independent Stationers, Inc. and have been in the office products industry for 23 years. Independent Stationers is structured as a dealer-owned cooperative headquartered in Indianapolis, Indiana and has been in the office supplies and related industries since 1977. Our small business dealer owners have varied tenure in the office products industry with some dating back to the early 1900's.

Independent Stationers was certified as a small business by the SBA in 2003 and is comprised of 351 members and affiliates. Our dealer owners are small businesses and many hold other socio-economic designations. Today, 117 of our members are certified and approved by GSA as participants of our federal sales program and as such can utilize our MAS 75 contract and related FSSI OS2 BPA.

Our model is similar to other successful cooperative business models such as ACE Hardware, Credit Unions and many of the other nearly 30,000 cooperatives in the United

States[1]. There are many different types of cooperatives including agriculture, financial institutions, health care and housing; however, some are formed for purchasing, which applies to Independent Stationers. The reason Independent Stationers exists is to give our small business dealer owners the tools and resources they need to level the playing field with their big box competitors. Like the federal government leverages its purchasing power, we aggregate volume from our small business dealer owners giving them lower cost of goods. The net result is Independent Stationers dealer owners have the most efficient re-supply operations model in the industry today allowing them to deliver the highest value to their federal government customers. The independent dealer channel is the high-service, high-touch customer care solution for the federal government.

In 2002, Independent Stationers was awarded a MAS 75 for office supplies. Independent Stationers, together with GSA, paved the way for federal government acceptance of GSA contracts awarded to industry consortiums. To our knowledge, this model was the first in the office products industry and has resulted in significant savings to federal government consumers and enabled more small businesses to sell in the federal government marketplace.

In 2007, Independent Stationers was awarded under the first generation of strategic sourcing for office supplies in the categories of general office supplies and paper. Although the first generation BPA did not meet expectations, Independent Stationers took GSA at their word pertaining to the support that would be given for the second generation FSSI OS2 BPA. In 2010, Independent Stationers submitted a proposal based upon our proven cooperative business model that had brought us and our small business dealer owners success over the previous eight years. Not only did the Independent Stationers proposal answer the desire for focus on socio-economic factors, it was deemed competitive and valuable to the federal government as evidenced with an FSSI OS2 BPA award in Pool 1. In essence, the award to Independent Stationers was made to more than 100 small businesses that would ultimately benefit, not just a single corporation.

Since the FSSI OS2 BPA began in June 2010, Independent Stationers has enabled GSA and the commodity team members to meet their goals of:

- Achieve savings
- Capture data
- Enable achievement of socio-economic goals
- Drive compliance with mandates, acts, orders
- Conform with Agency business practices
- Be easy to use

Independent Stationers' dealer owners have seen significant sales growth. In CY 2011, our participating small business members experienced a 302% increase in sales over CY 2010. It is our estimate through FSSI OS2 BPA, those sales represent a 36% savings as compared to our MAS 75.

[1] Source: http://www.ncba.coop/ncba/about-co-ops/research-economic-impact

In summary, participation in a cooperative business model is beneficial to small business and the federal government through cost savings and through small business participation. We applaud GSA for recognizing the benefits our cooperative business model affords small businesses with their award to Independent Stationers. We understand and acknowledge the common complaints expressed by those small businesses not possessing an FSSI OS2 BPA and we believe we are a solution for those small businesses that fit our dealer-owned cooperative model, to sell to the federal government agencies through the FSSI OS2 BPA purchasing vehicle.

Thank you for the opportunity to testify before you today and I welcome any questions.

Testimony of Mike Tucker, Owner of George W. Allen Company
Committee on Small Business, Subcommittee on Contracting & Workforce
U.S. House of Representatives

Hearing on Scheduling Success?
Issues and Opportunities for Small Businesses on the GSA Schedules
Thursday, June 7, 2012

Chairman Mulvaney and members of the Subcommittee, I am Mike Tucker, Chairman of the Independent Office Products & Furniture Dealers Association (IOPFDA) and owner of George W. Allen Company, located in Beltsville, Maryland. I am here today representing one of IOPFDA's two membership divisions – the National Office Products Alliance (NOPA).

The Independent Office Products & Furniture Dealers Association (IOPFDA) is a not-for-profit trade association established in 1904 that represents and serves more than 1,000 small independent commercial dealers throughout the United States, along with their key suppliers. Our small business members range in size from $1 million to $90 million in sales per year.

I appreciate the opportunity to speak to the Subcommittee today about the need to ensure that small businesses in our industry have fair, ongoing access to opportunities in the federal market. There have been a number of developments since 2010 with respect to management of the GSA Schedule 75 program in general, and implementation of the so-called "second-generation" Federal Strategic Sourcing Initiative (FSSI) for office supplies in particular, that have broadly impacted our members. I will highlight these developments in my testimony today.

First and foremost, NOPA is greatly concerned about the abrupt and widespread impact on small businesses in our industry due to the General Services Administration's (GSA) implementation of the current FSSI program for office supplies. We acknowledge that the FSSI program has generated new opportunities for some small businesses in our industry, including some of our very capable members. At the same time, there are many other members who have invested with government encouragement in obtaining their own Schedule 75 contracts, only to see their current opportunities dramatically reduced as a result of the near-mandatory, government-wide implementation of FSSI.

Given the government-wide scope of this FSSI and the large number of small businesses that were participating in this market in FY2010, NOPA was surprised that GSA did not

undertake a small business impact study before launching its second-generation FSSI for office supplies. It then went a step further and – without any such study as required under the Regulatory Flexibility Act – published a proposed rule in June 2011 on "Prioritizing of Sources of Supplies and Service for Use by the Government, FAR Case 2009-024" (76 *FR* 34634) that called for creation of a special preference for federal strategic sourcing initiatives within the FAR.

As an association, we have worked to find the "middle ground" within our membership on this issue. We do not wish to impair the new opportunities of members who competed for and were awarded FSSI blanket purchase agreements (BPAs). At the same time, if we do not highlight our concerns about how FSSI has been implemented, we would be failing to equitably represent a very large number of NOPA members with a history of success in serving federal customers who have seen their business decline sharply as FSSI has been implemented.

After monitoring FSSI implementation for 6-9 months and seeing its far-ranging impacts, we agreed within the NOPA Board to urge GSA and the Administration as a whole to issue a Statement of Administration Policy (SAP) to clarify to federal agencies what our industry had been told by GSA and the Administration just prior to the bid process: that FSSI would be implemented on a non-mandatory basis, allowing non-awarded GSA Schedule 75 holders to continue to compete for federal business. Since that time, it has become clear that FSSI volume and its share of total federal spending on office supplies would continue to grow as more and more major agencies issued guidance to buyers that FSSI use was mandatory except in unusual situations.

NOPA has maintained a dialogue with GSA and the Office of Federal Procurement Policy (OFPP) on FSSI implementation since 2010 and I am here today to urge this Committee, the full Congress and the Administration to acknowledge and address the impact of strategic sourcing on our industry in a forthright way. The solution is simple and relies on allowing more competition and flexibility in purchasing as a way to achieve FSSI's goals and reduce job loss pressures in our industry.

First, the Administration needs to issue a very clear Statement of Administration Policy (SAP) that restores full competition within the federal market for our industry's products. This approach, if communicated and implemented broadly, will help ensure agencies have a genuine future choice among procurement vehicles and will help the Administration achieve the overall budgetary savings it seeks through the FSSI program. Mandatory implementation of FSSI on a government-wide basis represents a massive form of "contract bundling," which has and will continue to reduce the opportunities and level of small business participation and healthy, long-term competition in federal markets.

Second, there needs to be more flexibility to allow individual dealers with their own GSA Schedules to participate in FSSI as "authorized participating dealers" (APDs) with dealers who have received BPA awards. APDs should be subject to reasonable ground rules, but this should not mean they must give up their rights to compete for non-

FSSI federal business opportunities using their regular GSA schedule contracts. This is essential, since APDs will need to bear significant administrative fees from GSA and their chosen FSSI BPA holder partners, as well as normal costs associated with properly servicing federal accounts. NOPA is in dialogue with GSA on this kind of approach and we ask this Committee to strongly encourage them and the entire Administration to work toward an expeditious and balanced conclusion.

We hope that this Committee will reflect on the history of FSSI implementation in our industry and consider how the small business impacts can be mitigated in the future. At the end of FY 2010, there were 550, mostly small, companies and a few dealer-based organizations competing for federal business with one or more departments and agencies under the regular GSA Schedule 75 contract program and/or using individual agency blanket purchase agreements (BPAs). However, with the rapid, GSA/OFPP-orchestrated push for use of FSSI on a government-wide basis using just 2 large and 13 small vendors, the economic fallout has been swift and dramatic for most of the remaining Schedule 75 contract holders.

NOPA's survey of its members after 6 months of the FSSI program found that already there were significantly more dealers experiencing sales and job losses than there were dealers seeing large sales increases and hiring more people to support those sales. Ironically, this situation is occurring in a commodity area where small businesses owned and operated by women, minorities, service-disabled veterans and second- and third-generations of entrepreneurial families have been well represented and highly successful against much larger national competitors.

We do not believe that this result – a net economic loss for small business – is what Congress or the Administration intended or is what our Nation needs as our economy is showing uneven signs of recovery. More competition – not less – is the solution and can be readily restored in the federal market for office products by making the FSSI program truly one option, rather than a mandatory or quasi-mandatory option, among those that have been in place and working effectively for some time.

These alternatives include the GSA Schedule 75 contract program and individual federal agency BPAs that, were it not for FSSI, could remain in force or be reactivated and be effectively utilized. They will not be used, however, so long as individual federal buyers of office products are under direct guidance to buy using the government-wide FSSI program, or must jump through bureaucratic 'hoops' to justify every purchase decision. More competitors will help federal customers buy smarter and reduce waste and expense. And this is what responsive, small businesses excel in doing.

Recent changes in the GSA Advantage website used for federal purchasing represent one such hurdle, since they strongly channel buyers to the FSSI program at the expense of other potential purchasing vehicles, and make it exceedingly

difficult to find and compare pricing and product availability from other GSA Schedule 75 vendors and agency BPA contractors.

Contrary to what proponents of broad-based "strategic sourcing" argue, 'best value' – including competitive pricing – is more likely to occur when each federal customer in the many distinct geographic markets of the United States has strong local alternative vendors from which to chose who are dedicated to servicing their specific needs. Our two proposals would help achieve this outcome.

In addition to addressing our immediate concerns with the current FSSI program's implementation, we hope this Committee will encourage the Administration to follow the guidance of OMB's two recent "myth busting" memoranda that encourage more pre-bid interaction with federal contractors. For several years NOPA has offered to meet with GSA, individual agencies and OFPP to discuss specific ideas on how to better include small business in federal procurement. With more federal strategic sourcing initiatives anticipated, this inclusive approach is even more critical.

On behalf of NOPA and its members, I thank you for opportunity to testify before this Subcommittee about the GSA Schedule and FSSI program as they impact our industry. We welcome any questions you may have.

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on Contracting and Workforce, Committee on Small Business, House of Representatives

For Release on Delivery
Expected at 2:00 p.m. EDT
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OFFICE SUPPLIES

Recent GSA Pricing Study Had Limitations, but New Initiative Shows Potential for Savings

Statement of William T. Woods, Director
Acquisition and Sourcing Management

GAO-12-705T

GAO
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Highlights

Highlights of GAO-12-705T, a testimony before the Subcommittee on Contracting and Workforce, Committee on Small Business, House of Representatives

Why GAO Did This Study

The GSA estimated that federal agencies spent about $1.6 billion during fiscal year 2009 purchasing office supplies from more than 239,000 vendors. Concerned that federal agencies may not be getting the best prices available, Congress directed GSA to study office supply purchases by the 10 largest federal agencies. GSA delivered the results of its study in November 2010. The study also discussed GSA's efforts to implement an initiative focused on leveraging the government's buying power to realize savings when buying office supplies, known as OS II. Congress directed GAO to assess the GSA study, with particular attention to the potential for savings.

This testimony is based on the findings and conclusions of GAO's December 2011 report, GAO-12-178, and focuses on (1) the support for the findings and conclusions in GSA's study, and (2) how GSA's new office supply contracts support the goal of leveraging the government's buying power to achieve savings.

What GAO Recommends

GAO did not make any recommendations in its report, and is not making any in this testimony.

View GAO-12-705T. For more information, contact William T. Woods, (202) 512-4841 or WoodsW@gao.gov.

June 7, 2012

OFFICE SUPPLIES

Recent GSA Pricing Study Had Limitations, but New Initiative Shows Potential for Savings

What GAO Found

In 2010, the General Services Administration's (GSA) pricing study found that during fiscal year 2009, the 10 largest federal agencies accounted for about $1.3 billion, or about 81 percent, of the total $1.6 billion spent governmentwide in 14 categories of office supplies. About 58 percent of their office supply purchases were made outside of the GSA schedules program—a simplified process to take advantage of price discounts equal to those that vendors offer "most favored customers." Most of these purchases were made at retail stores. GSA also reported that agencies paid an average of 75 percent more (a price premium) than schedule prices for their retail purchases and 86 percent more compared to Office Supplies II (OS II) prices.

While the GSA acknowledged some limitations with the study data, we identified additional data and other limitations that lead us to question the magnitude of some of GSA's reported price premiums and assertions. More specifically, we determined that the study may not have properly controlled for quantities, used two different formulas to calculate price premium estimates, and relied on interviews with senior level acquisition officials instead of purchasers to determine whether buyers compared prices before making purchases. We were not able to fully quantify the impact of these limitations. Additionally, other agencies questioned the study's specific findings related to price premiums, but their own studies of price premiums support GSA's conclusion that better prices can be obtained through consolidated, leveraged purchasing.

Available data show that the OS II initiative has produced savings of $39.2 million from June 2010 through March 2012. According to GSA, the OS II initiative is demonstrating that leveraged buying can produce greater savings and has provided improvements for managing ongoing and future strategic sourcing initiatives. For example, GSA reports that OS II allowed it to negotiate discounts with vendors who were selected for the initiative. As governmentwide sales surpass certain targets, additional discounts are applied to purchase prices. Further, OS II has spurred competition among schedule vendors that were not selected for OS II, resulting in decreased schedule prices. The initiative is also expected to lower governmentwide supply costs through more centralized contract management. Another key aspect of the initiative is that participating vendors provide sales and other information to GSA to help monitor prices, savings, and vendor performance. Finally, GSA is capturing lessons learned from OS II and is attempting to incorporate these lessons into other strategic sourcing initiatives.

Chairman Mulvaney, Ranking Member Chu, and the Members of the Subcommittee on Contracting and Workforce:

I am pleased to be here today to discuss the General Services Administration's (GSA) efforts to reduce prices that federal agencies pay for office supplies. My statement is based on a report[1] we issued last year for the Subcommittees on Financial Services and General Government of the Senate and House Committees on Appropriations. Concerned that federal agencies may not be getting the best prices available, the conferees on the Consolidated Appropriation Act, 2010, directed GSA to conduct a study of the office supply purchases made by the top 10 largest federal agencies.[2] GSA provided the results of its study to the House and Senate Committees on Appropriations in November 2010 and also reported on its efforts to implement the Federal Strategic Sourcing Initiative—Office Supplies II (OS II), an initiative focused on leveraging the government's buying power to realize savings. The conferees also directed GAO to assess the GSA study, with particular attention to the potential for savings.

To conduct our work, we analyzed the data GSA used for its study; met with and obtained documentation from officials at GSA and the Departments of Homeland Security, Air Force, Navy, and Army, which were among the 10 agencies in GSA's study; and reviewed contract documentation associated with the OS II initiative. For purposes of this hearing, we updated GSA's savings estimates for the OS II initiative. We conducted our work 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.

Background

GSA estimated that federal agencies spent about $1.6 billion during fiscal year 2009 purchasing office supplies from more than 239,000 vendors. Federal agencies can use a variety of different approaches to purchase

[1]GAO, *Strategic Sourcing: Office Supplies Pricing Study Had Limitations, but New Initiative Shows Potential for Savings*, GAO-12-178 (Washington, D.C.: Dec. 20, 2011).

[2]H.R. Conf. Rep. No. 111-366, at 918 (2009).

office supplies. For relatively small purchases, generally up to $3,000, authorized personnel can use their government purchase cards. For larger purchases, agencies may use other procedures under the Federal Acquisition Regulation, such as awarding a contract or establishing blanket purchase agreements. Alternatively, agencies can use the Federal Supply Schedule program (schedules program), a simplified process for procuring office supplies where GSA awards contracts to multiple vendors for a wide range of commercially available goods and services to take advantage of price discounts equal to those that vendors offer their "most favored customers." The schedules program can leverage the government's significant aggregate buying power. In addition, agencies can make office supply purchases under GSA's new initiative, the OS II program. The OS II program is an outgrowth of an earlier attempt by GSA to offer agencies a simplified process for fulfilling their repetitive supply needs while obtaining prices that are lower than vendors' schedule prices. By July 2010, GSA had awarded 15 blanket purchase agreements[3] competitively to support the OS II initiative, 13 of which went to small businesses.

For its study, GSA reviewed office supply purchases in 14 categories of mostly consumable office supplies, ranging from paper and writing instruments to calendars and filing supplies. The report did not include non-consumable items such as office furniture and computers because they are not part of the standard industry definition of office supplies. The GSA report estimated that during fiscal year 2009, the 10 agencies[4] with the highest spending on office supplies accounted for about $1.3 billion, or about 81 percent, of the total $1.6 billion spent governmentwide in the 14 categories of office supplies. Further, it stated that about 58 percent of office supply purchases were made outside of the GSA schedules program, mostly at retail stores. Additionally, GSA reported that agencies paid an average of 75 percent more (a price premium) than schedule prices and 86 percent more than OS II prices, for their retail purchases.

[3]Blanket purchase agreements are a simplified method of fulfilling repetitive needs for supplies and services that also can provide an opportunity to seek reduced pricing from vendors' schedule prices. See FAR 13.303-1(a).

[4]Departments of the Army, Air Force, Navy, Homeland Security, Veterans Affairs, State, Health and Human Services, Justice, Commerce, and Agriculture.

GSA Report Had Data and Other Limitations

While the GSA report acknowledged some limitations with the data, we identified additional data and other limitations that lead us to question the magnitude of some of GSA's reported price premiums. We were not able to fully quantify the impact of these limitations. Additionally, other agencies questioned the study's specific findings related to price premiums, but their own studies of price premiums support GSA's conclusion that better prices can be obtained through consolidated, leveraged purchasing.

Since purchasing of office supplies is highly decentralized, GSA obtained data for its study from multiple disparate sources, such as the Federal Procurement Data System-Next Generation, the Department of Defense (DOD) electronic mall, and purchase card data from commercial banks. To determine the amount of funds spent on office supplies and to conduct related analyses, GSA had to sort through about 7 million purchase transactions involving over 12 million items. The agency took steps to clean the data prior to using them. For example, it removed duplicate purchases and items that did not meet its definition of office supplies. The GSA study noted that the estimated amount of funds and related calculations were to be considered sound and reliable estimates derived from rigorous data analysis techniques.

We also identified additional data and other limitations in GSA's study, including:

- GSA may not have been able to properly control for purchases of different quantities of the same item. Because there is no consistency in how part numbers are assigned, manufacturers may assign the same part number to both individual items and to packages of items in some cases. GSA tried to exclude transactions that had large variations in retail prices for apparently identical items to control for these occurrences. However, when we reviewed data for 10 items within the writing instruments category, we found that retail prices for 6 of the 10 items varied by more than 300 percent, such as Rollerball pens, which ranged from $9.96 to $44.96.

- Two different formulas were used for calculating price premium estimates. However, the study only described one of these specific formulas. The use of the unreported formula did not have a substantial impact on the retail price premium calculations for most categories of office supplies or the overall conclusions of the study, but the GSA report could have been more complete had it fully disclosed all the formulas used for all categories of office supplies.

- GSA did not identify or collect any data about price comparisons conducted by the purchase cardholders. GSA concluded that purchase cardholders compared costs at some level prior to making a purchase based on its interviews with senior-level acquisition officials. While these officials may have had a broad understanding of agency procurement policies and practices, they were not representative of the approximately 270,000 credit cardholders making purchasing decisions. GSA officials said that given the reporting time frame for the study, they did not have the resources or time needed to survey a representative sample of the 270,000 purchase cardholders.

Additionally, officials from the Departments of Air Force, Army, Navy, and Homeland Security believed that the price premiums reported by GSA when buying outside the GSA schedule were overstated based upon their own studies. For example, the Air Force determined that the OS II blanket purchase agreements could save about 7 percent in a study of the 125 most commonly purchased items. However, these agencies agreed with GSA's overall conclusion that better prices can be obtained through leveraged buys and that prices available through the new OS II blanket purchase agreements were better than the prices available from their existing agency blanket purchase agreements.

New Strategic Sourcing Initiative for Office Supplies Shows Potential for Generating Savings

According to initial available data, GSA's OS II blanket purchase agreements have produced savings. The OS II initiative, more so than past efforts, is demonstrating that leveraged buying can produce greater savings and has provided improvements for managing ongoing and future strategic sourcing initiatives. GSA is using a combination of agency and vendor involvement to identify key requirements and cost drivers, increase the ease of use, and obtain the data necessary to manage the program.

GSA's Analysis of OS II Data Shows Savings Are Being Achieved

On the basis of the sales data provided by OS II vendors, GSA estimates the federal government saved $39.2 million between June 2010 and March 2012 by using the 15 blanket purchase agreements established for this program. These savings were estimated by comparing the lowest prices of a set—or market basket—of over 400 items available on GSA's schedules program contracts before OS II with prices and discounts being paid for the same items on the OS II blanket purchase agreements. Importantly, and unlike GSA's report, GSA's conclusions about savings realized under OS II are based on data from vendors—which they are

required to collect and provide in the normal course of business—and not on data collected after the fact from sources not designed to produce information needed to estimate savings.

GSA's comparison of the market basket of best schedule prices against the OS II blanket purchase agreement vendors' prices found that prices offered by OS II vendors were an average of 8 percent lower. The average savings, however, is expected to fluctuate somewhat as the OS II initiative continues to be implemented and the mix of vendors, products, and agencies changes. For example, GSA found that savings, as a percentage, declined slightly as agencies with historically strong office supplies management programs increased their use of OS II. Conversely, they expect the savings percentage to increase as agencies without strong office supplies management programs increase their use. In addition to the savings from the blanket purchase agreements, GSA representatives told us that they are also seeing prices decrease on schedules program contracts as vendors that were not selected for the OS II program react to the additional price competition created by the OS II initiative.

The agency decided to extend the OS II blanket purchase agreements for an additional year after negotiating additional price discounts of about 3.9 percent on average with 13 of the 15 vendors in the program. The blanket purchase agreements also include tiered discounts, which apply when specific sales volume thresholds are met. Sales realized by 5 of the vendors reached the first tier discount level as of April 2012, and the vendors have since adjusted their prices to provide the corresponding price discounts. GSA anticipates that additional vendors will reach sales volumes that exceed the first tier discount threshold in the first option year, which will trigger additional discounts.

An additional benefit of OS II may be lower contract management costs, as agencies can rely on GSA to administer the program instead of their own staffs. While this may create some additional burden for GSA, officials believe the overall government costs to administer office supply purchases should decrease.

OS II Includes Key Management Goals and Practices to Enhance Oversight and Manage Suppliers

GSA has incorporated a range of activities representative of a strategic procurement approach[5] into the OS II initiative. These activities range from obtaining a better picture of spending on services, to taking an enterprisewide approach, to developing new ways of doing business. They also involve supply chain management activities. All of these activities involve some level of centralized oversight and management. GSA is capturing lessons learned from OS II and is attempting to incorporate these lessons into other strategic sourcing initiatives.

GSA obtained commitments from agencies and helped set goals for discounts to let businesses know that the agencies were serious in their commitment to the blanket purchase agreements. This also helped GSA determine the number of blanket purchase agreements that would be awarded. As part of the overall strategy, a GSA commodity council identified five overarching goals, in addition to savings, for the OS II initiative. These goals and the methods used to address them are in table 1.

[5]See GAO, *Best Practices: Taking a Strategic Approach Could Improve DOD's Acquisition of Services*, GAO-02-230 (Washington, D.C.: Jan. 18, 2002), for more information on strategic sourcing.

Table 1: Goals for Office Supplies II

Goal	Methods to address the goal
Capture data	Vendors are required to provide monthly sales data including at the line-item level at no additional charge. Line-item-level data provide details on the transactions, such as the manufacturer's part number, freight amount, small business category (if applicable), product codes, and product description.
Enable achievement of socio-economic goals	GSA awarded 13 of the 15 blanket purchase agreements to small businesses to assist agencies in meeting the statutory requirement that the governmentwide small business contracting goal be established at not less than 23 percent of the total value of all prime contracts awarded for each fiscal year.
Drive compliance with statutes and mandates	Vendors are required to be in compliance with statutes and executive orders.
Conform with agency business practices	Vendor administration requirements include maintaining a current catalog conforming to the terms and conditions of agency portals; meeting catalog requirements; providing no restriction on payment methods; offering training; and having a dedicated agency manager.
Increase ease of use	Vendors are required to make the OS II prices available through government portals, vendor websites, retail stores, and by phone; include a point of sale discount, where blanket purchase agreement prices are automatically charged and tax exempted whenever a government purchase card is used for all items covered by the blanket purchase agreement; and apply blanket purchase agreement prices unless the ordering agency specifically opts not to use OS II.

Source: GAO analysis of GSA data.

Several new business practices have been incorporated in the OS II program to meet the goals. For example, to meet the capture data goal, GSA is collecting data on purchases and vendor performance that are assimilated and tracked through dashboards, which are high-level indicators of overall program performance. The dashboard information is used by the GSA team members responsible for oversight to ensure that the vendors are meeting terms and conditions of the blanket purchase agreements and that the program is meeting overall goals. The information is also shared with agencies using OS II. Our review of GSA's OS II vendor files found that GSA has taken a more active role in oversight and is holding the vendors accountable for performance. For

example, GSA has issued Letters of Concern to four vendors and has issued one Cure Notice[6] to a vendor. These letters and notices are used to inform vendors that the agency has identified a problem with the vendor's compliance. To support the OS II management responsibilities, GSA charges a 2 percent management fee, which is incorporated into the vendors' prices. This fee, which is higher than the 0.75 percent fee normally charged on GSA schedules program sales, covers the additional program costs, such as the cost of the six officials responsible for administering the 15 blanket purchase agreements, as well as their contractor support.

In addition, to increase savings and ease of use, OS II includes a point of sale discount, under which blanket purchase agreement prices are automatically charged whenever a government purchase card is used for an item covered by the blanket purchase agreement rather than having the buyers ask for a discount. Additionally, purchases are automatically tax exempt if the purchases are made using a government purchase card. State sales taxes were identified by GSA's report as costing the federal agencies at least $7 million dollars in fiscal year 2009.

GSA's experience with OS II is being applied to other strategic sourcing initiatives. For example, GSA set up a commodity council for the Federal Strategic Sourcing Initiative Second Generation Domestic Delivery Services II program. The council helped identify program requirements and provide input on how the program operates.

Concluding Observations

GSA's office supplies report contained some data and other limitations, but it showed that federal agencies were not using a consistent approach in both where and how they bought office supplies and often paid a price premium as a result of these practices. The magnitude of the price premium may be debatable, but other agencies that have conducted studies came to the same basic conclusion about the savings potential from leveraged buying. The GSA study helped set the course for a more

[6] A cure notice is issued by the government to inform the contractor that the government considers the contractor's failure to perform a contractual provision a condition that is endangering performance of the contract. The cure notice specifies a period (typically 10 days) for the contractor to remedy the condition. If the condition is not corrected within this period, the cure notice states that the contractor may face the termination of its contract for default.

strategic approach to buying office supplies—an approach that provides data to oversee the performance of vendors, monitor prices, and estimate savings. Additional savings are expected as more government agencies participate in the OS II initiative and further leverage the government's buying power.

Chairman Mulvaney, Ranking Member Chu, and the Members of the Subcommittee on Contracting and Workforce, this completes my prepared statement. I am happy to answer any questions you have.

GAO Contact and Staff Acknowledgments

For future questions about this statement, please feel free to contact me at (202) 512-4841 or woodsw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this statement include: Cheryl Andrew, Assistant Director; Jean K. Lee; and Marie Ahearn

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STATEMENT OF

STEVEN J. KEMPF
COMMISSIONER

FEDERAL ACQUISITION SERVICE

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE

THE SUBCOMMITTEE ON CONTRACTING AND WORKFORCE

COMMITTEE ON SMALL BUSINESS SUBCOMMITTEE

U.S. HOUSE OF REPRESENTATIVES

JUNE 7, 2012

Good morning Chairman Mulvaney, Ranking Member Chu and Members of the Subcommittee. My name is Steven Kempf and I am Commissioner of the United States General Services Administration's (GSA) Federal Acquisition Service (FAS). I want to thank you for providing me with an opportunity to discuss GSA's accomplishments and continual efforts to improve the efficiency and effectiveness of the Multiple Award Schedules (MAS or Schedules) and government acquisitions generally. Over time, the Schedules have proven to be a highly effective contracting vehicle for small business in the government marketplace.

I would like to discuss three specific initiatives and several related programs we are taking to ensure the future success of the MAS while making the best use of taxpayer dollars:

- Implementing the Small Business Jobs Act of 2010, sponsored by this committee;
- The Federal Strategic Sourcing Initiative; and
- The MAS Demand Based Model.

The MAS is one of the most successful government contracting program in terms of creating opportunities for small businesses. The MAS program routinely exceeds the government-wide small business contracting goal of 23%. Specifically, more than 70% of all MAS vendors are small businesses and approximately 34% of all dollars spent on the MAS go to small businesses. This success is not accidental; it is the result of robust programs and a commitment to the success of small businesses across our agency.

One factor we hope will increase these numbers is full implementation of the authority in Section 1331 of the Small Business Jobs Act of 2010 addressing agencies' discretion to set aside orders under multiple award contracts. Untapped opportunities exist to increase small business participation on multiple award contracts, including the MAS, and we are committed to helping agencies take full advantage of these opportunities. Since promulgation of the FAR rule in November of 2011, GSA has trained approximately 1,700 members of the acquisition workforce and offered over 6,850 hours to the individuals who keep our government well served, properly equipped and focused on mission accomplishment. Our blog, Set Aside Orders for Small Business (http://interact.gsa.gov/blog/set-aside-orders-small-business), has received over 4,000 views and we have updated our policy guidance to include a frequently asked questions section specifically addressing Section 1331 concerns (which has received 5,000 views) www.gsa.gov/schedulesandsbgoals. Additionally, in the past few weeks, GSA conducted two webinars for over 700 members of the acquisition workforce on MAS and the new Federal Acquisition Regulation implementing Section 1331.

While it is still early, we are starting to identify some indicators of success. Anecdotal information from our trainings indicates that multiple agencies are planning or considering the use of the discretionary set aside authority to make awards to small business valued at over $250 million. Given that our efforts have only recently begun, I am excited about the possibility this anecdotal information represents.

While we are pleased with our progress thus far, we continue to identify additional ways to ensure that use of this authority continues to be a success. For example, in partnership with the

Federal Acquisition Institute (FAI) and the Defense Acquisition University (DAU), FAS will launch a four-hour Continuous Learning Module – or CLM –on how to use the new authority, and converting the Utilization of Small Business course into a CLM that will be available on both organizations' virtual campus sites.

When Section 1331 is fully programmatically implemented and utilized, it will represent a very powerful tool that the acquisition workforce can use to ensure they are reaching and contracting with small businesses. Full implementation includes other proactive programs. For example, GSA's Mentor Protégé program, directed by our Office of Small Business Utilization, has changed the way protégée small businesses and more experienced mentor companies approach government contracting. There are now over 100 partnerships in the GSA program, and the assistance mentors provide has resulted in protégés winning 82 GSA contracts and 112 non-GSA contracts. Due to these new opportunities, the protégé firms have created more than 105 jobs.

One of the less quantifiable benefits, but one that is arguably beneficial to both the small business and government, is that the program has provided protégés with the insight and resources required to make smart, educated business decisions about which contracts represent a viable marketplace for their business model. Anecdotal reports indicate that some protégés have decided to wait to obtain a MAS contract based on what they learned from their mentors because they realized it was not the right fit for them at that time. This ultimately saves both the government and small businesses precious time and money.

While GSA's mentor protégée program has been extremely successful, its size and scope prevent it from reaching all small businesses. GSA has long considered the type of information and knowledge gained through the mentor protégée program as crucial to the success of both small businesses and the MAS program. Addressing this need has and will continue to be an ongoing challenge; however we have taken a significant step forward via the Vendor Toolkit and Business Breakthrough program. These resources provide current and potential MAS contractors with information about the MAS program and a simple process to help them determine whether they are properly situated to succeed on a MAS contract.

Our Vendor Toolkit in particular is one of the most powerful tools available to help small businesses prepare for a MAS contract. Found in our Vendor Support Center (vsc.gsa.gov), it provides one stop access, a structured process and information on how small businesses can:

- Select the right Schedule for their business model;
- Identify the size of their market and new business opportunities;
- Assess competition; and
- Determine if a MAS contract would be the best vehicle to grow their business.

Additionally, the Toolkit offers a Readiness Checklist – now a mandatory submission with each new offer -- emphasizing the importance of small businesses completing the research and analysis needed to make an informed decision about whether or not spending the money to get a MAS contract is a good investment.

When small businesses are informed and ready to compete, they succeed. Nowhere is this better demonstrated than our Alliant Small Business Government-wide Acquisition Contract (GWAC),

GSA's premier small business set-aside vehicle. Alliant Small Business provides agencies with easy and flexible access to customized IT solutions from a large, diverse pool of industry partners, with a $15 billion program ceiling. Alliant Small Business allows agencies to do long-term planning of large-scale program requirements while strengthening opportunities for small businesses. Examples of Alliant Small Business awards and indicators of success include:

- One small business earning a $52 million task order to operate the Department of Energy's National Nuclear Security Administration's (NNSA) Information Assurance Response Center (NIARC) in Las Vegas, NV.
- The Department of Energy's National Nuclear Security Administration (NNSA) Office of the Chief information Officer Headquarters awarding a $70 million task order to a small business.
- The Department of Defense (DoD) issued a memo on July 14, 2011, encouraging the use of Alliant Small Business and other GSA small business GWACs, to meet the DoD's small business contracting and information technology needs.
- The Department of the Navy recently conducted a General IT Development and Support Services strategic sourcing analysis, focusing on cost savings. They recommended increasing the use of existing contract vehicles to generate greater competition while reducing cycle time, including the Alliant Small Business GWAC. Alliant Small Business will work with the Navy team to establish and deliver training opportunities.

At GSA's FAS it is a top priority to do business with those contractors who are committed to delivering the best value to the taxpayer and finding savings for government agencies. Small businesses are our economy's engine of innovation and are a critical feature of the competitive marketplace that drives best value for the government. When agencies use GSA solutions to conduct their acquisitions they get critical ideas and expertise required to make government work better, faster and more efficiently, saving scarce taxpayer dollars. As we look to the future, FAS is developing a Supplier Relationship Management program focused on lowering government's cost of doing business by enhancing our relationships with our critical suppliers. Doing business with those contractors who are committed to delivering the best value to the taxpayer is one of the top priorities for new Office of Management and Budget (OMB) Office of Federal Procurement Policy Administrator Joe Jordan. It involves a continued push to maximize contracting with small and disadvantaged businesses, and redoubling efforts to document and share past performance information to fully realize the intended benefit of motivating and rewarding good contractor performance. This includes considerations like a contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; factors that have not consistently been available to the acquisition workforce when they are making business decisions on behalf of taxpayers. For our part, the MAS program will deliver standardized evaluation factors and rating scales when collecting past performance information, giving the government aggregate level measures of contractor performance.

Like the Supplier Relationship Management effort, data collection, analysis and enhanced competition are at the heart of the Federal Strategic Sourcing Initiative (FSSI). This program has generated meaningful cost savings to taxpayers while, in the relevant markets, has increased the number of dollars going to small business. Governed by the Office of Management and Budget and the Chief Acquisition Officer Council's (CAOC) Strategic Sourcing Working Group, and

managed by GSA FSSI leverages the Federal Government's buying power to obtain the best possible prices, thereby increasing the dollars agencies can put toward mission critical activities. It is important to understand that price is only one of FSSI's key priorities. Socio-economic goals, understanding the government's spending patterns, ease of use and removing government cost drivers are other key goals. FSSI works to meet these goals by providing easy access to:

- Procurement vehicles that offer greater discounts as volume increases;
- Business intelligence and best practices to achieve significant savings and benefits through streamlined government-wide spending; and
- Increased transparency and management controls that ensure regulatory compliance with a socio-economic focus.

Current GSA FSSI solutions include:

- Express and Ground Domestic Delivery Services;
- Office Supplies;
- Print Management;
- SmartBUY;
- Wireless Telecommunications Expense Management Services and, shortly,
- Wireless Services and Devices.

One of our most successful FSSI solutions is our Office Supplies Blanket Purchase Agreements (BPAs) known as OS2. Prior to OS2 federal agencies had little visibility into what office supplies they were purchasing. Much of the purchasing was done directly via purchase cards, often resulting in agencies paying higher prices. While Schedule 75 was – and is -- an excellent vehicle, we recognized that the government could further leverage its capabilities by improving buying practices and harvesting additional savings by identifying common requirements, streamlining business models and driving further operating efficiencies.

To accomplish this we brought over a dozen different federal agencies to the table to help us design OS2. Through this collaboration, we identified several key features that needed to be part of the solution. For example, offers had to be:

- Authorized Ability One resellers;
- Able to provide more detailed transactional data; and
- Offer point of purchase OS2 pricing through the use of the Smart Card program.

Additionally, offers had to meet automatic substitution requirements to achieve AbilityOne and green buying requirements.

A critical component to OS2 was requesting and incorporating industry's expertise and feedback into the new contract. We held multiple outreach events to include the voice of small business in our planning. Our extensive market research indicated that we would have excellent competition, with an estimated 100 companies meeting the established criteria. Ultimately, we received 48 qualified offers and 13 of the 15 awards went to small businesses. Of the 13, nine fall into a

socio-economic category[1]. Additionally, two of the 13 awards are to consortia consisting of over 120 small businesses.

OS2 resulted in significant savings to the Federal Government. In its first year, Federal agencies saved $17.5 million over the prices they had been paying previously. Additionally, we found that the lower prices offered through the OS2 BPAs caused the general prices offered on the office supplies Schedule to drop 4.7 percent from the pre-OS2 prices. As of today, we are on track to surpass our projected four year total of $208 million in savings. Finally, OS2 has also demonstrated significant cost avoidance savings by eliminating other agencies' need to create duplicative contracts. At the time OS2 was established, several agencies were considering establishing their own office supply strategic sourcing contracts. By eliminating the need to create individual contracts, we estimate OS2 has saved each agency more than $1,000,000 in administrative costs.

In addition to the cost savings, OS2 has significantly increased our socio-economic results. Prior to the inception of OS2 in 2009, 66.6 percent of the dollars under Schedule 75 went to small business. In 2011, this figure increased to 73.9 percent and we expect it to surpass 75 percent in 2012. We believe this figure demonstrates that not only can small business compete with large business, they can excel.

The MAS program was created in 1948, and over the years GSA has made significant changes to ensure it continually meets federal agencies' and our industry partners' needs. For some Schedules, such as Schedule 75, strategic sourcing allows us to do that. However, strategic sourcing is not well suited for all the Schedules and GSA has not significantly changed the MAS business model since 1992. There have been significant market changes in 20 years and in today's budget environment, we need to do everything possible to save taxpayer dollars by increasing competition and making it easier to do business with us. That is why GSA is committed to implementing a new "Demand Based" business model.

Let me be clear, GSA is 100 percent committed to providing the service and direction our industry partners need to be successful. However, with limited exceptions, the MAS program is perpetually open to qualified new offers and while vibrant markets exist in some of the Schedules, we have reached the point of saturation in others. In some instances, over 60 percent of the contract holders receive little to no business. In these cases, the sheer volume of contract holders prevents agencies from sifting the wheat from the chaff to find the right offer at the right price. Moreover when the volume reaches the point of saturation, there is simply not enough spend to support the volume of vendors. When Schedules reach this point, it is a disservice to our customer agencies and costly for the vendors, including small businesses, who have expended resources to prepare and submit offers under the impression that they will be able to compete for and earn business. It is also a disservice to the American taxpayer as we are required spend funds monitoring and maintaining these nonperforming contracts without any expectation or chance of a return.

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[1] Socioeconomic category information: Women-Owned Small Business (WOSB), Historically Underutilized Business Zones (HUBZone), veteran-owned small business (VOSB), service-disabled veteran owned business (SDVOSB), and Small Disadvantaged Business (SDB).

These concerns form the basis behind our Demand Based Model. This model allows us to focus our resources and capacity on those areas identified by both our analysis and our customer agencies as areas of the greatest concern. Most Schedules are vibrant and competitive with extremely strong small business representation and sales. If all small businesses and all of the Schedules were doing well, it would be an excellent story. However, this is not the case.

Over the last several years the number of companies seeking MAS contracts has roughly doubled and the volume of contract modifications has roughly tripled. Some of this represents the effective addition of new services and products to the Federal sector. However, too much of this increase is related to duplication, with numerous contractors offering the same item at different price points. GSA projects that well over 50% of the estimated 3000 contractors will have no sales or sales less than the $25,000 minimum threshold and that the Government will spend over $20 million dollars to support and manage low/no sales contracts. Furthermore, in numerous parts of the MAS program, continuation of the perpetual open season model is resulting in the addition of more contractors to a flat or declining market sector, such as photographic equipment. By adding new contractors to these Schedules we are continuing to further divide an ever shrinking market. The current fiscal challenges facing Federal agencies requires that GSA refocus its acquisition professionals on helping agencies to use the MAS program more effectively by bringing new solutions to market faster, improving pricing and simplifying the buying experience. Industry needs GSA to give clear signals, to create opportunity, and to act quickly.

Our acquisition work force is a limited resource. At the same time we have seen significant increases in new offers we have been shifting our focus more to contract oversight, enhancing customer support, and initiatives such as FSSI. The overall effect is that we have increased the wait times for approval of all offers, both those that are sorely needed and those which will likely receive little to no business; in many cases the wait is now 12 months or more. GSA needs greater agility, federal agencies need faster access to emerging solutions, and small businesses need real access to areas of opportunity in the Federal market.

GSA's plan for moving to a Demand Based Model is built around careful analysis before any action is taken and continually monitoring customer demand. The plan will include a review of the major part of each Schedule (the Special Item Number) and determination of whether it represents an opportunity for continued innovation and program growth, or if it is an area no longer in need of additional contractors. Those areas identified as high demand or likely to be affected by innovation will remain open to new offers. The oversaturated areas will be closed to new offers for twelve months. At the end this period the Schedule will be reviewed to determine if the demand or innovation requires additional contractors. Through this measured approach, GSA will create a more cost-effective environment for managing the schedule program. We will also create a healthier business environment both for current and prospective vendors. Combined with tools such as order set asides, we are confident that FAS will be even more successful in meeting its obligation to maximize opportunities for our small business partners and we remain fully committed to providing them with the help they need to win work.

As an example of how we intend to proceed, FAS recently created a new Special Item Number, SIN 132-99, under its IT Schedule 70 to allow new products, services and solutions within the

scope of Schedule 70 but not currently offered a ready channel to the government marketplace. This SIN allows new technology to be available to our customers faster and supports our industry partners, especially small innovative businesses." On the opposite side of the equation we intend to close the portions of schedule 78 related to promotions and awards as the market demand for those items is dropping and those contractors currently on the schedule adequately address the market needs.

Anticipated benefits of the Demand Based Model are:

For Federal Agencies	For Industry	For GSA
Brings new technologies to market faster	Clearer indication of growth areas and new opportunities	Greater focus on helping Federal agencies save
Frees GSA resources to help agencies use MAS better	Faster processing of offers and modifications	Better use of resources
Makes it easier to find best solutions	Increased success rate	Improves Supplier Relationship Management
Greater focus on price	Focuses Industry on underserved markets	Controls expenses and reduces waste/duplication
Help meet socioeconomic goals	Aligns to other small business initiatives	Increases small business access to market share

The agencies that rely on the FAS are facing difficult times, budgets are shrinking but work and the needs of our nation continue to grow. We must address the changing reality faced by the agencies we serve. To do this we have to institute changes. We assessed the program, consulted Congressional, agency and industry stakeholders and developed the Demand Based Model as the solution. This model will increase our agility, provide agencies with faster and better access to emerging solutions, send clear signals to the marketplace, and reduce the percentage of contractors with low or no sales.

The final matter I would like to bring to your attention is our vision for the Next Generation of the MAS Program. This effort will focus on greater transparency into the spend data for our customers and improve GSA Advantage. These improvements will assist our contract holders in marketing their goods and services by placing a special emphasis on ensuring that all Federal customers experience a simplified acquisition process when using MAS. As we continue to plan and progress toward implementation of these objectives, I look forward to working with you and your staff to make the next generation of the MAS even better than the current version.

On behalf of GSA's Federal Acquisition Service I again thank you for this opportunity and I would be happy to answer your questions.

Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012

Questions - Larry Allen

1. Please explain how GSA's use of strategic sourcing and BPAs has changed the marketplace for small businesses hoping to obtain federal contracting opportunities through GSA?

2. Approximately, 48% of eligible small businesses submitted offers for an OS II BPA, is that percentage considered high for contract bidding?

3. Can you tell us more about why GSA moved to the open season model 20 years ago? What effect did that move have on pricing and product selection?

4. What alternatives do you think GSA should consider to shutting down SINs for up to three years?

5. In your testimony, you acknowledge that GSA should have the ability to shut down contracts where there is no longer a market for the goods and services. However, in many cases it appears that GSA is instead shutting down SINs because it feels it has enough vendors for that good or service. Do you think that is a legitimate rationale?

6. Similarly, GSA is proposing to close all of Schedule 736, the Temporary Administrative and Professional Staffing Schedule. That Schedule does over $125 million in sales each year, all of which is with small businesses. Written materials provided to the Committee indicate that part of the reason for closing the schedule is that the small businesses frequently graduate because they become successful. However, wouldn't this argue for keeping the Schedule open so GSA could replenish its supply of small business contractors? Can you provide any insight into this decision?

7. Likewise, GSA has already closed its Schedule 75, the Office Supply Schedule, to new offerors. However, given that the Schedule does nearly $700 million in sales, and that many of the small businesses holding BPAs are likely to be large when the option on their contracts are up, should GSA be concerned with how it will maintain its pipeline of small business suppliers?

8. GSA is proposing to close the Food Service/Hospitality/Cleaning Schedule to all new offers, even though it does $234 million in business each year and over 88% of the vendors are small business. Can you provide any insight into this decision?

9. Given that the industrial funding fee is currently 0.75 percent, then GSA collects $187.50 from each vendor that meets the $25,000 minimum sales threshold. I know you mentioned the idea of having states pay a fee when they piggy back off the of the Schedules. Would a viable alternative be asking each vendor that doesn't meet that threshold to pay $187.50 to maintain their schedule, or subtracting that $187.50 from the $2,500 in guaranteed minimum sales due to the vendor, rather than canceling the contract?

10. If half of the Schedule vendors receive little to no sales, why would these vendors be interested in maintaining their Schedule contracts?

11. Given your familiarity with GSA's systems, such as FSS-19, and the challenges they pose, do you think GSA has the systems necessary to correctly implement small business set-asides? In this, I include GSA's ability to properly implement the correct size standards, the non-manufacturer rule, the limitations on subcontracting clause, and other unique requirements of the socio-economic programs.

12. What would the effect be on small business contracting if all multiple award contracts, including purchases made from the Schedules, were subject to mandatory set-asides?

Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012

Questions - Bill Woods

1. In December 2011 the GAO issued a report assessing GSA's of OS II. While you found data limitations you highlighted the opportunity for cost savings. Can you elaborate on these points?

2. Although your report did not specify this point, as the majority of BPAs awarded under OS II went to small businesses and there appears to be cost savings, is it fair to assume that use of small businesses in federal contracting can be economically beneficial?

3. What was the biggest triumph and failure in GSA's use of OS II?

4. In order to get a better picture of cost savings under OS II, what data would GAO recommend GSA collect?

5. Is GSA's use of OS II in the best interest of taxpayers?

6. In order to determine the best prices, GSA utilizes a market basket approach. Based on GAO's assessment of cost savings does the market basket appear to be the best approach?

7. Does GAO have any concerns about whether the success of OS II will be sustainable into a third or fourth generation contract, given than many of the successful small business BPA holders will graduate from their small business size during the course of the OS II awards?

Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012

Questions - Charles Forman

1. Can you explain to us how you won the OS II BPA? Did you participate in any GSA outreach as they developed the requirements for the contract?

2. How has the OS II BPA benefited your small business and your consortium members?

3. How do you think GSA could improve future strategic sourcing efforts?

4. Among the small business community, is there a consensus opinion about the effect of strategic sourcing?

5. Can you explain to us how your small business consortium works?

6. How would you respond to those small businesses that oppose GSA's OS II BPAs?

7. As you know, GSA utilizes a market basket to assess the best prices, did you find the market basket representative of purchases and accurate as a method to project which companies offer the best prices?

8. Interestingly, GSA indicates that the use of OS II is lowering the price of goods sold by all Schedule vendors – OS II BPA holders and non BPA holders alike. At the same time, it indicates that wholesale costs are going up. How does that affect your ability to remain profitable?

9. Since you were originally awarded your BPA more Agencies have begun using OS II, what have the results of increased Agency participation been? As this continues, where do you expect your biggest opportunities and obstacles to be?

10. Is the office supply market in fact over-saturated that it necessitates the continued closing of Schedule 75?

Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012

SUPPLEMENTAL QUESTIONS FOR THE RECORD

Larry Allen
Allen Federal Business Partners

1. **Please explain how GSA's use of strategic sourcing and BPAs has changed the marketplace for small businesses hoping to obtain federal contracting opportunities through GSA?**

First, let me state that Blanket Purchase Agreements (BPA's), generally, are very valuable and flexible government procurement tools. BPA's allow agencies to set up a cost and time-effective way to obtain goods and services that are needed on a frequent basis. As with most Schedule tools, it is GSA's customer agencies, not GSA itself, that makes the most use of BPA's, often to good effect.

In the case of GSA's decision to use BPA's for their office supplies Federal Strategic Sourcing Initiative (FSSI), though, GSA did negotiate a series of BPA's for the use of both customers and itself. Every company that held a Schedule 75 contract for office supplies at the time the BPA Request For Quotations (RFQ) was issued was eligible to submit an offer. Some smaller businesses, however, could not submit an offer because they lacked the ability to meet the scope of the need. Some smaller stationers, for example, obtained Schedule contracts to serve a specific geographic market, rather than the government nationally. Such contractors would have had to create a team of companies that, collectively, offered national coverage of the type required by the RFQ. While smaller companies may have been placed at a disadvantage here, it is also important to note that GSA Schedule contracts state quite clearly that the scope of each contract is the continental United States. So, GSA's practice of awarding of contracts to companies that cannot meet this scope essentially benefits small businesses that would otherwise be ineligible for a Schedule award. Usually, this practice benefits small businesses, but did preclude any such company not able to form a team from submitting an FSSI bid.

The larger issue here is that the use of a BPA essentially precludes new market entries from participating. There are strong incentives to use the FSSI BPA's in place. GSA, in fact, acknowledged the difficulty of new contractors getting any piece of the federal office supply market because of the BPA when they closed Schedule 75 for a period of some months after the FSSI BPA's were awarded. Even now that the Schedule is re-opened, however, there is little inherent value in obtaining a new contract without a chance to gain entry onto the FSSI BPA. GSA has promised an

"on" and "off" ramp to all for newer entries, but the use of this mechanism has not been made to date. In this manner, the FSSI BPA structure is a significant barrier to new market entries.

2. **Approximately, 48% of eligible small businesses submitted offers for an OS II BPA, is that percentage considered high for contract bidding?**

Yes, I believe that this is a very high percentage of small businesses. This high amount of small business response would likely be enviable to many agencies eager to enhance small business participation in their own agencies. The high number of responses is indicative, overall, of the anticipated importance of participating in the FSSI office supplies program.

3. **Can you tell us more about why GSA moved to the open season model 20 years ago? What effect did that move have on pricing and product selection?**

Yes. I was a senior executive with the Coalition for Government Procurement at the time GSA made this move. The Coalition was the association with which the agency worked most closely on this, and a host of other Schedule-related changes. Our association had many meetings with GSA on this issue and we, in fact, sponsored at least one industry breakfast to allow GSA to explain the change.

GSA Schedule officials at the time, specifically Bill Gormley, then the Assistant Commissioner for Acquisition in GSA's Federal Supply Service, believed that keeping the Schedules closed to new offers was a bit like a store only offering customers what they thought customers should have. Mr. Gormley and his colleagues believed that it was essential to keep Schedule contracts open all of the time so that GSA could attract the very latest innovative solutions from industry. GSA had previously come in for considerable criticism from federal customer agencies because its offerings did not meet those criteria. It was clear that if GSA was going to continue its relevancy as the government's central buyer that it would have to offer customers what they wanted, rather than what "procurement" thought they should have.

The decision to move to a continuous open season increased not just the offerings GSA provided, but competition among contractors. Companies that may have previously been shut out of the Schedule market because they had missed a contracting deadline could now compete. This enhanced competition kept prices reasonable and levels of customer service high.

Federal agencies benefitted from the ability to obtain "today's technology today" and get it at a reasonable value. Often, they would get there solutions from newer small businesses that offered cutting edge solutions. As Schedules sales grew, the percentage of small business sales stayed consistent, meaning that small firms were offering what customers wanted and that the openness of the Schedule allowed them to enter the market when they were ready for it, not when the market was ready for them.

4. **What alternatives do you think GSA should consider to shutting down SINs for up to three years?**

Make no mistake. Unless GSA is very clear that they are going to limit the use of this management tool to truly static markets like typewriters or overhead projectors, I think shutting down SIN's is a very bad idea. It's one thing for GSA to ensure that the SIN and Schedule structure continues to evolve with the needs of its customer base. It's another to put up a "closed" sign for as long as three years.

As I testified at the hearing, GSA's move in this area is almost entirely about workload, a real issue that must be addressed. I support the plans of senior agency officials to make the most of the agency's resources on a national level. The workload should be shared among as many regional agency locations as possible. This is one way to alleviate workload backlogs in any one area.

Another is to cross-train the agency's program management personnel, of whom there are many, to do basic contracting work as well. While not all program management personnel may be able to become fully warranted Contracting Officers, many can be trained to do important tasks that lead up to the award of a contract. The core part of GSA's Federal Acquisition Service is awarding and administering contracts that federal customers need to help them meet their own missions. Some in the agency, however, believe that procurement and acquisition positions are not "glamorous". My own view, however, is that if this is the area where your agency needs you, that's where you go.

Still another way for GSA to get help and not shut down SIN's is to obtain help from the private sector. There are many qualified acquisition support firms that currently provide acquisition-related logistical support to agencies throughout government. GSA should make use of these resources where they can. The fees generated by the Schedule Industrial Funding Fee could be used to help pay for such services and, thus, offset at least part of the cost.

Lastly, GSA rank and file contracting personnel has been slow to implement e-tools like e-offer and e-mod. The use of technology can greatly streamline the workload associated with managing Schedule contracts. There is no reason, for example, why simple contract modifications to delete products, decrease prices and – in some cases – add new products should take weeks or months. Routine Schedule actions should be conducted with a few clicks of the mouse. Fully embracing the use of e-tools would significantly reduce the workload challenges faced by the agency in and of themselves.

5. **In your testimony, you acknowledge that GSA should have the ability to shut down contracts where there is no longer a market for the goods and services. However, in many cases it appears that GSA is instead shutting down SINs because it feels it has enough vendors for that good or service. Do you think that is a legitimate rationale?**

I concur that this is a concern. While the initial intent of GSA senior leadership may be to restrict closures to areas that are clearly obsolete, I believe that the pressure to expand the use of the closure mechanism will be substantial. This is where the term "slippery slope" is very appropriate.

I think it a tremendous mistake to shut down all or part of a Schedule because you have "enough" contractors. Experience has shown that these decisions are fraught with bad consequences for the

agency that makes them. GSA once, for example, made the determination that it had "enough" copiers. Unfortunately, they had a significant amount of copiers that no one wanted. The market had moved on. In the 1990's Air Force procurement officials "knew" what their customers wanted and conducted procurements that severely limited the choices available to Air Force buyers. Not surprisingly, Air Force buyers had other ideas about what they wanted. Ironically, they were able to get those solutions from the GSA Schedules program.

It is worth noting that, had GSA made the decision to freeze the Information Technology Schedule in 1990 because DEC and IBM dominated the market, we would have been stuck with mainframe computers and 8 inch disks for data storage. The agency would have totally missed out on evolutions in the PC market and would have been placed in such an uncompetitive position that it would have been nearly impossible to catch up.

There are dozens of other examples that could be given here, but the essential point is that closing contracts to new companies and new solutions limits customer choice and encourages customers to go elsewhere. GSA is currently in a very competitive marketplace. Hundreds of government-wide acquisition vehicles or single agency Indefinite Delivery Indefinite Quantity contracts are administered by dozens of federal departments. GSA must be able to offer today's technology today if it is going to continue to compete effectively.

Closing Schedules, or parts of Schedules, is very risky business. Some contractors believe that GSA is already behind the curve because processing times can take months. Further losses to viability would be felt exponentially and jeopardize GSA's long-term stability.

This issue is of high interest to the Small Business Committee because of the high level of participation on the Schedules program of small businesses. Some estimate put total Schedule sales at $40 billion for GFY 2011. GSA estimates that 34% of this went straight to small business contract holders. This translates into $13.6 billion for small firms. If Schedules or SIN's are closed in all but the most obsolete areas, GSA will lose sales and so will small firms. Should GSA Schedule sales decrease by 5% to $38 billion, for example, small businesses would lose over $650 million in federal business.

6. **Similarly, GSA is proposing to close all of Schedule 736, the Temporary Administrative and Professional Staffing Schedule. That Schedule does over $125 million in sales each year, all of which is with small businesses. Written materials provided to the Committee indicate that part of the reason for closing the schedule is that the small businesses frequently graduate because they become successful. However, wouldn't this argue for keeping the Schedule open so GSA could replenish its supply of small business contractors? Can you provide any insight into this decision?**

I concur that GSA's decision to close the Temporary Administrative and Professional Staffing Schedule is problematic. My own anecdotal information is that the agency is correct in saying that several firms each year must leave the Schedule due to business growth. This, to me, is a good news story. GSA helped small firms establish a foothold in the government market and those firms flourished.

It also, though, suggests that the agency needs to keep this Schedule open to new offers in order to continue to provide a sufficient amount of competition and choices to federal buyers of these services. Closing the Schedule would lead to substantial attrition, making it less and less able to meet customer needs. Customers would go elsewhere, possibly paying more than they would if good options were available on the Schedule and, in any case, incurring increased administrative time to conduct the procurement themselves from scratch.

The move to close a set-aside Schedule would also harm newer small firms hoping to enter the government market. As noted elsewhere in these responses, GSA often awards contracts to small firms that cannot meet the specific geographic coverage requirements, but who nevertheless provide services that federal agencies in local communities can take advantage of. These small firms establish their credibility as a responsible contractor by having a GSA Schedule contract. Efforts should be made to see that this Schedule remains open to new offers and continues to provide good opportunities for small firms and federal customers alike.

7. **Likewise, GSA has already closed its Schedule 75, the Office Supply Schedule, to new offerors. However, given that the Schedule does nearly $700 million in sales, and that many of the small businesses holding BPA's are likely to be large when the option on their contracts are up, should GSA be concerned with how it will maintain its pipeline of small business suppliers?**

Maintaining a consistent pipeline of qualified small business suppliers should be important to every federal agency. Although the FSSI program is not a set-aside, small business suppliers do account for the great majority of FSSI sales. Properly run, the FSSI can continue to be a good small business and sound government procurement success story.

As you will note from my original testimony and from the answers here, I am not a supporter of closing Schedule contracts. I opposed the closing of the 75 Schedule when GSA announced this move. My reasons for being against Schedule closings are noted extensively elsewhere.

Current reality on the 75 Schedule, however, is that GSA, OMB and others actively and consistently drive federal office supply customers to the FSSI program. As GAO testified at the hearing, the program does offer good savings to federal agencies. While the program is not without its problems, it is currently popular with federal buyers and the small firms that hold FSSI BPA's.

Given these facts, I believe GSA would be better to wait to re-open the Schedule until such time as they anticipate a re-compete or the exercise of an "off/on-ramp" capability. Awarding office supply Schedule contracts now, especially to small businesses, implies that there is actual

business to be had here. This is a problematic assumption. Small businesses would potentially incur substantial costs to obtain a contract that would not provide a good return on their investment.

The Schedule should be re-opened, permanently, though when there is a re-compete or on/off ramp event. This allows new offerors to come into the system with fresh ideas and fresh offers. It also allows the numerous current small businesses on Schedule 75 to compete for the next round of FSSI contracts. This competition will benefit both kinds of small firms and ensure that GSA has a good, steady pipeline of innovative businesses to work with.

Announcing that the Schedule will be permanently open will set a new level of expectations for all participants moving forward. The net impact should be that schedule competition stays high and drives prices and services levels on both the FSSI and the basic Schedule to new levels. It should be a GSA priority to keep new solutions entering the program. It may well become the case that the FSSI no longer serves a useful purpose if competition and transparency on the regular Schedule increases.

8. **GSA is proposing to close the Food Service/Hospitality/Cleaning Schedule to all new offers, even though it does $234 million in business each year and over 88% of the vendors are small business. Can you provide any insight into this decision?**

One possible consideration is that a number of the services or products provided under this Schedule either or, or may soon be added to, the Procurement List for provision by Ability One companies. As the Committee may be aware, any item or service added to the Procurement List and designated as "Essentially the Same" (ETS) as a competing solution from a commercial buyer, must be purchased by federal customers via the Ability One program. Contractors with ETS items on their Schedule are forced to remove them.

Still, small and large businesses often find ways to work with Ability One and offer Ability One items through their own Schedule. This often happens, for example, on the office supply schedule. Having a product or service added to the Procurement List, while difficult for a small business to encounter, is not always a significant hindrance to the pursuit of government business.

Another reason, though, is that the closure of this Schedule is a likely case-in-point of my earlier position that the Schedule closure mechanism would be used in areas other than where there was truly an obsolete set of products. While I am no expert in the food service or cleaning area, I am aware that these segments do not sell obsolete products and, specifically, I am aware of at least one company that is strongly considering pursuing this Schedule. This indicates that GSA does not have all of the bases covered on this Schedule.

Any Schedule that has robust offerings from small firms and, in this case, from a protected area such as Ability One, should not be an automatic candidate for closure. Additionally, offerings from contractors on this Schedule do change. This indicates that there is energy and innovation in this market segment. Though not glamorous, GSA could find itself, it small business and Ability One partners at a disadvantage to open market offerings if it closes this Schedule.

9. **Given that the industrial funding fee is currently 0.75 percent, then GSA collects $187.50 from each vendor that meets the $25,000 minimum sales threshold. I know you mentioned the idea of having states pay a fee when they piggy back off the of the Schedules. Would a viable alternative be asking each vendor that doesn't meet that threshold to pay $187.50 to maintain their schedule, or subtracting that $187.50 from the $2,500 in guaranteed minimum sales due to the vendor, rather than canceling the contract?**

There are several issues in play here. First, there are companies that truly register zero Schedule sales. That is, zero sales to any public sector entity either through or related to its having a GSA Schedule. For these companies, I think requiring them to pay a $187.50 yearly fee would contribute greatly to a company's decision to cancel their own contract, just as they might a magazine subscription from which they aren't deriving any benefit. This would expedite GSA's drive to shed contracts that do nothing for anyone.

For companies that do generate state-related business, I believe that it would be more appropriate, and more worthwhile, to allow GSA to obtain cost-reimbursement via the Industrial Funding Fee (IFF) than by the contractor paying a yearly maintenance fee.

It costs money for GSA to manage and administer Schedule contracts. The exact amount may be a number for debate, but it is unlikely that the number is as low as $187.50. State and local governments that derive a benefit from GSA's actions should pay for that service, just as their federal counterparts do.

Therein is a particularly important point to keep in mind. That is that it is not the contractor that pays the .75% IFF, but rather the customer agency that buys from the Schedule contract. When a contractor negotiates its Schedule price it often breaks out the IFF discount separately on a spreadsheet so that both the company and the GSA contracting official can see what the prices and discounts are with and without the IFF. The final Schedule contract price is net inclusive of the IFF. The contractor collects the fee with each Schedule sale, much like they would collect a sales tax on a commercial transaction, and remits the fees collected to the government on a quarterly basis.

Any suggestion, therefore, that the IFF for companies that have zero Schedule sales would be paid by the company would open a Pandora's Box of compliance issues and suggest that it is sometimes the company that pays the IFF. This would quite likely meet stiff resistance from contractors that do register Schedule sales. This would likely evolve into a "third rail" issue.

There is precedent, in fact, for state and local agencies to pay the IFF just as federal customers. When sales are made via the Schedules Cooperative Purchasing program they are treated exactly like a sale to a federal agency. State and local governments can buy from the IT Schedule and the Security Schedule (84) anytime and from all other Schedules to support their disaster preparedness or recovery efforts. This Schedules Cooperative Purchasing program originated in the mid-1990's and is well-established.

Contractors treat sales made via this program exactly as they would treat any other Schedule sale. They record it as a Schedule sale. They collect and remit the IFF to GSA. Allowing GSA to pursue similar arrangements with state and local governments that purchase indirectly through the Schedules, for example via California's CMAS or Texas' TEXMAS, program would be a natural extension of this current capability.

10. If half of the Schedule vendors receive little to no sales, why would these vendors be interested in maintaining their Schedule contracts?

Again, I think the companies in this case fall into two classes, those that truly have no public sector business related to their Schedule, and those that do have public sector business, but only with state or local governments.

Many in the first group of companies likely obtained a Schedule contract originally because someone told them that they "must" get a Schedule in order to sell federally. There are a number of companies that are truly located throughout the world that offer GSA Schedule consulting services. Seminars, fliers, and other marketing approaches attract small firms to the Schedules program. While some succeed, others do not.

These companies likely maintain their Schedule contracts through inattention. They may, in fact, have forgotten that they have a Schedule. They have all of the risks that holding a Schedule come with, but realize none of the benefits. This is likely a large segment of firms that register zero Schedule sales. For these firms, it may be best that their Schedule gets cancelled.

For others, however, they obtain Schedules to sell primarily or exclusively to state and local governments. As I noted at the hearing, this was not the intention of the Schedules program, but is a reality. Having a Schedule contract is vital to the state and local government business success to these firms. Many state and local government officials have sold companies on the

idea of getting a federal Schedule contract as a legitimizer to make it easier, if not essential, to sell to them.

These companies rely on the Schedules program just as do firms that sell to the federal government. It is not their fault that state and local entities promoted the Schedule to them and GSA did award them a contract. These firms should not be candidates for contract cancellation, though GSA should be allowed to pursue remuneration from the state and local governments that benefit from their work.

11. **Given your familiarity with GSA's systems, such as FSS-19, and the challenges they pose, do you think GSA has the systems necessary to correctly implement small business set-asides? In this, I include GSA's ability to properly implement the correct size standards, the non-manufacturer rule, the limitations on subcontracting clause, and other unique requirements of the socio-economic programs.**

Inherent in this question is the implication that GSA conducts most of the purchases made through the Schedules program itself. It does not. The great, great majority of Schedule sales are made directly between the contractor and the agency buyer. GSA only gets involved in a very small percentage of total Schedule transactions via its Assisted Acquisition Services operation. So, it is important to note that while GSA may or may not have the system capabilities asked about, the better question to ask is whether the customer agencies using Schedule contracts have such systems.

It is largely the job of agencies that buy from the Schedules to determine whether a specific procurement action is a good candidate for a set-aside. As noted during the hearing, agencies do now have the ability to conduct set-aside procurements via the Schedules program. GSA's role in this is educational and promotional. The status of their internal automated systems has no bearing here.

Similarly, it is up to the buying agency and their own warranted contracting officers to ensure their own compliance with the non-manufacturer rule and enforce limitations on subcontracting at the task order level. Again, except in cases where GSA's Assisted Acquisition Services assist customers in conducting an actual procurement, GSA does not get involved in the task order process. Another exception is when there are disputes, but that is not the topic of this question.

It is GSA's responsibility to ensure that small firms are really small at the time of contract formation and during any renewal or extension actions. Whether or not they use automated assets to do this is not so important. It is important that companies are properly classified as to size standard at the time of contract award and when any renewal or extension is given. In between these times there are presumably numerous individual task orders placed against the Schedule by different ordering agencies. The real issue is whether customer agencies have the proper systems in place that this question asks about.

Further, GAO has established that individual agencies can ask a contractor to certify to their current size status at the time of task order issuance to ensure that a business is still correctly classified. The responsibility to do that falls with each individual ordering agency.

When GSA Assisted Acquisition Services are used, GSA and the customer agency share the responsibility of ensuring that small businesses are truly small, that the non-manufacturer rule is properly applied, and that other provisions are followed. For IT and some professional service purchases (soon to be furniture as well), GSA's ITSS program is used. Some of the information asked about in this question should be captured in ITSS, but other parts may be captured outside of an automated system. Regardless of whether an automated system is used, GSA and its customer agency must follow the proper ordering procedures for this specific buy being conducted.
If the intent of this question is to ask whether GSA's automated systems are sufficient to do what it has to do (keeping in mind that this question implies that GSA has to do things that in reality are the responsibility of others), I would have to say "maybe". I would likely give GSA's overall automated systems a grade of "C". There is basic functionality to do the things that need to be done, but the system has been created in modules over time and may not function with the cross-platform ease of use that would be considered optimal for a large procurement operation. I think GSA's IT leaders would acknowledge this.

While FSS-19, itself, is a Cobalt based system that has been around for decades, newer functions that interact with it are much more reflective of current technology. I think GSA would like to be able to adapt an integrated IT acquisition management system that uses current technology at every turn and does not have individual pieces bolted onto it over time.

12. What would the effect be on small business contracting if all multiple award contracts, including purchases made from the Schedules, were subject to mandatory set-asides?

We already have some indication of what would happen in such a world. In 2008 the Government Accountability Office issued a ruling in the *Delex* protest that stated that all Multiple Award Contracts and GWAC's (note, not GSA Schedule contracts) were subject to the "Rule of Two" found in FAR 19. This rule requires that contracts be set-aside for small businesses when there are two or more small businesses capable of meeting the government's needs. GAO said in *Delex* that the act of awarding a small business a MAC or GWAC contract was a determination of responsibility and capability. If two or more small firms were awarded such a contract, then task orders issued under that contract would be subject to the Rule of Two, and thus would have to be set-aside for small businesses.

Does this mean that all such task orders are now reserved for small firms? No. The agencies that administer the major GWAC and MAC contracts have gone out of their way to issue legal rulings carving out exceptions or determinations that the GAO precedent does not apply to their specific contracts. While the veracity of such arguments is a matter of debate, the actions do prove a point about what happens anytime a government entity seeks to impose an unpopular mandate. Those affected by it are compelled to find another path.

GSA Schedule purchases have never been subject to the Rule of Two as Schedule contracts are set up by a different part of the FAR. Similarly, Schedule purchases under the Simplified

Acquisition Threshold (currently $150,000) have never been set-aside for small firms as open market purchases made up to that amount are.

When Congress passed the Federal Acquisition Streamlining Act (FASA) in the mid-1990's report language was added to the bill that stated that nothing in the measure should be construed to alter the procurement preferences found in FAR Part 8. Since Schedule purchases were, and are, above open market purchases as a preferred source of supply, the SAT set-aside provision for open market purchases would never come into play for Schedule transactions. It is worth noting that this was also the case in the pre-FASA world. Congress at that time specifically intended to not require set-asides on the Schedule. This report language has more recently been cited by the Office of Federal Procurement Policy (OFPP) when, during the Bush Administration, a petition to change this situation was submitted. OFPP rejected the petition, using essentially the same reasoning that Congress had used in the decade before.

I am very skeptical that set-aside mandates would work, or that they would even be a boon to small businesses. Imposing a set-aside mandate on the GSA Schedule, for example, would likely make that program far less popular among government buyers than it is today. Buyers would go to other procurement methods, methods that almost certainly do not have the overall positive record of small business use as do the Schedules. My answer to question 3 in this record shows what happens when procurement operations mandate specific behaviors for their buyers. Buyers vote with their purchase cards and go somewhere else.

It is vital to remember that 34% of all Schedule dollars go directly to small firms. No other procurement program open to businesses of any size matches this. Any step that discourages federal agencies from using the Schedules, therefore, discourages them from using small firms.

I believe that the current "may" capability that allows buyers to set-aside purchases for small businesses is a better alternative than a "shall" mandate. The current wording allows agencies to pro-actively look at each procurement and decide whether small businesses are capable of meeting the need. In many cases, they are and small businesses benefit. In a "must" world my concern is that agencies would start from a position of "how can I not give this to a small firm". Again, taking away all discretion and flexibility often has the opposite effect of what was intended.

So, I believe that mandates could actually be deleterious to small business success in the government market. I believe that the most effective way to drive small business use is to set good goals, provide proper education, and use the substantial track record of small business success that already exists as a means to educate federal buyers that when they go small, they can win big.

United States Government Accountability Office
Washington, DC 20548

July 12, 2012

The Honorable Mick Mulvaney
Chairman
Contracting and Workforce Subcommittee
Committee on Small Business
United States House of Representatives

Subject: Responses to Post-hearing Questions for the Record Concerning Small Business Participation on GSA Schedules

On June 7, 2012, I testified before your Subcommittee during your hearing entitled, "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules". This letter responds to questions posed in your letter dated June 6, 2012. These responses are based on our prior published work related to a recent GSA office supplies study[1]. If you have any questions about this letter or need additional information, please contact me at (202) 512-4841 or at woodsw@gao.gov.

Sincerely yours,

William T. Woods

William T. Woods
Director, Acquisition and Sourcing Management

Enclosure

CC: Rep. Judy Chu, Ranking Member

[1] GAO, *Strategic Sourcing: Office Supplies Pricing Study Had Limitations, but New Initiative Shows Potential for Savings*, GAO-12-178 (Washington, D.C.: Dec. 20, 2011).

Subcommittee on Contracting and Workforce
Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012

Questions – **William T. Woods**
Director, Acquisition and Sourcing Management
Government Accountability Office

1. In December 2011 the GAO issued a report assessing GSA's use of OS II. While you found data limitations you highlighted the opportunity for cost savings. Can you elaborate on these points?

In its report, GSA acknowledged that the data used to analyze governmentwide purchases of office supplies in 2009 had limitations, in part due to the decentralized collection of transaction data and the time GSA had to conduct the study. Examples of the data limitations include:

- In the absence of a single governmentwide data system that could provide the needed data on office supply purchases, GSA relied on a variety of available data sources including the Federal Procurement Data System-Next Generation and government purchase card data. GSA cleaned the data it gathered from these sources to remove duplicates and non-office supply purchases.

- To determine retail price premiums, GSA focused its analysis on 219 office supply items that were purchased in 2009 from retailers and the GSA schedules. GSA faced a significant issue when attempting to control for variation in quantities. A purchase of pens, for example, could involve a single pen, a package of three pens, a box of a dozen, or any other quantity. GSA officials told us that the primary means they used to control for quantities was the use of the manufacturer's part number. They explained that they searched available databases to identify items with identical part numbers. They also told us that when they found large variations in retail prices for apparently identical items, they excluded transactions they considered to be outliers. Our analysis of GSA's supporting data found that GSA may not have always been able to adequately account for variations in quantity.

- GSA's report described one method for calculating price premiums, but two were actually used. GSA acknowledged that it used one method for calculating the weighted difference for 4 categories of office supplies and a different method for the other 10 categories. When we used the formulas described in the study to recalculate the retail price premiums for those 10 categories of office supplies, we found the price premiums would have changed from what GSA reported by less than 5 percentage points for all categories except drawing and graphic arts supplies. For that category, the recalculated price premium was 68 percent, as compared to the 278 percent reported in the study. We found that the use of this unreported formula did not have a substantial impact on the retail price premium calculations. However, the GSA report could have been more complete had it fully disclosed all the formulas used for all categories of office supplies.

GSA estimated that the federal government saved $39.2 million between June 2010 and March 2012 under OS II. These savings were estimated by comparing the lowest prices of a set – or a market basket – of over 400 items available on GSA's schedules program contracts before OS II with prices and discounts being offered for the same items on the OS II blanket purchase agreements. GSA found that OS II vendors offered prices that were an average of 8 percent lower than non-OS II vendors. However, savings as a percent is expected to fluctuate based upon the changes in the mix of vendors, products and agencies.

The federal government may achieve additional savings as a result of OS II from a combination of reduced OS II prices, lower prices from non-OS II vendors, and reduced administration costs. As a part of OS II, GSA requested vendors establish tiered discounts based upon governmentwide sales volume. The tiers are set at $25 million, $50 million, and $75 million. As of April 2012, five OS II vendors had already achieved sales that reached the first discount, and these vendors had readjusted their prices to reflect the discounts. GSA anticipates additional vendors will achieve sales volumes that exceed the first tier discount threshold in the first option year, which will trigger additional discounts. GSA is also seeing prices decrease for non-OS II vendors as these vendors are trying to compete for federal agency office supply orders. Finally, OS II should result in lower government-wide costs as more agencies move away from administering their own agency-specific blanket purchase agreements to OS II, which is administered by GSA. Many agencies that had their own blanket purchase agreements did not renew them and have opted to use the OS II instead.

2. Although your report did not specify this point, as the majority of BPAs awarded under OS II went to small businesses and there appears to be cost savings, is it fair to assume that use of small businesses in federal contracting can be economically beneficial?

Our report highlighted the cost savings GSA reported that the government has achieved through the OS II initiative. In the 22 month period between June 2010 and March 2012, GSA estimated that the government saved $39.2 million through the OS II. Since 13 of the 15 contracts awarded to OS II vendors actually went to small businesses, it is reasonable to believe that through the use of good instruments, small businesses can help the government achieve cost savings.

3. What was the biggest triumph and failure in GSA's use of OS II?

One major success of the OS II initiative, in our opinion, is the way GSA was able to use data and supply chain management tools to enable purchasers to easily obtain discounts and achieve savings. For example, OS II vendors are required to make their prices available through government portals, vendor websites, retail stores, and by phone. In addition, customers that use a government purchase card to purchase office supplies from an OS II vendor are automatically charged the OS II price, unless they specifically opt not to use OS II. Additionally, purchases are automatically tax exempt if purchases are made using a government purchase card. Because the initiative was new, we did not examine limitations of the program. However, in our report, we noted that GSA officials believed they could have done a better job promoting a previous cost savings initiative.

4. In order to get a better picture of cost savings under OS II, what data would GAO recommend GSA collect?

As we noted in our report, vendors are required to provide monthly sales data including at the line-item level at no additional charge. Line-item-level data provide details on the transactions, such as the manufacturer's part number, freight amount, small business category (if applicable), product codes, and product description. GAO does not have any recommendations on additional data GSA should collect.

5. Is GSA's use of OS II in the best interest of taxpayers?

The OS II initiative was created to simplify the acquisition process and save money, both of which are in the best interest of the taxpayer.

6. In order to determine the best prices, GSA utilizes a market basket approach. Based on GAO's assessment of cost savings does the market basket appear to be the best approach?

We did not assess what would be the best approach for determining prices or calculating savings, but GSA's use of a market basket approach appears to be an acceptable approach. Studies conducted by the Air Force, Army, Navy, and Department of Homeland Security agreed with GSA's overall conclusion that better prices can be obtained through leveraged buys.

7. Does GAO have any concerns about whether the success of OS II will be sustainable into a third or fourth generation contract, given that many of the successful small business BPA holders will graduate from their small business size during the course of the OS II awards?

We have not done any work related to the long-term viability of the OS II initiative.

Committee on Small Business
Hearing: "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules"
June 6, 2012
Questions - Charles Forman

1. Can you explain to us how you won the OS II BPA? Did you participate in any GSA outreach as they developed the requirements for the contract?

Independent Stationers met all of the prerequisites for bidders and submitted a competitive proposal based upon our proven dealer-owned cooperative model. Independent Stationers, established in 1977, was awarded a MAS 75 contract in 2002 utilizing the small business shareholders of the cooperative. Independent Stationers had representation at the meetings that GSA hosted and provided input that we believe contributed to the final RFQ being much more small business friendly.

2. How has the OS II BPA benefited your small business and your consortium members?

In essence, the award to Independent Stationers benefited more than 100 small businesses, instead of just a single corporation. Independent Stationers' dealer owners have seen significant sales growth. In CY 2011, our participating small business members experienced a 302% increase in sales over CY 2010. During a severe economic downturn in the commercial sector, the increase in the government sector allowed them to avoid the laying off of staff and some members were able to hire additional staff and buy resources. We have also added numerous small business dealer owners to our membership ranks that have joined to participate in our FSSI OS2 BPA. This adds to the financial viability of the cooperative, as there is strength in numbers.

3. How do you think GSA could improve future strategic sourcing efforts?

Perhaps GSA could continue to work with the given industry on making the small business participation opportunity afforded by cooperatives more prevalent as it achieves the federal government's goals by reducing the number of contracts to administer and is supportive of small business.

4. Among the small business community, is there a consensus opinion about the effect of strategic sourcing?

In regards to the office products category, the opinions differ based upon whether the small businesses benefit from an FSSI OS2 BPA award. This benefit could be as the result of an individual successful award or the opportunity afforded them by participating in the Independent Stationers-held BPA. As for the effect of the other strategic sourcing categories, we don't have the visibility into the impact on small business.

5. Can you explain to us how your small business consortium works?

As a cooperative in organizational structure, the members of Independent Stationers are its shareholders. The reason Independent Stationers exists is to give our small business dealer owners the tools and resources they need to level the playing field with their big box competitors. It began in 1977 to aggregate volume to secure lower costs of goods from manufacturers and has evolved into doing so much more, such as:

- Marketing materials
- eCommerce solutions
- Distribution programs
- Private label brand product
- Federal sales and other top line sales opportunities

In essence it helps the Independent Dealer Channel (IDC) do things they may not be able to do on their own or can do more efficiently in a cooperative fashion.

6. How would you respond to those small businesses that oppose GSA's OS II BPAs?

As stated in the testimony delivered by Charles Forman, Executive Vice President of Independent Stationers, we understand and acknowledge the common complaints expressed by those small businesses not possessing an FSSI OS2 BPA. Furthermore, we believe we are a solution for those small businesses that fit our dealer-owned cooperative model, to sell to the federal government agencies through the FSSI OS2 BPA purchasing vehicle.

7. As you know, GSA utilizes a market basket to assess the best prices, did you find the market basket representative of purchases and accurate as a method to project which companies offer the best prices?

Independent Stationers did find the market basket to be a good mix of products purchased over the various categories; however, we did find that a single high-use item (cut sheet paper) could unfairly skew the applicable discount to the remainder of the contract items within that category.

8. Interestingly, GSA indicates that the use of OS II is lowering the price of goods sold by all Schedule vendors – OS II BPA holders and non BPA holders alike. At the same time, it indicates that wholesale costs are going up. How does that affect your ability to remain profitable?

In a highly competitive commoditized industry already, we do have some concerns over long-term profitability especially when it comes to the inability to increase prices for market basket items. With paper, steel and fuel being volatile markets, the effects on the office products industry are usually immediate. Furthermore, if non-FSSI OS2 BPA schedule holders lower their prices to be more competitive with the FSSI OS2 BPA vendors, they are still paying 1.25% less in Industrial Funding Fees than the FSSI OS2 BPA holders.

9. Since you were originally awarded your BPA more Agencies have begun using OS II, what have the results of increased Agency participation been? As this continues, where do you expect your biggest opportunities and obstacles to be?

Agencies have benefited from the reduced FSSI OS2 BPA pricing by default given the vendor's responsibility under the BPA. Adoption has been greater than the first generation, by far. We have been able to reach agencies that we previously had difficulty selling to in the past due to their commitment to the FSSI OS2 BPA. Our biggest obstacle continues to be the policies getting to the buyer level. Our dealer members act as educators as often as sales people. Our biggest opportunity will be continuing education and execution of the existing BPA through our dealer network directly with the federal end-user.

10. Is the office supply market in fact over-saturated that it necessitates the continued closing of Schedule 75?

At Independent Stationers we recognize GSA's desire to remove some administrative expense by reducing the number of contracts it administers; especially contracts with little or no sales volume. As stated before, we believe the utilization of the cooperative business model is way for GSA to achieve that goal while simultaneously creating opportunities for small businesses and we welcome the opportunity to share additional ideas we have pertaining to this concept with GSA or other federal procurement officials. It is not our position that the office supply market is over-saturated necessitating the continued closing of Schedule 75; however, we will emphasize again the need for GSA to continue to work with the office supply industry on ways to achieve GSA's goals of reducing expenses, increasing efficiency and bringing value to the federal government while increasing opportunities for small businesses.

Veterans' Entrepreneurship Task Force (VET-Force)

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Association for Service Disabled Veterans

Association of Small Business Development Centers

American G.I. Forum of the United States

AMVETS (American Veterans)

Black Veterans for Social Justice, Inc.
Blinded Veterans Association
Center for Veterans Issues
Enlisted Association of the National Guard

Jewish War Veterans of the USA
Korean War Veterans Association

National Association for Black Veterans

National Association for Uniformed Services
National Coalition for Homeless Veterans

Non Commissioned Officers Association of the United States of America

Paralyzed Veterans of America

Reserve Officers Association of the United States
The Retired Enlisted Association

The Veterans Advocacy Foundation
Veterans Benefits Clearinghouse

Veterans Business Network

Veterans Enterprise, Training & Services Group

Veterans of Modern Warfare
Vetrepreneur, LLC
Vietnam Veterans of America
Vietnam Veterans of California

Written Testimony

of

Mr. Robert Guy Hesser

1st Vice Chairman, Veteran Entrepreneurship Task Force (VET-Force)

on

Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules

to

The U.S. House of Representatives
Committee on Small Business
The Subcommittee on Contracting and Workforce hearing

at

2:00 P.M. on Thursday, June 7, 2012

Room 2360 of the Rayburn House Office Building

Washington, D.C.

Chairman Mick Mulvaney and members of the Subcommittee on Contracting and Workforce.

My name is Bob Hesser, and I am First Vice Chairman of the Veteran Entrepreneurship Task Force commonly known as the (VET-Force). VET-Force is a non-profit that represents more than 4 million veterans and veteran-owned small businesses nationwide. I thank you for giving the VET-Force an opportunity to provide additional testimony.

The VET-Force appreciates this opportunity to express our support for the House Bills within the National Defense Authorization Act of 2012 listed below. These many legislative changes will improve the small business contracting within the federal government. We want to provide information we consider as important as Bills listed below.

H.R. 3850 -- The GET "Small Business Contracting (Government Efficiency Through Small Business Contracting) Act of 2012;"

H.R. 3851 "Small Business Advocate Act of 2012;"

H.R. 3893 -- The "Subcontracting Transparency And Reliability (STAR) Act of 2012;"

H.R. 3980 -- The "Small Business Opportunity Act of 2012;"

H.R. 3985 – "Building Better Business Partnerships Act of 2012;"

H.R. 3987 – "Small Business Protection Act of 2012;"

H.R. 4081 – "Contractor Opportunity Protection Act of 2012;"

H.R. 4121 – "Early Stage Small Business Contracting Act of 2012;"

H.R. 4206 -- "Contracting Oversight for Small Business Jobs Act of 2012."

1. H.R. 3850 -- The GET "Small Business Contracting (Government Efficiency through Small Business Contracting) Act of 2012" fulfills an urgent need to hold senior executive level officials accountable for Federal Agency small business goals. In particular, Agency goals to award contracts to veteran owned small businesses that are training and creating employment for veterans in emerging new technologies.

2. To obtain a GSA Schedule the Business firm must meet requirements that are not conducive to a new company. For example, there is an "in business for two years" requirement before application. It then takes as long as eight months before contract award because GSA does not have an efficient means of awarding the contract within a reasonable time period. The commitment required to go after a GSA Schedule requires a great amount of an employee time or a payment to an outside firm to complete the tasks. It is not our goal to indicate the great difficulties encountered are unjust or overly cumbersome for a deserving small business. We emphasize this lengthy time so the ignorant or naïve will be fully aware of how difficult it is to obtain a GSA schedule. The value of a GSA Schedule is often overvalued. An extremely high percentage of GSA schedule holders DO NOT receive revenue through the Schedule. In fact the last word we heard is that there are going to be thousands of GSA Schedule holders losing their schedule because they did not meet the $25,000 minimum revenue.

3. How is GSA ensuring GSA ordering activities are using the GSA Schedule system in the legal and regulating manner? Are the buyers properly awarding delivery orders to small business Schedule holders for purchases greater than $3,000 but less than $150,000 (The Simplified Acquisition Threshold)? If not, are the buyers properly documenting why they did not purchase from Small Purchase?

4. How is GSA ensuring that rules applicable to the "non-manufacturer rule" are followed with the issuance of a GSA Delivery Order?

5. The VA temporarily stopped using FedBid (they have since reinstated it). FEDBID.COM is a reverse auction. Some other agencies followed their lead. Government does not have control of all aspects of the negotiations. Contracting is an inherently government responsibility to be carried out by government personnel. Repeatedly government officials, as high as SES, will boast about the hundreds of thousands or millions they save because of their use of FedBid. The odds are pretty good when the government uses FedBid they are paying 3% more than the Sellers lowest price. Because of the extremely high number of dollars passing through FEDBID.COM with a non-government control it behooves the Federal Government to investigate this behemoth procurement program.

6. The Federal Government has a fleet size of more than 600,000 vehicles and spends Billions of dollars annually to purchase and lease vehicles. GSA and DOE are responsible for the Billions spent annually on alternative fuel/electric vehicles by senior executive level officials at ALL Federal Government Agencies. GSA and DOE SES officials are leaders in the market development of this emerging new technology and should be held accountable for the small business goals that have never been more than 10% of their goals. It has been brought to the attention of the VET-Force that both GSA and DOE are ***currently not meeting small business goals for veteran owned small business contracting***. VET-Force is concerned that the opportunity to create jobs for returning veterans under Federal Government contracts and related Legislation will also not be achieved by the GSA and DOE. Veteran-owned small businesses have invested significant time and resources to become GSA vendors and DOE stakeholders, for the purpose of offering savings and solutions to Federal Government Agencies. In 2009, GAO Report 09-493 recommended that GSA and DOE explore cost savings available through the commercial leasing of alternative fuel/electric vehicles. The Federal Acquisition Service currently has a commercial leasing program that has awarded 25 % of its vendor contracts to veteran-owned small businesses, experienced and qualified to offer commercial leasing of alternative fuel/electric vehicles to Federal Agencies. However, this GSA Schedule 751 multiple award-schedule has been underutilized by GSA and DOE. Also, GSA Automotive has a non-mandatory source leasing program that has historically controlled more than 99% of ALL Federal Agency fleet vehicle leasing orders and budgets. For example, during model year 2011/2012, GSA and DOE launched a "pilot" fleet electrification program that leased 110 plug-in electric vehicles at a cost of $4.7 million to Federal Agency fleet customers. Based on a GSA Schedule 751 commercial lease cost comparison, the ordering Federal Government Agencies would have **saved $1.4 million if they had leased the 110 plug-in electric vehicles from an awarded 751 lease contract to a veteran-owned small business, instead of higher cost GSA Fleet Leasing**, based on 5 year lease term and 15,000 annual miles. The reason Federal Agencies are paying more than necessary by ordering from GSA Fleet instead of GSA Schedule 751 commercial leasing, is that historically, GSA Automotive takes more than 5 months to update new model year lease rates needed to process the annual modification of awarded GSA Schedule 751 contracts. While GSA contracting officers are "dragging their feet" in the processing of the annual 751 contract modification, GSA Fleet is marketing and securing Federal Agency vehicle lease orders between September 2011 and February 2012. Prior to the completion of contract modifications for GSA Schedule 751 contract holders in March 2012. At that time, Agencies have already placed their fleet vehicle orders. Including all orders to deliver and lease alternative fuel/electric vehicles. **Federal Fleet is 650,000+ motor vehicles with approximately 55,000+**

replaced annually. More than 99% of ALL Federal Agency vehicles are leased from GSA. Less than 1% of the Federal Fleet is leased from Schedule 751 commercial vendors.

7. An important point the VET-Force wants to emphasize is that GSA Schedules are owned only by two plus years old businesses. Government Wide Acquisition Contracts (GWAC), such as the VETS-GWAC generated by Executive Order 13360 October 26, 2004 and the VA T4 IT contract centralize knowledge that would normally be more accessible to the general public. The VETS-GWAC was not as successful as desired but it is the first and only large contract that was kept for one group under the Small Business Act; VOSB's and SDVOSB's. The VA T4 IT contract required past performance far greater than the VETS GWAC. However, VA T4 awarded 15 contracts out of 107 applications. Seven SDVOSB firms and eight non SDVOSB small firms and not small firms. Prior to RFP issuance the VET-Force was very concerned that the majority of the work would be offered to the larger eight firms. We voiced that concern to VA officials. Our reason for mentioning T4 under this GSA schedule testimony is because we believe GSA must set policy that large contracts be small business set-aside and additional requirements be a separate open competition.

Again, thank you for the opportunity to provide you information we believe to be vital for small business with emphasis on Veterans.

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Mr. Bob Hesser, CEO / President, Vetrepreneur, LLC Mr. Hesser has over 40 years in the IT industry beginning when he joined the U. S. Navy in 1963. He received his first introduction to computers in 1964 learning programming and developing automated administrative systems. During his 21 years of service, Bob gained extensive knowledge of the IT industry. On May 1, 1984, he was transferred to the Permanent Disability Retired List as a Master Chief Cryptologic Technician (E-9).

He spent the next six-years as a Federal employee IT Manager, ADP Security Officer, and ADP Acquisition Authority. In 1993, as a GM-14, Bob left the government.

He formed HITS to provide consulting services to business and government with a strong focus on assisting Small Disadvantaged Business. For six-years, Bob managed all federal efforts at Dynamic Decisions, Inc. (DDI); an 8(a). Total sales revenue was $219,500,000. In October 1998, Bob began working exclusively toward building HITS. In April 2008, Bob sold his interest in HITS and began centering his interest in Vetrepreneur, LLC. Vetrepreneur's marketing strategy is centered on providing telecommunications infrastructure capability to rural areas in the United States and throughout countries in great need of becoming part of the international digital world. Bob Hesser now does business through his SDVOSB company Vetrepreneur, LLC.

1998 – Present - Executive Board Member, Veteran Entrepreneurship Task Force (VET-Force). VET-Force was previously known as The Task Force for Veteran Entrepreneurship (TFVE). He is the executive member responsible for finalizing wording of requests for Federal and State laws and regulations.

April 30, 2003 - Testified before the House Committee on Veterans' Affairs Subcommittee on Benefits Regarding H.R. 1460, the Veteran's Entrepreneurship Act of 2003 and H.R. 1712, the Veterans Federal Procurement Opportunity Act of 2003 –

May 5, 2004 Awarded the 2004 SBA Veteran Small Business Advocate for the Washington DC District. –

September 29, 2005 - Spoke and served as a panelist at the Veterans Business Development and the Corps of Engineers Conference on September 29, 2005. –

January 31, 2007 - Testified before The Senate Committee on Small Business and Entrepreneurship on "Assessing Federal Small Business Assistance Programs for Veterans and Reservists" –

2005–2009 -As Executive Member of VET-Force Mr. Hesser is a representative on the Strategic Plan evaluation committee concerning the Strategic Plans submitted by agencies under direction of President Executive Order 13360.

December 16, 2009 – Testified before the House Committee of Veterans' Affairs Subcommittee on Oversight and Investigations concerning **"Acquisition Deficiencies at the U. S. Department of Veterans Affairs."**

November 30, 2011 – Submitted requested WRITTEN testimony before the House Committee of Veterans' Affairs Subcommittee on Oversight and Investigations concerning **"Hearing on the U.S. Department of Veterans Affairs Service-Disabled Veteran-Owned Small Business Certification Process"**

Presently 1st Vice Chair VET-Force. Chairman Membership and Legislative committee.

Co-Chaired the VET-Force Congressional Round Tables in 2009, 2010 and 2012.

Fifty plus service-disabled veteran-owned small businesses have successfully began and/or increased Government business through assistance from Bob Hesser. Bob Hesser is frequently requested to speak to groups within federal agencies, private organizations, and at small business conferences.

NATIONAL ASSOCIATION
of
GOVERNMENT CONTRACTORS

House Subcommittee on Contracting and Workforce

Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules

June 7, 2012

Written Testimony

J.R. Claeys

On behalf of the members of the

National Association of Government Contractors

The National Association of Government Contractors (NAGC) is an organization of business owners engaged or interested in contracts with government, universities and private corporations. We are committed to expanding contracting opportunities for small businesses and those new to the procurement process.

NAGC supports the mission of the U.S. General Services Administration (GSA), specifically, the commitment to provide an "effective, sustainable, and transparent government for the American people." To fulfill this mission, we recognize that the agency must continually assess procurement needs and ensure that customers are receiving the products and services necessary to help federal agencies serve the public.

With approximately ten (10) percent of all federal contract dollars being spent on Multiple Award Schedule (MAS) contracts, there is legitimate interest in evaluating the efficiency and effectiveness of the program. However, as the GSA considers changes to the Multiple Award Schedule (MAS) Program, we urge lawmakers to be mindful of the potential short-term and long-term impacts of limiting small business access to contracts and schedule programs.

Reports from the General Accounting Office, the Small Business Administration and others continue to reinforce the critical role that small businesses have in supporting our economy. Historically, the Small Business Administration (SBA), the GSA and indeed, this Subcommittee, have advocated for small business interests in the government procurement process. At the same time, as good stewards of taxpayer money, lawmakers have advocated for increasing efficiency and effectiveness and have often issued a challenge to reduce overall administrative costs. We don't pretend that these interests are sometimes difficult to reconcile, however, we believe that small business contractors are critical partners in this endeavor.

We believe that the Federal government intended to create a "win-win" when allowing agencies to consider administrative costs in deciding whether to proceed with an order placed against a MAS contract or though an open market purchase. **NAGC continues to believe that small businesses are job creators and that our presence in the government marketplace creates competition and helps curb inflationary pricing. Simply stated – competition lowers costs.**

NAGC appreciates the Committee's commitment to work with our organization, the small business contractors we represent and the GSA to address the evolving needs of the government and its consumers. NAGC offers the following comments for your consideration and we would like to restate our commitment to working with you.

Minimum Reportable Sales to Maintain GSA Contracts

Our understanding is that the GSA intends to enforce the requirement that a company must accrue at least $25,000 of GSA reportable sales during the first 24 months of the contract and maintain an additional $25,000 in sales each year thereafter. While we recognize that this requirement may encourage businesses that have been successful in obtaining government contracts, it neglects to consider:

- The threshold, especially in light of the sluggish economy and efforts to reign in government spending, may be too high for small businesses just entering into the government procurement process.

- An arbitrary dollar amount is not an indication of satisfaction with programs and services, but merely success in securing government contracts.
- Large companies will likely reach the threshold with one major contract, while small business contractors will likely have to secure more contracts to reach the same dollar threshold.

Brooks Act Contracting on the MAS

The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications for the type of engineering and design services being procured, and at a fair and reasonable price. The Act does not allow architects and engineers on the schedules; however, our understanding is that the GSA is continuing to include them. If this is true, we believe that this practice could negatively impact small engineering companies. We understand that several representatives from these industries will be present at the hearing and will likely speak in greater detail about how those firms are impacted.

Multiple Award Schedule Set-Asides

In February 2007, the Small Business Administration (SBA) offered the following legal opinion to the Government Accounting Office (GAO):

> *"According to statute and regulations, small business set asides are mandatory for acquisitions valued from $3,000 to $100,000 (upgraded to $150,000 in 2011) and take priority over GSA Schedule contracts. This interpretation is consistent with the declared and unambiguous intent of Congress as it relates to Federal procurement and small businesses."*

This was largely interpreted to mean that agencies did not have a lot of flexibility when it came to set-asides.

In 2010, the Interagency Task Force on Small Business Contracting issued a report recommending that the rules on set-asides, **including for multiple-award contracts**, be

clarified. We raise these issues to highlight the continued struggle to resolve the demand for greater efficiencies in government contracting with the need to increase and maximize opportunities for small business.

Currently, small business set-asides are an option for customers placing orders against the MAS. However, there are continued concerns about how diligent the agency has been in following the guidance and providing oversight. Specifically, we continue to hear concerns about the agency's actions related to:

- Not assigning appropriate size standards to procurements,
- Non-adherence to the limitation on subcontracting rules, and
- Non-adherence to the nonmanufacturing rules.

The ambiguity and inconsistent application creates competitive disadvantages and undermines efforts to create transparency.

The MASs are used as the basis for strategic sourcing and, in many cases, this has increased small business participation. However, the most recent changes being considered by the GSA may significantly impede the ability of small businesses to compete. We encourage the committee to thoughtfully consider the potential short-term and long-term impacts of limiting small business access to contracts and schedule programs *and* how that impacts our shared commitment to strengthening the economy.

Please feel free to contact us if you have any additional questions or if we can provide additional information that would be helpful in your consideration of these issues.

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THE AMERICAN INSTITUTE OF ARCHITECTS

July 3, 2012

The Honorable Mick Mulvaney
Chairman
Subcommittee on Contracting and Workforce
The United State House of Representatives
1004 Longworth House Office Building
Washingtion, DC 20515-3211

Dear Representative Mulvaney:

Thank you for your questions from my testimony on June 7, 2012. I am happy to outline my answers to your questions below.

1. What mechanisms does GSA use to enforce compliance with the Brooks Act? What else do you think they should be doing?

Currently, GSA posts disclaimers on the schedules to prohibit contracting personnel from incorrectly using the FSS when the appropriate contracting vehicle is the Brooks Act. However, these provisions are either at the bottom of the webpage or buried within the FAQ regarding GSA schedules. Moreover, because the Brooks Act covers architecture, engineering and other related construction services which are still listed on the FSS, there is an implicit contradiction between the disclaimers' directives to use Brooks Act for architecture and engineering services, while listing those design services on the schedule.

Instead of posting disclaimers, the clearest possible change to the schedule is to remove architectural services from the schedule. It would eliminate the need for disclaimers and force contracting officers to do architectural services selection through qualifications rather than by strict pricing methodologies.

2. I noted that your firm does not have a GSA Schedule. Do you think you miss out on opportunities because you lack a Schedule?

No. Currently, Krueck + Sexton is a successful business without listing on the GSA schedule. We have been on the short list for prestigious architecture projects and we have won the GSA's Design Excellence competition to design a 370,000 square foot

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office building in Miramar, Florida. Even though, the unemployment rate at 14.5% for the construction industry, and the Architectural Billing Index (ABI), a predictor of construction starts nine-twelve months in the future, has fallen in the past two months, the firm does not feel that it is in our best interests to participate in the GSA schedule. However, that does not mean that architecture should be listed on the Federal Supply schedule. Instead, given that the design industry is under-employed, any architecture projects should be listed through the Brooks Act. By having a clear process, it would allow for the federal government to continue job creation in a badly hurt sector.

3. Do you think contracting officers intend to circumvent the Brooks Act when purchasing architectural and engineering services on the Schedules, or do you think it is a question of ignorance of the law?

No. I don't think contracting officers intend to circumvent the law. In all likelihood, it is a case of unawareness or ignorance of the law. On the whole, I have been impressed by the government employees I have worked with on my federal projects. They care about their work and they are trying to do a good job. Like many, these employees are trying to their job to the best of their abilities and follow the process. Here, the process is confusing. Across the federal government, employees are supposed to use the FSS to find the least expensive procurement for the government. However, because the law is not clearly stated, it would be easy for an individual who had no experience with architects and building design to see those services as a commodity. It's not, but unless it is pulled off of the FSS, then it will continue to be treated as a commodity.

4. Are there any circumstances where you can conceive of a legitimate reason for GSA to have hourly rates for architects on the schedules?

Yes, but not for architects who design for the built environment. "Architect" is a term that has been used by Information Technology. Those services are perfectly appropriate for an hourly rate. However, architecture--meaning the design of buildings and structures meant for human habitation --is not appropriate as it deals with the physical health, safety and welfare of people.

5. Can you explain how GSA's Design Excellence program works within the confines of the Brooks Act?

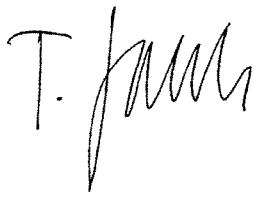
GSA's Design Excellence program follows the procurement policies outlined in the Brooks Act. Firms must qualify to compete for the project, so when the competition

begins, the selection of an architect focuses on which firm has the best experience and qualifications, rather than which firm submits the lowest price. While price must play a role in procurement, and it is a valid factor in the final negotiation with the most qualified firm, the focus must be on the long-term cost of the building.

The Brooks Act outlines a seven step process for procurement. GSA follows the proscribed Brooks Act procurement. The project must be posted in FedBizOpps and qualifications must be submitted by the potential firms. Then, there is a short-listing process whereby the best firms are selected for the project. The qualifications of the selection board are reviewed by the Architect and Engineer Evaluation Board, which is comprised of experts in the fields of architecture, engineering or other related design professions. The Board interviews with the short-listed groups to determine how the group meets the pre-determined qualifications for the project. Once the finalist is selected, the contracting officer negotiates the price with that firm. The procurement process for architecture services is clearly outlined in the Brooks Act and GSA has used it to create good value for the federal government in their building stock.

Again, we appreciate the opportunity to present our ideas to you and the subcommittee at its hearing on June 7th. We also appreciate your interest and questions. If there are any other questions, please feel free to contact me at tjacobs@ksarch.com or (312) 787-0056 ext. 112 or the AIA staff at jessicasalmoiraghi@aia.org or (202) 626-7398.

Sincerely,



Thomas Jacobs, AIA

JHS/js

June 7, 2012

The Honorable Chairman Sam Graves
House Committee on Small Business
Sub Committee on Contracting and Workforce
Room 2360 of the Rayburn House Office Building
Washington, DC

Re: Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules Hearing June 7, 2012, 2:00 pm

Thank you for this opportunity to testify about the lack of opportunities for Small Businesses on the GSA Schedules and the opposition of the Federal Strategic Sourcing Initiative issue. Our small, woman-owned business in Ashland, VA has suffered a substantial loss of revenue, and employee layoffs due to the FSSI. This story is being played out by hundreds of small businesses across the United States. The customers we have been serving for over 28 years have told us that they are sorry, but they cannot purchase from us any longer, even if our prices are lower. Business has been purposely restrained and diverted by GSA's new implementations.

The Federal Strategic Sourcing Initiative has killed opportunities for the small businesses that hold an office supply schedule 75. The FSSI was competed and awards went to just 13 small businesses, out of approximately 520, and 2 large businesses. OMB, OFPP, and GSA are directing all Government agencies to mandate the use of the FSSI. Then, as the remaining 75 schedule holders lose business, they will eliminate schedule 75 and redeploy their contracting resources to improve other schedules. (See attached power point presentation of GSA)

If the goal of FSSI was to achieve a 3.5% budget cut per year, it could have been achieved through modifications and improvements affecting the existing schedule 75 small businesses. The concept of "Leveraging buying power" and "Economies of Scale" have put hundreds of small business employees out of their jobs and into the unemployment lines across the country. GSA could have prevented this injustice by correcting and setting new policies and regulations in the schedule program to assure that the Federal Government customers, and the taxpayers, were always getting the best value. The goals set forth by FSSI are the same goals that all small businesses across the country have set for themselves.

GSA did not perform a Cost-Benefit Analysis on FSSI prior to implementing the FSSI for schedule 75. A Cost-Benefit Analysis is required by OMB, OFPP, and GAO.

The FSSI is an 8 year old flawed concept for office supplies that limits competition and is not sustainable, and if it did not have the mandates and government pressure that it has, it would have failed already.

I ask that the FSSI for office supplies be re-examined and be made to include all schedule 75 schedule holders that can meet the pricing and technical data requirements.

The GSA Schedule Program is supposed to provide opportunities for small business and assure the Best Value for the government customer and taxpayer. Why not fix this vehicle instead of reinventing the wheel again?

Respectfully,

Bonnie Whittaker

Vice President

Adams Marketing Associates, Inc.

Attachments