



July 2018

# BUYING COMMERCIAL PRODUCTS

## Assessment of the E-Commerce Portal Implementation Plan

Accessible Version

# GAO Highlights

Highlights of [GAO-18-578](#), a report to congressional committees

## Why GAO Did This Study

The National Defense Authorization Act for Fiscal Year 2018 (NDAA) directs GSA and OMB to establish and implement a program to procure commercial products through commercial e-commerce portals. The NDAA directs GSA to carry out the program through contracts with multiple commercial portal providers. The NDAA also required OMB and GSA to develop an implementation plan.

The NDAA contains a provision for GAO to review the required implementation plan. This report (1) describes the key elements of the implementation plan and (2) identifies issues for GSA and OMB to consider as they implement the e-commerce portals program.

GAO reviewed the requirements of the NDAA, the implementation plan, and public comments GSA obtained before developing the plan. GAO also interviewed officials from GSA, OMB, a government procurement program, and an industry group that organized a public discussion of the e-commerce portal plan.

## What GAO Recommends

GAO is not making any recommendations in this report. GAO will continue to track the implementation the e-commerce portals program and, consistent with the NDAA provisions, will undertake further review of the program's implementation 3 years after the first contract with a commercial e-commerce portal provider is awarded.

View [GAO-18-578](#). For more information, contact William Woods at (202) 512-4841 or [woodsw@gao.gov](mailto:woodsw@gao.gov).

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## BUYING COMMERCIAL PRODUCTS

### Assessment of the E-Commerce Portal Implementation Plan

## What GAO Found

The General Services Administration (GSA) and the Office of Management and Budget (OMB) developed a plan that outlines an e-commerce program for federal agencies. The e-commerce program is meant to provide a method for federal agencies to purchase commercial products through portals. The plan, which was required to be submitted as Phase 1 of the program, provides a timeline for implementing the e-commerce portals program in several phases over the next 2 years. It also outlines three portal models, and recommends legislative changes that GSA officials stated are needed to fully implement the program. The plan describes three portal models from the private sector that GSA and OMB identified for possible use in the federal program:

1. **E-Commerce Model:** Product vendors sell their products directly to the consumer through their own e-commerce portals. These portal providers are responsible for the fulfillment of product orders, including invoicing and delivery.
2. **E-Marketplace Model:** An online portal is run by one vendor—the portal provider. The marketplace can offer third party vendor products and the portal providers' products as well. Portal providers and third-party vendors are generally responsible for fulfilling orders for their respective products.
3. **E-Procurement Model:** In this model, a third party provides software that enables price comparisons across multiple portals. The third party does not sell products directly to the consumer. Suppliers on these portals are responsible for fulfilling orders.

According to GSA officials, the e-commerce program ultimately implemented may involve a mix of aspects of the three models.

GAO identified a number of issues that GSA and OMB will need to consider as they move forward with Phase 2 of the program, including:

- How will the portals program impact existing procurement programs?
- How will the portals program operate within the current procurement framework?
- How will data be obtained on purchases through the e-commerce portal?
- How will GSA and OMB measure the progress of the e-commerce portals program during its early implementation phases? What metrics will be used?

GSA and OMB officials stated that they plan to conduct detailed analysis and market research as part of Phase 2, and GSA officials acknowledge they still have many issues to address as they move forward.

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### **Abbreviations**

DOD Department of Defense  
FAR Federal Acquisition Regulation  
GSA General Services Administration  
NDAA National Defense Authorization Act  
OMB Office of Management and Budget

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July 30, 2018

### Congressional Committees

Section 846 of the National Defense Authorization Act (NDAA) for Fiscal Year 2018 directs the General Services Administration (GSA) and the Office of Management and Budget (OMB) to establish and implement a program for buying commercial products through commercial e-commerce portals.<sup>1</sup> A commercial e-commerce portal is an online marketplace for the purchase of commercial products.<sup>2</sup> The purpose of the e-commerce portals program is to enhance competition, expedite procurement, enable market research, and ensure reasonable pricing of commercial products. On March 15, 2018, GSA issued an implementation plan.<sup>3</sup> On the same date, OMB submitted the plan to appropriate congressional committees, which is the first phase in implementation as directed in the NDAA.<sup>4</sup>

Section 846 of the NDAA also contains a provision for us to assess the implementation plan. This report (1) describes the key elements of the implementation plan, and (2) identifies issues for GSA and OMB to consider as they continue to implement the e-commerce portals program.

To describe key elements of the plan, we reviewed the implementation plan and compared it to section 846.<sup>5</sup> We also met with officials at GSA and OMB. To identify issues GSA and OMB may need to consider as

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<sup>1</sup>NDAA for Fiscal Year 2018, Pub. L. No. 115-91, § 846, 131 Stat. 1283, 1483 (2017).

<sup>2</sup>The 2018 NDAA defines a “commercial e-commerce portal” as a commercial solution providing for the purchase of commercial products online. The NDAA states that the term does not include an online portal managed by the government for, or predominantly for use by, government agencies. The NDAA also defines “commercial product” as a commercially available off-the-shelf item.

<sup>3</sup>GSA, *Procurement through Commercial E-Commerce Portals, Implementation Plan* (Washington, D.C.: Mar. 15, 2018).

<sup>4</sup>The NDAA directs OMB and GSA to carry out phases of program implementation. Phase I involves the preparation of an implementation plan and submission of the plan to congressional committees.

<sup>5</sup>We used section 846 as the basis for our review given the early stages of the development of the program. In future reviews, we may use other criteria to evaluate the program.

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they implement the e-commerce portals program, we assessed the plan against the findings and recommendations we have identified in our prior work on federal procurement and contracting. We also interviewed officials with GSA, OMB, and representatives from an industry group and procurement program to obtain their perspectives.<sup>6</sup>

We conducted this performance audit from April 2018 to July 2018 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.

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## Background

The e-commerce portals program, when implemented, is intended to provide agencies with a method to purchase commercial products in quantities valued below the simplified acquisition threshold.<sup>7</sup> The NDAA directs GSA to carry out the program through contracts with multiple commercial e-commerce portal providers, and to consider portals that are widely used in the private sector. The NDAA also directs GSA to consider commercial e-commerce portals for use under the program that, among other things, offer an assortment of product and supplier reviews and customer service. The NDAA directs GSA and OMB to implement the program in phases. Table 1 outlines the implementation phases.

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<sup>6</sup>We met with the Coalition for Government Procurement, an industry group that hosted a public forum on the implementation of the e-commerce portals program. We also met with officials from the AbilityOne program to determine the potential impact the e-commerce program may have on the AbilityOne program. The AbilityOne program is among the nation's largest sources of employment for people who are blind or have significant disabilities, and is a required source of supply under specified circumstances for federal agencies.

<sup>7</sup>The Federal Acquisition Regulation (FAR) currently identifies the simplified acquisition threshold as \$150,000, with limited exceptions. The NDAA for fiscal year 2018 raised this threshold to \$250,000. While the increased threshold has not yet been implemented in regulation, the FAR Council has opened a case to implement the changes in the FAR and the Civilian Agency Acquisition Council has issued a letter to facilitate agency authorizations of class deviations to implement the changes.

**Table 1: Implementation Phases for the E-Commerce Portals Program**

Implementation Phases for the E-Commerce Portals Program				
Phase number	Phase description	Stakeholders <sup>a</sup>	Description	Due date
One	Implementation plan	<ul style="list-style-type: none"> <li>General Services Administration (GSA)</li> <li>Office of Management and Budget (OMB)</li> </ul>	Develop an implementation plan and schedule for carrying out the program	March 15, 2018 <sup>b</sup>
Two	Market analysis and consultation	<ul style="list-style-type: none"> <li>GSA</li> <li>OMB</li> <li>Potential commercial e-commerce portal providers</li> </ul>	<ul style="list-style-type: none"> <li>Conduct market analysis and initial communications with potential commercial e-commerce portal providers on technology and design considerations</li> <li>Consult with affected agencies regarding their unique procurement needs</li> <li>Assess products or product categories that are suitable for purchase through the e-commerce portals</li> <li>Assess precautions necessary to safeguard government-related information</li> <li>Review standard terms and conditions of e-commerce portals</li> <li>Assess impact on existing programs including schedules, small business set-asides, and other preference programs</li> </ul>	March 15, 2019
Three	Program implementation guidance	<ul style="list-style-type: none"> <li>GSA</li> <li>OMB</li> </ul>	Develop and issue guidance to implement and govern the use of the program	March 15, 2020
n/a	Additional implementation phases	<ul style="list-style-type: none"> <li>GSA</li> <li>OMB</li> </ul>	Determine the need for additional implementation phases	After March 2020

Source: NDAA for Fiscal Year 2018, Pub. L. No. 115-91, § 846, 131 Stat. 1283, 1483 (2017). | GAO-18-578

<sup>a</sup>The National Defense Authorization Act for Fiscal Year 2018 (NDAA) directs OMB, in consultation with GSA and other relevant agencies, to carry out the implementation phases of the e-commerce portal program.

<sup>b</sup>The NDAA required submission of the implementation plan within 90 days of its enactment. GSA and OMB submitted the plan on March 15, 2018, which was within this time frame. As reflected in the table, the NDAA established that Phases 2 and 3 were to occur within one and two years, respectively, after submission.

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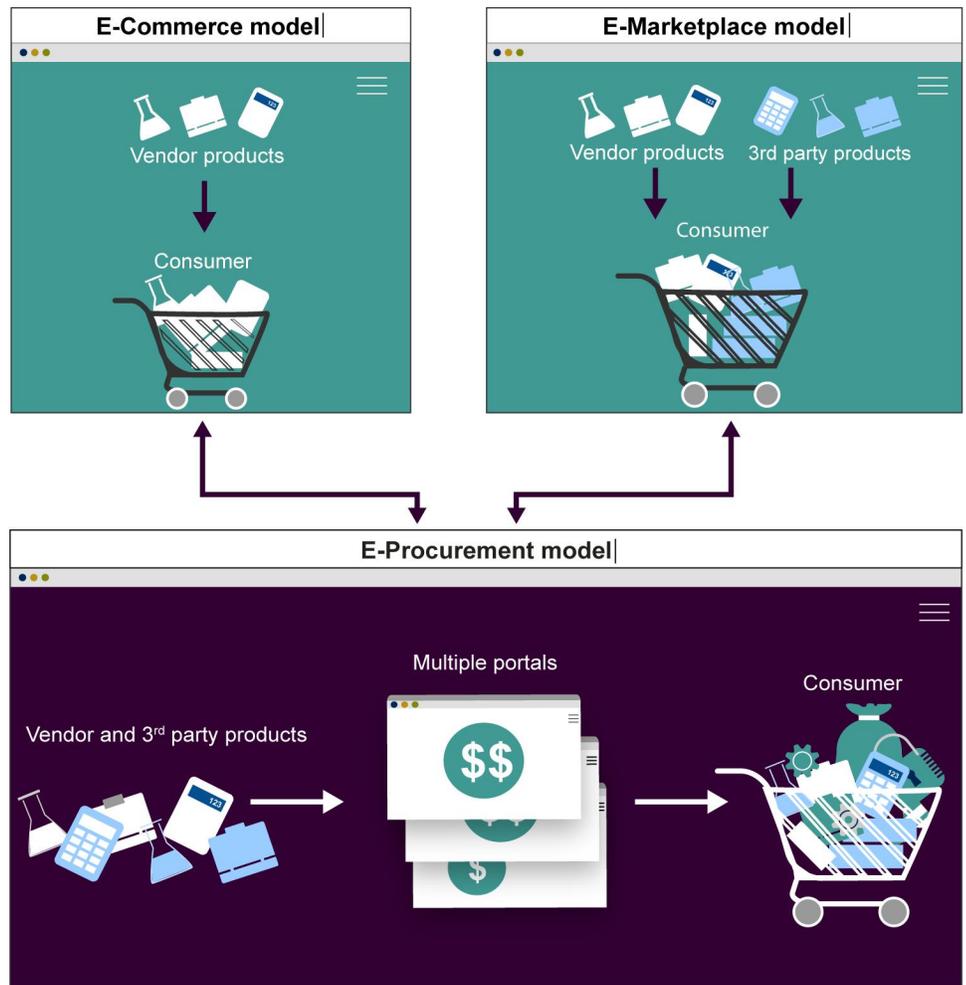
## GSA and OMB Developed a Plan for Phase 1 That Identifies Potential Implementation Approaches and Makes Legislative Recommendations

GSA and OMB developed an implementation plan that includes potential approaches and a schedule for carrying out the e-commerce program. The plan also recommends legislative changes, which, according to GSA officials, are needed to implement the program. As part of the efforts to develop the plan, on January 9, 2018, GSA held a public meeting to solicit input on an approach to implementing the e-commerce portals program. Stakeholders from government and industry provided input to GSA, including discussions related to specific types of software programs and industry vendors that could develop the portals. The plan provided a general timeline for implementing the e-commerce portals program, outlined three portal models, and recommended several legislative changes.

The three models that are identified in the plan are illustrated in figure 1. According to the plan, implementation will likely involve a mix of aspects of the three models.

- **E-Commerce Model:** Product vendors sell their products directly to the consumer through e-commerce portals. The portal providers are responsible for the fulfillment of product orders, including invoicing and delivery.
- **E-Marketplace Model:** An online marketplace is run by one vendor—the portal provider. The marketplace can offer third party vendor products and the portal providers' products as well. Portal providers and third-party vendors are generally responsible for fulfilling orders for their respective products.
- **E-Procurement Model:** In this model, a third party provides software that enables price comparisons across multiple portals. The third party does not sell products directly to the consumer. Suppliers on these portals are responsible for fulfilling orders.

**Figure 1: Portal Models Identified in the E-commerce Implementation Plan**



Source: GAO analysis of implementation plan. | GAO-18-578

GSA officials stated that they are exploring different contracting approaches across each model. They also stated that they are evaluating the impacts of implementing the different models on competition, data transparency, and user experience, among other things. GSA plans to conduct a more detailed assessment of each model in Phase 2.

In the plan, GSA and OMB recommend several legislative changes that they believe are needed to facilitate the implementation of the e-commerce portals program. GSA officials described these changes as follows:

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1. Raise the micro-purchase threshold from \$5,000 for the Department of Defense (DOD) and \$10,000 for civilian federal agencies to \$25,000 for purchases through e-commerce portals.<sup>8</sup>
  2. Authorize GSA to establish procedures for use of the e-commerce portals program, which would be considered compliant with federal competition requirements.
  3. Allow GSA, at its discretion, to use indefinite delivery/indefinite quantity contracts<sup>9</sup> to achieve acquisition efficiencies without having to negotiate up-front pricing with suppliers.
  4. Clarify and broaden the definition of an e-commerce portal so that GSA may use a wider variety of models and approaches.

GSA officials stated that they plan to initially implement the e-commerce portals program at the micro-purchase threshold.<sup>10</sup> They noted that focusing on purchases below the micro-purchase threshold would provide several advantages. For example, they said that focusing initially on smaller purchases would limit risk. They further explained that the portals would get broader use if the micro-purchase threshold were raised, because (1) it would give purchase card holders more purchasing power through the portals and (2) more portal providers would be encouraged to participate in the program. According to GSA officials, this will give them more information to evaluate how the procedures within the portals are working. The procedures for purchasing goods through the portals, however, still need to be defined.

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<sup>8</sup>The FAR currently defines the micro-purchase threshold as \$3,500, with limited exceptions. However the NDAA for fiscal year 2017 raised the micro-purchase threshold for DOD to \$5000, with limited exceptions, and the NDAA for fiscal year 2018 raised the micro-purchase threshold for civilian agencies to \$10,000. The increased micro-purchase threshold for DOD has been implemented in DOD's supplement to the FAR.

<sup>9</sup>Indefinite delivery/indefinite quantity contracts can be awarded to one or more contractors for the same or similar products or services and are used when the exact quantities and timing for products and services is not known at the time of the award.

<sup>10</sup>For purchases valued at or under the micro-purchase threshold, agencies may use the federal government's purchase card program, which allows them to quickly and easily acquire items that are needed to support daily operations while reducing the administrative costs.

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## GSA and OMB Plan to Analyze Implementation Options and Will Need to Consider a Number of Issues in Phase 2

GSA and OMB officials stated that they plan to conduct detailed analysis and market research in consultation with industry as part of Phase 2. Some of the planned Phase 2 activities include holding an industry day and issuing requests for information from portal providers and suppliers. GSA officials anticipate these requests will provide additional marketplace information to help guide implementation. They acknowledge they still have many issues to address as they move forward. Others such as industry groups have also identified issues that GSA and OMB will need to consider as they implement the e-commerce portals program. In addition, our prior work on procurement and high risk areas in the federal government has identified issues GSA and OMB may have to consider.

Based on our review of all of these sources, we grouped these issues into eight key areas:

- ***How will the portals program impact existing procurement programs?*** The NDAA requires GSA and OMB to evaluate the impact of the e-commerce portals program on existing procurement programs during Phase 2. This would likely include an assessment of the extent to which the e-commerce portals program will be duplicative of existing programs, such as the Federal Supply Schedules program.<sup>11</sup> Further, GSA and OMB may need to determine how the e-commerce portals will affect its category management and

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<sup>11</sup>The Federal Supply Schedules program, which is managed by GSA, provides agencies a simplified method of purchasing commercial products and services at prices associated with volume buying. Transactions conducted through program in fiscal year 2017 for products rather than services totaled approximately \$4.2 billion. See GAO, *Federal Supply Schedules: More Attention Needed to Competition and Price*, [GAO-15-590](#) (Washington, D.C: July 9, 2015).

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agency strategic sourcing initiatives efforts across the federal government.<sup>12</sup>

- **How will the portals program operate within the current procurement framework?** While the plan outlined several proposed legislative changes, it is not clear how other procurement laws and regulations would need to be changed, if at all, or how GSA will implement the portals program within existing procurement rules. For example, it is not clear how the implementation of the program will comply with the Buy American statute<sup>13</sup> or requirements to buy from those with disabilities. Officials from the AbilityOne program, a program that manages federal purchasing from people who have disabilities, have expressed concerns about the potential effect on their program. Specifically, they do not know how the requirements to purchase certain goods from AbilityOne suppliers will be considered in implementation of the portals program.<sup>14</sup> GSA officials pointed out that the FAR currently requires that micro purchases comply with the requirement to use mandatory sources such as AbilityOne and the proposed increase of the micro purchase threshold for the program would not limit applicability of that particular procurement rule. GSA officials also noted that the NDAA seeks to align government buying to commercial practices and technology. GSA officials acknowledged that they may have to propose additional legislative changes that they deem to be necessary as they continue implementing the program.
- **How will data be obtained on purchases made through the e-commerce portals?** The NDAA stipulates that GSA must require the e-commerce portal contractors to provide order information but it

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<sup>12</sup>In 2005, OMB directed agencies to leverage spending through strategic sourcing. OMB defined strategic sourcing as the “collaborative and structured process of critically analyzing an organization’s spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently.” In December 2014, the Office of Federal Procurement Policy, an office within OMB, issued a memorandum that directed agencies to take specific actions to implement category management, an approach which is intended to manage entire categories of spending across government for commonly purchased goods and services. See GAO, *Federal Procurement: Smarter Buying Initiatives Can Achieve Additional Savings, but Improved Oversight and Accountability Needed* [GAO-17-164](#) (Washington, D.C.: Oct. 26, 2016.)

<sup>13</sup>Buy American statute, 41 U.S.C. §§ 8301-8305 (formerly the Buy American Act, 41 U.S.C. §§ 10a-10d), establishes a preference for the acquisition of domestic end products over foreign end products.

<sup>14</sup>The AbilityOne Program is one of the sources listed under FAR § 8.002, which prescribes the use of certain government sources in a descending order of priority for supplies and services to satisfy agency requirements.

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allows GSA to determine the specific information provided.<sup>15</sup> This could include information such as products purchased and prices paid. GSA officials said that they will have to obtain more comprehensive data than what are currently available through the purchase card program, which identifies what vendor was used, but not what item was purchased and at what price.<sup>16</sup> How this is to be done, however, has not been determined and is an issue that needs to be considered.

- **What will the terms and conditions be for portal purchases?** GSA officials stated that they need to work with government agencies to determine how the terms and conditions for a purchase through the e-commerce portals will comply with government procurement requirements. GSA officials noted that terms and conditions, such as return policies, vary greatly across commercial providers—and therefore this is an issue that they will need to consider.
- **What procedures will be used for purchasing goods through the portals?** GSA and OMB must issue guidance on how to use the portals program in Phase 3 of implementation. They have not yet established what the procedures will be. In our interviews, GSA officials told us that they recognize they and OMB will need to develop instructions for purchase card holders and contracting officials on how to use the portals.
- **What, if any, additional protections need to be developed to reduce the risk of fraud with a higher micro-purchase limit under the portals program?** GSA has not yet determined what, if any, additional protections to deter fraud would need to be implemented if the micro-purchase threshold were raised to \$25,000. In the public forums discussing the implementation of the e-commerce portals program, some industry and government representatives brought up concerns over fraudulent use of purchase cards, which will need to be considered.<sup>17</sup>

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<sup>15</sup>NDAA for Fiscal Year 2018, Pub. L. No. 115-91, § 846(e)(2) (2017).

<sup>16</sup>For more information on what data are available on purchases under the micro-purchase threshold, see GAO, *Government Purchase Cards: Opportunities Exist to Leverage Buying Power*, [GAO-16-526](#) (Washington, D.C.: May 19, 2016).

<sup>17</sup>Our recent work has shown minimal risk of fraud at the current micro-purchase level. See GAO, *Government Purchase Cards: Little Evidence of Potential Fraud Found in Small Purchases, but Documentation Issues Exist*, [GAO-17-276](#) (Washington, D.C.: Feb. 14, 2017).

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- **How will cyber security controls be addressed?** Industry stakeholders have raised cyber security concerns to GSA in public forums. GSA officials told us that they will rely on vendors to comply with government cyber security requirements. In February 2017, we reported that cyber threats to systems supporting critical infrastructure are evolving and becoming more sophisticated, which also highlights the importance of considering issues related to cyber security controls in the e-commerce portals program.<sup>18</sup>
  - **How will GSA and OMB measure the progress of the program during its early implementation phases? What metrics will be used?** Developing metrics to help measure success remains an issue for GSA and OMB to consider as it could help determine whether and how to adjust the program. For example, if GSA and OMB proceed with implementing the program with a focus on purchases under the micro-purchase threshold, they will need to consider what metrics would be used to measure progress to enable an informed and intelligent expansion to purchases above the micro-purchase threshold.

We will continue to monitor the e-commerce program's implementation progress. Consistent with NDAA Section 846(j), we intend to assess and report on the implementation of the e-commerce portals program no later than 3 years after the first contract with a commercial e-commerce portal provider is awarded.

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## Agency Comments

We provided a draft of this report to GSA and OMB for comment. GSA provided technical comments, which we incorporated where appropriate. OMB did not provide comments on the draft report.

We are sending copies of this report to the appropriate congressional committees, the Administrator of GSA, the Director of OMB, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-4841 or by e-mail at [woodsw@gao.gov](mailto:woodsw@gao.gov). Contact

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<sup>18</sup>GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, GAO-17-317 (Washington, D.C.: Feb. 15, 2017).

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points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report were Tatiana Winger (Assistant Director); Gina Flacco (Analyst-in-Charge); Katheryn Hubbell; Matthew T. Crosby; and Peter Anderson.



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