

GAO

Report to the Chairman and Ranking
Minority Member, Committee on Small
Business, House of Representatives

May 2004

CONTRACT MANAGEMENT

Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business Is Uncertain



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-04-454](#), a report to the Committee on Small Business, House of Representatives

Why GAO Did This Study

To achieve efficiencies and respond to procurement reforms, agencies have consolidated their procurement contracts—that is, combined existing smaller contracts into fewer larger contracts. To ensure contract bundling—a subset of contract consolidation—does not unfairly disadvantage small businesses, the President tasked the Office of Management and Budget (OMB) to develop a strategy that would hold agencies accountable for contract bundling practices.

In October 2002, the Office of Federal Procurement Policy (OFPP) within OMB issued its strategy.

This report discusses the extent to which contracts were bundled in fiscal year 2002 and assesses the potential effectiveness of regulatory changes that have recently resulted from OFPP's strategy.

What GAO Recommends

GAO recommends that OMB (1) ensure agencies report uniform and reliable contract bundling data and (2) establish contract bundling metrics. OMB concurred with the first recommendation, but not the second. GAO believes metrics are needed to help determine how bundling affects small businesses. GAO also recommends that SBA disseminate best practices to maximize small business contracting opportunities, as required by the OFPP strategy. SBA concurred.

www.gao.gov/cgi-bin/getrpt?GAO-04-454.

To view the full product, including the scope and methodology, click on the link above. For more information, contact David Cooper at (202)512-4125 or cooperd@gao.gov.

CONTRACT MANAGEMENT

Impact of Strategy to Mitigate Effects of Contract Bundling Strategy on Small Business Is Uncertain

What GAO Found

In contrast to data captured in the Federal Procurement Data System (FPDS), only 4 of the 23 agencies held accountable by OFPP's strategy reported a total of 24 bundled contracts in fiscal year 2002—far fewer than the 928 contracts identified as bundled in FPDS. Agency officials, after researching their contracts, determined that the bundling data in FPDS were miscoded due to confusion about the statutory definition of contract bundling, inadequate verification of information, and ineffective controls in the FPDS reporting process. For example, about 33 percent of FPDS contract actions identified as bundled were miscoded, because they were awarded to small businesses. By definition, a small business is essentially precluded from being awarded a bundled contract. The Department of Defense, which reported the second largest number of bundled contracts, determined that only 8 of the 109 contracts identified as bundled in FPDS met the statutory definition of a bundled contract.

Although the actual number of bundled contracts reported by agencies is small, concerns about the effect of contract bundling on small businesses remain. According to OFPP, the primary goal of its strategy—and the resulting regulatory changes—is to increase small business federal contracting opportunities. Because new regulations have only recently been established, it is too early to determine whether agencies are achieving this goal. In addition, part of OFPP's strategy—to identify and disseminate best practices for maximizing small business contract opportunities—has not been implemented. Yet even with time and guidance, it could be difficult to assess the effect of the recent regulations, in part because any increases in small business contracting opportunities could be attributed to other factors. For example, the largest procuring agencies have a history of seeking opportunities to increase small business contracting, and according to the General Services Administration, nearly 80 percent of Federal Supply Schedule contracts are awarded to small businesses. Further, because the regulations primarily relate to contract bundling—an activity most agencies report they do not engage in—the regulations may have little impact on increasing small business contracting opportunities.

Nevertheless, certain regulatory changes—especially those related to oversight—have the potential to promote greater small business opportunities. For example, the new regulations require agencies to annually assess the extent to which small businesses receive a fair share of federal procurements, the adequacy of contract bundling documentation and justifications, and actions taken to mitigate the effects on small businesses of necessary and justified contract bundling. However, the new regulations do not establish metrics to measure agency accountability, and past data on bundling and its effects on small businesses have been limited and unreliable. Without metrics and reliable data, it will be difficult to gauge agency efforts to identify and eliminate contracts that are unnecessarily bundled.

Contents

Letter		1
	Results in Brief	2
	Background	4
	Agency Data Are Inconsistent with FPDS Data	6
	Effect of Regulatory Changes on Small Business Contracting Opportunities Will Be Difficult to Gauge, Although Certain Changes May Yield Increases	7
	Regulatory Changes Do Not Establish Metrics and Information to Monitor Contract Bundling Trends and Effects	11
	Conclusions	12
	Recommendations for Executive Action	12
	Agency Comments and Our Evaluation	12
	Scope and Methodology	13

Appendix I	Status of Nine Action Items Contained in OFPP's Report	16
-------------------	---	-----------

Appendix II	Summary of Agency Responses to OFPP-Directed Metrics	17
--------------------	---	-----------

Appendix III	Summary of Contract Bundling Rule Changes	19
---------------------	--	-----------

Appendix IV	Comments from the Office of Management and Budget	21
--------------------	--	-----------

Related GAO Products		22
-----------------------------	--	-----------

Tables		
	Table 1: Status of Action Items Contained in OFPP's Contract Bundling Strategy	16
	Table 2: Summary of Agency Responses to OFPP-Directed Metrics for Fiscal Year 2002	17

Abbreviations

AID	Agency for International Development
DHS	Department of Homeland Security
DOD	Department of Defense
DOE	Department of Energy
EPA	Environment Protection Agency
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
GSA	General Services Administration
HHS	Health and Human Services
HUD	Housing and Urban Development
NASA	National Aeronautics and Space Administration
NSF	National Science Foundation
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
OSDBU	Office of Small and Disadvantaged Business Utilization
PMC	President's Management Council
SBA	Small Business Administration
SSA	Social Security Administration
VA	Veteran's Administration

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

May 27, 2004

The Honorable Donald A. Manzullo
Chairman
The Honorable Nydia M. Velazquez
Ranking Minority Member
Committee on Small Business
House of Representatives

Each year, the federal government spends billions of dollars to procure goods and services ranging from paper clips to the development of complex space vehicles. To achieve efficiencies while responding to significant procurement reforms and acquisition workforce reductions, agencies have increasingly consolidated their procurement contracts—that is, combine existing smaller contracts into fewer larger contracts. However, concerns have been raised that contract bundling—consolidating contracts to such an extent that they may preclude small businesses from competing—unnecessarily limits federal contracting opportunities for small businesses.

To ensure contract bundling does not unfairly disadvantage small businesses, the President tasked the Office of Management and Budget (OMB) to develop a strategy that would hold agencies accountable for contract bundling practices. In October 2002, OMB's Office of Federal Procurement Policy (OFPP) issued "Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business." The strategy contains action items designed to change contract bundling regulations, hold 23 agencies accountable for eliminating unnecessary contract bundling, mitigate the effects of necessary bundling, and increase small business contracting opportunities. OFPP also required each agency to submit quarterly reports through October 31, 2003, documenting their progress in implementing the strategy.

To provide a better understanding of the extent to which contract bundling occurs and the effect of OFPP's strategy on small business federal contracting opportunities, you asked us to (1) identify the number of contracts the 23 accountable agencies reported as bundled in fiscal year 2002, and (2) assess the potential effectiveness of the regulatory changes to increase small business contracting opportunities.

To identify the number of bundled contracts, we reviewed agency data submitted to OFPP, as required by the OFPP strategy, and data in the Federal Procurement Data System (FPDS), the federal repository for contracting data.¹ When discrepancies surfaced between the two sets of data, we asked agency officials for an explanation. To assess the potential effectiveness of regulatory changes to increase small business contracting opportunities, we reviewed OFPP-strategy-required reports and obtained the views of officials from agencies that, collectively, accounted for over 85 percent of the fiscal year 2002 federal procurement expenditures. A more detailed discussion of our scope and methodology is at the end of this letter.

We conducted our review from April 2003 to February 2004 in accordance with generally accepted government auditing standards.

Results in Brief

Four of the 23 agencies held accountable by OFPP's strategy reported a total of 24 bundled contracts in fiscal year 2002; of the remaining 19 agencies, 16 reported no bundled contracts, and 3² did not provide information on the number of bundled contracts. The small number of agency-reported bundled contracts is inconsistent with the 928 contracts³ identified as bundled in the FPDS. Agency officials, after researching their contracts, determined that the bundling data in FPDS were miscoded due to confusion about the definition of contract bundling, inadequate verification of information, and ineffective controls in the FPDS reporting process.⁴ For example, about 33 percent of the FPDS fiscal year 2002 contract actions shown as being bundled were awarded to small

¹ FPDS contains detailed information on contract actions over \$25,000 and summary data on procurements of less than \$25,000. The system is intended to identify who bought what, from whom, for how much, when, and where. On October 1, 2003, the successor system to FPDS—FPDS Next Generation—became operational.

² The Agency for International Development and the Department of Justice did not report. In addition, the Department of Homeland Security, established by law in November 2002 (Pub. L. 107-296, Nov. 25, 2002), did not have fiscal year 2002 FPDS data.

³ The 928 bundled contracts in FPDS represent contracts associated with 2,404 contract actions coded as bundled in fiscal year 2002. A fiscal year 2002 contract action could have been associated with a contract awarded in fiscal year 2002, or a prior fiscal year.

⁴ We have previously reported on FPDS data inaccuracies, most recently in December 2003. See *Reliability of Federal Procurement Data*, [GAO-04-295R](#) (Washington, D.C.: Dec. 30, 2003).

businesses, an unlikely occurrence, since a small business, by definition, is essentially precluded from being awarded a bundled contract.

Despite the limited number of bundled contracts reported by agencies, concerns that small businesses may be losing federal contracting opportunities remain. According to OFPP, the primary goal of its strategy—and the resulting regulatory changes—is to increase small business federal contracting opportunities. Because the new regulations have only recently been established, it is too early to determine whether agencies are achieving this goal. In addition, the Small Business Administration (SBA), as of February 25, 2004, has not identified and disseminated best practices—as required by OFPP’s strategy—to help agencies maximize small business contract opportunities. However, even with time and guidance, it will likely be difficult to assess the effect of the recent changes to the regulations, in part because any increases in small business contracting opportunities could be attributed to factors other than regulatory changes. For example, we found that the largest procuring agencies have a history of seeking opportunities to increase small business contracting opportunities, which could explain any future increases. Further, because the regulations primarily relate to contract bundling and agency-reported data show that bundling is limited, the regulations’ impact on increasing small business contracting opportunities may also be limited.

Nevertheless, certain regulatory changes—especially those related to oversight—have the potential to promote greater small business opportunities. For example, the regulations now require agencies’ Office of Small and Disadvantaged Business Utilization (OSDBU)—an agency’s advocate for small business—to conduct annual assessments of (1) the extent to which small businesses receive a fair share of federal procurements, (2) the adequacy of contract bundling documentation and justifications, and (3) the adequacy of actions taken to mitigate the effects on small businesses of necessary and justified contract bundling. However, the regulations do not establish metrics to measure the extent to which contract bundling is occurring, or the extent to which bundling impacts small business contracting opportunities. Consequently, it will be difficult to gauge agency efforts to identify and eliminate contracts that are unnecessarily bundled and, thereby, increase small business federal contracting opportunities. This weakness is not new; past data on

bundling and the effects of consolidating requirements on small businesses have been limited and unreliable.⁵

To improve the oversight of contract bundling, we are recommending that the Director, Office of Management and Budget, (1) ensure that FPDS and agency reporting processes provide uniform and reliable contract bundling information and (2) direct the Administrator, OFPP, to establish metrics to measure contract bundling and the extent to which contract bundling impacts small business federal contracting opportunities. In commenting on a draft of this report, OMB concurred with the first recommendation, but not the second. The basis of OMB's non-concurrence is their concern that implementation of the recommendation envisions new government-wide reporting and record keeping requirements outside of FPDS, which is duplicative and possibly labor-intensive. OMB suggested, in place of our recommendation, that it work with the SBA to explore possible inclusion of new reporting requirements in FPDS that would track the impact of bundling on contracting opportunities for small businesses. The purpose of our recommendation is to establish metrics, not a new reporting and record keeping system outside of FPDS. OMB's position, that it work with SBA to explore possible inclusion of new reporting requirements in FPDS, does not address the need for metrics. We believe metrics are needed to help determine how bundling affects small businesses. Without metrics to measure contract bundling and its impact, the information needed to ensure agency accountability to eliminate unnecessary contract bundling, mitigate the effects of necessary bundling, and increase small business contracting opportunities will be limited or unknown.

We are also recommending that the SBA Administrator expedite dissemination of best practices for maximizing small business contract opportunities. SBA concurred with this recommendation.

Background

Over the last decade, changes in procurement practices, acquisition workforce reductions, and legislative changes have challenged agencies to create efficiencies in their acquisition processes. By consolidating contracts—that is, combining existing requirements into fewer contracts—agencies can streamline the procurement process and thereby reduce acquisition and administrative complexity and cost. A subset of contract

⁵ *Small Businesses: Limited Information Available on Contract Bundling's Extent and Effects*, GAO/GGD-00-82 (Washington, D.C.: Mar. 31, 2000).

consolidation is contract bundling. The Small Business Reauthorization Act of 1997 defines a bundled contract as one that consolidates two or more procurement requirements that previously were provided or performed under separate, smaller contracts into a solicitation for offers for a single contract that is likely to be unsuitable for award to a small business. For example, a small business might be able to perform certain maintenance tasks, such as plumbing and carpentry at a single government facility. However, if a solicitation were to add paving and electrical repairs and also expand the performance site to more than one regional area, such a solicitation may be beyond the capability of any small business.⁶ In sum, a consolidated contract can be suitable for award to a small business and a bundled contract is not.

To help ensure that contract bundling does not unnecessarily disadvantage small businesses, the Small Business Reauthorization Act of 1997 requires that to the maximum extent practicable, agencies are to avoid contract bundling unless they can demonstrate “measurably substantial benefits,” such as cost savings,⁷ quality improvement, reduction in acquisition cycle times, or better terms and conditions.

OFPP’s strategy to address contract bundling and increase federal contracting opportunities for small businesses contains nine action items designed to change contract bundling regulations, hold 23 agencies accountable to eliminate unnecessary contract bundling, mitigate the effects of necessary bundling, and increase small business contracting opportunities. Most action items were incorporated into Federal

⁶ The Small Business Reauthorization Act of 1997 lists several factors that may result in a contract being unsuitable for award to a small business: (1) the diversity, size, or specialized nature of the elements of the performance specified; (2) the aggregate dollar value of the anticipated award; (3) geographical dispersion of the contract performance sites; and (4) any combination of the above. Pub.L. 105-135, section 412.

⁷ The regulations implementing the act stated that for contracts of \$75 million or less, benefits were equivalent to 10 percent of the contract value (including options); for contracts over \$75 million, benefits were equivalent to 5 percent of contract value (including options) or \$7.5 million, whichever is greater. Further, agencies were required to justify “substantial bundling,” defined as any bundled contract valued at \$10 million or more, by also (1) identifying the specific benefits anticipated to be derived from bundling; (2) including an assessment of the specific impediments to small business participation that result from bundling, (3) specifying actions designed to maximize small business participation as contractors, (4) specifying actions designed to maximize small business participation as subcontractors, and (5) including a specific determination that the anticipated benefits of the proposed bundled contract justify its use. FAR 7.107(b), (e); 13 C.F.R. 125.2 (d)(5), (7).

Acquisition Regulation (FAR) and SBA regulations on October 20, 2003. The nine action items and their status are described in appendix I.

As part of implementing its strategy, OFPP also required OSDBUs from the 23 agencies to report quarterly on their implementation of the nine action items. OSDBUs have a central role in monitoring contract bundling activity. They are responsible for overseeing their agency's functions and duties related to the awarding of contracts and subcontracts to various types of small businesses. Moreover, the Congress intended that OSDBU directors serve in their respective agencies as advocates for these businesses.

Agency Data Are Inconsistent with FPDS Data

In their reports to OFPP, only 4 of the 23 accountable agencies reported that they had bundled contracts for fiscal year 2002. Further, the four agencies reported only a total of 24 bundled contracts—far fewer than the 928 contracts reported as bundled in FPDS. Of the remaining 19 agencies, 16 reported no bundled contracts, and 3 did not provide contract bundling information. (See app. II for details on contract bundling activity reported by agencies.)

Through our review of FPDS bundling data, we found that much of the data are inaccurate, causing FPDS to record more bundled contracts and actions than reported by the agencies to OFPP. For example, about 33 percent of FPDS-coded bundled contract actions were also shown as being awarded to small businesses. By definition, a small business is essentially precluded from being awarded a bundled contract. According to OSDBU officials at the Departments of Defense (DOD), Veterans Affairs, Interior, Health and Human Services, and Transportation—the five agencies with the largest number of FPDS-reported bundled actions in fiscal year 2002—the inaccuracies in FPDS were coding errors made as the result of confusion about the statutory definition of contract bundling, inadequate verification of data, and ineffective controls in the FPDS reporting process. For example, through a review of Interior's 80 contracting offices, Interior's OSDBU found that all had erroneously coded contracts as bundled. Interior's OSDBU attributed the coding errors to confusion over the statutory definition of a bundled contract. DOD similarly had its military departments and defense agencies review the 109 contracts originally identified as bundled, and they determined that only 8 out of the 109 contracts met the statutory definition of a bundled contract. The 101 miscoded contracts were primarily the result of confusion about the definition of bundling and lack of controls and oversight in the FPDS reporting system.

Inaccuracies in FPDS data are a long-standing problem, which we have previously reported on—most recently on December 30, 2003, when we issued a letter to OMB expressing our concern that continuing problems with the reliability of FPDS data could adversely impact decision-making and oversight of the federal procurement system.⁸ We identified a number of examples where poor data limited our ability to assess procurement programs and found that many of the FPDS data problems, including inaccurate data on bundling activity, were the result of confusion over information requirements, which led to data entry mistakes by agency contracting officials. We made recommendations to improve the reliability of FPDS data. OMB generally concurred with our recommendations and, as of March 25, 2004, are considering actions to respond to them.

Effect of Regulatory Changes on Small Business Contracting Opportunities Will Be Difficult to Gauge, Although Certain Changes May Yield Increases

According to OFPP, the primary goal of its strategy—and the recent FAR changes—is to increase small business federal contracting opportunities. However, it will be difficult to determine whether any increases in small business opportunities are the result of the recent regulatory changes or other factors, such as continuing agency efforts. While some aspects of the changes have the potential to help achieve desired goals, the new regulations do not provide for metrics to measure agency accountability for improving small business participation in federal procurement.

Despite OFPP's stated goal for its strategy—to increase small business federal contracting opportunities—several factors will make it difficult to assess the effect of the regulatory changes on such opportunities. First, because contract bundling FAR and SBA rules were not amended until October 2003, it is too early to determine whether the regulations have achieved desired outcomes. Further, SBA has yet to disseminate best practices to agencies—an action item in OFPP's strategy. One key purpose of the best practices is for agencies to incorporate them into training courses and materials. In January 2003, SBA requested agency senior procurement executives to provide proven best practices to optimize prime and subcontracting opportunities for small businesses. According to SBA officials, that input has been received and a best practices guide has been drafted. SBA, however, has not established a schedule to disseminate the guide, and until such time, agencies can do little to respond to this OFPP strategy action item.

⁸ See [GAO-04-295R](#).

Second, it will be difficult to determine whether any increased opportunities are the result of the regulatory changes or other factors, such as continuing agency efforts to address bundling. DOD, the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), and the General Services Administration (GSA)—which together procured about 80 percent of the federal government’s goods and services in fiscal year 2002—each have a history of seeking opportunities to increase small business contracting opportunities. Since 1982, DOD has issued five policy memoranda on small business participation in consolidated and bundled contracts. The first memorandum directed that functions currently performed by small businesses should not be consolidated and that, unless there were overriding national security interests, future solicitations should be packaged so as not to preclude performance by small businesses. The most recent policy memorandum, dated January 17, 2002, requires (1) review of multiple award indefinite-delivery, indefinite-quantity contracts to avoid unnecessary bundling⁹ and (2) consideration of small business participation from acquisition planning through program execution. A benefit analysis guidebook was disseminated with the January 2002 memorandum that includes guidance on avoiding contract bundling, outlines how to perform a benefit analysis to justify necessary bundling, and addresses how to mitigate the impact on small businesses when a bundled contract has been determined to be necessary and justified. Further, the National Defense Authorization Act for Fiscal Year 2004¹⁰ imposes additional requirements on senior procurement executives to ensure that small businesses are given appropriate opportunities to participate in consolidated acquisitions in excess of \$5 million—a threshold that is \$2 million lower than the substantial bundling threshold established in the new regulations.

The other three agencies also have a history of efforts to address contract bundling and increase small business contracting opportunities. For example, in 1992, NASA put a policy in place that required its contracting offices contemplating contract consolidation to get concurrence from the NASA Chief of Staff at Headquarters, who was required to seek advice

⁹ Indefinite delivery, indefinite quantity contracts are used when an agency does not know the precise quantity of supplies or services to be provided under a contract. As the agency identifies a specific need for goods or services, it issues orders for individual requirements, which cannot exceed the maximum amount specified in the contract.

¹⁰ Pub. L. 108-136, section 801.

from the NASA OSDBU. In 2000, NASA required contract bundling justification, review, and approval of orders from Federal Supply Schedule contracts,¹¹ governmentwide acquisition contracts, or other indefinite-delivery contracts. NASA further imposed the substantial bundling documentation requirements, as well as Headquarters Office of Procurement review, on each proposed bundling activity expected to exceed \$5 million in total value—half the substantial bundling threshold of \$10 million in effect at that time.¹² DOE’s procurement executive has similarly issued acquisition letters dating back to April 2000 that focused on how to maximize small business opportunities in federal contracting. According to GSA officials, GSA’s Multiple Award Schedule Program has, for several years, allowed Federal Supply Schedule contractors to team up to deliver a total solution to customer agencies from multiple industries.¹³ Such arrangements have the potential to enhance the ability of small businesses to capture all or a portion of a customer’s total requirement. Further, the Federal Supply Schedule, which GSA administers, also contains a strong small business presence, with approximately 78 percent of Federal Supply Schedule contracts awarded to small businesses, according to GSA.

Finally, the recent regulations relate primarily to contract bundling—an activity most agencies report they do not engage in. The regulations, for example, are designed to require agency officials to review proposed acquisitions to preclude unnecessary bundling and mitigate the effects of necessary contract bundling. However, because 16 of the 23 agencies¹⁴ held accountable by the OFPP strategy reported that they had no bundled contracts in fiscal year 2002 and the bundling that was reported was limited, it is unclear to what extent the regulations will help increase small business contracting opportunities at these agencies.

¹¹ The Federal Supply Schedule, administered by GSA, is designed to provide federal agencies with a simplified process for obtaining millions of commonly used commercial supplies and services at prices associated with volume buying. The program consists of single award schedules with one supplier and multiple award schedules, in which GSA awards contracts to multiple companies supplying comparable services and products.

¹² The new bundling regulations lowered the substantial bundling threshold for NASA to \$5 million.

¹³ Schedule contractors may propose a team solution or customer agencies may solicit for a team solution.

¹⁴ The Agency for International Development and Justice did not report. In addition, the Department of Homeland Security, established by law in November 2002 (Pub. L. 107-296, Nov. 25, 2002), did not have fiscal year 2002 FPDS data.

Despite the uncertainties regarding the effect of the recent regulatory changes on small business contracting opportunities, certain changes in the FAR and SBA regulations¹⁵ have the potential to increase such opportunities—specifically those related to mandatory coordination of agency officials and increased oversight. These regulatory changes were designed to preclude unnecessary contract bundling and mitigate the effects of justified bundling on small contractors. For example, the FAR now requires OSDBUs to conduct periodic reviews to assess (1) the extent to which small businesses are receiving their fair share of federal procurements under the Small Business Act, (2) the adequacy of contract bundling documentation and justification, and (3) the actions taken to mitigate the effects of necessary and justified bundling on small businesses. OSDBUs are required to submit their assessments to the head of their agency and the SBA Administrator.

The FAR and SBA regulations now require agencies to assess contractor performance against small business goals identified in subcontracting plans in contracts that require a subcontracting plan.¹⁶ This action requires agencies to systematically review contracts of \$500,000 for products or services and contracts of \$1 million for construction and ensure they comply with required small business subcontracting plans. Further, the new regulations established agency-specific dollar thresholds to invoke mandatory coordination with agency small business specialists.¹⁷ The new thresholds are \$7 million for DOD; \$5 million for DOE, GSA, and NASA; and \$2 million for all other agencies. The regulations also specify that multiple award indefinite quantity contracts and orders placed against Federal Supply Schedule contracts and governmentwide acquisition contracts are now subject to bundling requirements and restrictions.

Finally, SBA now requires SBA procurement center representatives¹⁸ to ensure that small business participation is maximized through teaming arrangements by working with agency small business specialists and

¹⁵ See appendix III for table summarizing regulatory changes.

¹⁶ FAR 42.1502; 13 CFR 125.2(e)(1)(iii).

¹⁷ Small business specialists are agency personnel that assist small businesses with federal contracting.

¹⁸ Procurement center representatives are SBA personnel whose duties include assisting small businesses in obtaining federal contracts and monitoring acquisitions to ensure compliance with small business requirements. These representatives are located at various SBA procurement area offices and federal buying centers around the country.

Regulatory Changes Do Not Establish Metrics and Information to Monitor Contract Bundling Trends and Effects

OSDBUs, as early in the acquisition process as practical. The new SBA regulation is designed to (1) allow small business teams to compete for acquisitions when contract bundling is determined to be necessary, and hence, unsuitable for individual small businesses to perform and (2) remove obstacles small businesses face in forming teams, such as the relatively limited time available to respond to solicitations.

Over the last several years, we have been asked to review acquisition reforms and initiatives to determine whether they are achieving desired outcomes. Determining whether desired outcomes are being achieved is dependent on metrics and reliable information. However, as we testified in March 2003 before the Senate Committee on Small Business and Entrepreneurship,¹⁹ agencies often lack metrics and reliable information to enable the Congress and the President to ensure agency accountability for improving small business participation in federal procurement. Despite our findings, the new contract bundling regulatory changes do not establish metrics or identify the information needed to determine the extent to which agencies bundle contracts and measure the impact of bundling on small businesses—a weakness exacerbated by the fact that past data on bundling has been limited and unreliable.²⁰

Recording and distributing timely and accurate information on contract bundling is key to ensuring accountability, monitoring contract bundling trends, and adjusting practices as warranted. Although agency OSDBUs must now submit annual reports to assess the small business share of federal procurements, the adequacy of bundling documentation, and actions taken to mitigate the effects of bundling to their agency head and the SBA Administrator, there is no requirement for metrics or specific bundling-related information. Without metrics and information to measure contract bundling and its impact, annual assessments will likely be process oriented, citing, for example, senior executive memos stressing commitment to eliminate unnecessary contract bundling and identifying who is accountable to optimize contracting opportunities for small businesses. Potential metrics and information OSDBUs could use in their required annual reports to monitor contract bundling trends and impacts include (1) the number and dollar value of bundled contract actions and

¹⁹ See *Small Business Contracting: Concerns About the Administration's Plan to Address Contract Bundling Issues*, GAO-03-559T (Washington, D.C.: Mar. 18, 2003).

²⁰ See *Small Businesses: Limited Information Available on Contract Bundling's Extent and Effects*, GAO/GGD-00-82 (Washington, D.C.: Mar. 31, 2000).

contracts, (2) benefit analyses (dollars saved) to justify why contracts are bundled, (3) the number of small businesses losing federal contracts because of bundling, (4) how bundled contracts complied with agencies subcontracting plans, and (5) how mitigation actions, such as teaming arrangements, provided increased contracting opportunities to small businesses.

Conclusions

As we have reported over the past several years, a lack of reliable data on contract bundling activity at federal agencies has limited the Congress' and the President's ability to accurately assess the extent of contract bundling governmentwide and its effect on small business contracting opportunities. Although the most recent regulatory changes have the potential to increase contracting opportunities for small businesses, until such time that OFPP takes action to improve FPDS data reliability and establish metrics to measure contract bundling activity, the extent to which contract bundling impacts small business federal contracting opportunities will continue to be limited or unknown.

Recommendations for Executive Action

We are recommending that the Director, Office of Management and Budget,

- ensure that planned FPDS reliability improvements include accurate agency reporting to provide uniform and reliable contract bundling information and
- direct the Administrator, OFPP, to establish metrics to measure contract bundling and the extent to which contract bundling impacts contracting opportunities for small businesses.

We are also recommending that the Administrator, SBA, expedite the dissemination of best practices to maximize small business contract opportunities for incorporation into agencies' training courses, as required by the OFPP strategy.

Agency Comments and Our Evaluation

In March 2004, we requested comments on a draft of this report from the Director of OMB and from the Administrator, SBA.

In written comments, OMB concurred with the first recommendation, but not the second. OMB expressed concern with our recommendation that OFPP be directed to establish metrics to measure contract bundling and the extent to which contract bundling impacts contracting opportunities for small businesses. OMB is concerned that our recommendation

envisions that OMB establish new, governmentwide reporting and record-keeping requirements outside of FPDS, which is duplicative and possibly labor-intensive. In addition, OMB suggested that the our recommendation be revised to require OFPP to work with SBA to explore possible inclusion of new reporting requirements in FPDS that would track the impact of bundling on contracting opportunities for small businesses.

We believe OMB's concern is unfounded. The purpose of our recommendation is to establish contract bundling metrics, not a new reporting and record-keeping system outside of FPDS. The establishment of bundling metrics, together with the implementation of our recommendation that OMB ensure that its planned FPDS reliability improvements include accurate agency reporting of contract bundling information, does not require a new reporting and record-keeping system outside of FPDS.

We believe OMB's suggestion that our recommendation be revised to explore possible inclusion of new reporting requirements to track the impact of bundling on small businesses will not provide the Congress sufficient information to understand the effects of bundling on small businesses, unless metrics are established. As stated in our report, determining whether acquisition reforms and initiatives are being achieved is dependent on metrics. Without metrics to measure contract bundling and its impact, the information needed to ensure agency accountability to eliminate unnecessary contract bundling, mitigate the effects of necessary bundling, and increase small business contracting opportunities will be limited or unknown.

In official oral comments on the report, staff from SBA concurred with the SBA recommendation and had no other comments on the report.

Scope and Methodology

To identify the number of contracts agencies reported as bundled in fiscal year 2002, we reviewed the data submitted by agencies in their reports to OFPP. We also analyzed fiscal year 2002 contract actions coded as bundled in FPDS to compare information reported by the agencies. Where large discrepancies existed between agency and FPDS data, we contacted agency OSDBU officials to obtain an explanation. Those agencies were the Veterans Administration and the Departments of Defense, Health and Human Services, Interior, and Transportation. We did not verify the agency-reported data used in this report. Its reliability is dependent on OSDBU review of their agency contracts. We believe the data OSDBUs

reported to OFPP to be generally reliable because OSDBUs (1) have a central role in monitoring contract bundling activity, (2) are responsible to oversee their agency's functions and duties related to the awarding of contracts and subcontracts to various types of small businesses, and (3) researched and then explained the difference between the bundling data they reported to OFPP and what is in FPDS.

To assess the potential effectiveness of the OFPP strategy and the regulatory changes resulting from it, we reviewed the four required quarterly reports submitted by the agencies to OFPP. Those reports were to describe agency efforts to implement the strategy. In addition, we met with procurement and OSDBU officials from five federal agencies—DOD, DOE, GSA, NASA, and the Veterans Administration—that collectively spent over 85 percent of the total procurement dollars in fiscal year 2002. We obtained their views on the impact of the strategy and subsequent regulatory changes. We also contacted officials from the OSDBUs of the remaining 18 agencies held accountable by the strategy to obtain their views on its implementation. Finally, we met with officials from OFPP and SBA to gain a better understanding of the objectives of the strategy, as well as a governmentwide perspective on contract bundling and its effect on small business opportunities within the federal procurement community.

We also reviewed applicable contract bundling laws, policies, and regulations.

As agreed, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to the Administrators of the OFPP and SBA, and the heads of the 23 executive agencies held accountable by OFPP's strategy. We will also provide copies to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-4841 or by e-mail at cooperd@gao.gov, or James Fuquay at (937) 258-7963. Key contributors to this report were Johnetta Gatlin-Brown, Daniel Hauser, Julia Kennon, Mary Jo Lewnard, Sylvia Schatz, and Karen Sloan.

A handwritten signature in black ink that reads "David E. Cooper". The signature is written in a cursive style with a large, prominent "D" and "C".

David E. Cooper
Director
Acquisition and Sourcing Management

Appendix I: Status of Nine Action Items Contained in OFPP's Report

In October 2002 in response to the President's tasking to develop a strategy to hold agencies accountable for contract bundling practices, the Office of Federal Procurement Policy (OFPP) issued "Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business." The status of the strategy's nine action items, as of February 25, 2004, is presented below.

Table 1: Status of Action Items Contained in OFPP's Contract Bundling Strategy

Action item	Status
Ensure accountability of senior agency management for improving contracting opportunities for small business	Twenty-three agencies were required to report to the Office of Management and Budget's (OMB) Deputy Director for Management on the status of their efforts to address contract bundling issues on a quarterly basis from January 31, 2003, until October 31, 2003. Quarterly reports are no longer required.
Ensure timely and accurate reporting of contract bundling information through the President's Management Council (PMC)	PMC, composed of deputy secretaries and administrators from the major agencies, was tasked with assisting OMB with monitoring the status of agency efforts to address contract bundling. We did not obtain access to PMC documentation.
Require contract bundling reviews for task and delivery orders under multiple award contract vehicles	The Federal Acquisition Regulation (FAR) and Small Business Administration (SBA) regulations were amended on October 20, 2003.
Require agency review of proposed acquisitions above specified dollar thresholds for unnecessary and unjustified contract bundling	The FAR and SBA regulations were amended on October 20, 2003.
Require identification of alternative acquisition strategies for the proposed bundling of contracts above specified thresholds and written justification when alternatives involving less bundling are not used	The FAR and SBA regulations were amended on October 20, 2003.
Mitigate the effects of contract bundling by strengthening compliance with subcontracting plans	The FAR and SBA regulations were amended on October 20, 2003.
Mitigate the effects of contract bundling by facilitating the development of small business teams and joint ventures	SBA regulations were amended on October 20, 2003.
Identify best practices for maximizing small business opportunities	In January 2003, SBA requested agencies to provide proven "best practices" to optimize prime and subcontracting opportunities for small businesses. The intent of this action item was to disseminate best practices for incorporation into agencies training courses. On February 25, 2004, SBA advised us that a draft Best Practices Guide had not been approved and a schedule for its approval had not been established.
Dedicate agencies' Offices of Small and Disadvantaged Business Utilization (OSDBU) to the President's Small Business Agenda	OSDBUs must now submit annual bundling justification reports to their agency head and the SBA Administrator.

Source: GAO analysis of OFPP contract bundling strategy and regulations.

Appendix II: Summary of Agency Responses to OFPP-Directed Metrics

OFPP required OSDBUs from 23 agencies to report quarterly on implementation of OFPP's contract bundling strategy. Table 2 summarizes agency responses to the OFPP-directed metrics for fiscal year 2002.

Table 2: Summary of Agency Responses to OFPP-Directed Metrics for Fiscal Year 2002

Dollars in millions

Agency	Number of bundled contracts	Total number	Total dollars	Percentage of total agency procurement dollars for FY 2002	Review by OSDBU		Review by SBS ^b	
					Number	Percent	Number	Percent
					Contracts/orders at or above agency specific dollar thresholds ^a			
Agriculture	0	308	\$1,400.0	35.60	59	19	205	67
AID	N/R	56	410.5	38.75	45	^c	0 ⁿ	0 ⁿ
Commerce	0	89	436.5	27.00	24	27	65	73
DHS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DOD	8	3,397	131,018.2	72.50	^d	^d	3,319	98 ^e
Education	0	24	79.0	7.50	21	88	21	88
Energy	0	7	61.8	0.16	0 ^j	0	0 ^f	0
EPA	0	109	1,800.0	10.60	77	71	32	29
GSA	0	70	1,294.2	13.74	14	20	14	20
HHS	2	1,141	1,268.9	21.00	^d	^d	244 ^g	21
HUD	0	16	72.8	7.70	16	100	16	100
Interior	0	34	125.0	5.20	0	0	34	100
Justice	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Labor	0	25	176.3	10.70	8 ^h	^h	8 ^h	^h
NASA	0	68	4,553.8	34.20	15 ⁱ	22	68 ^l	100
NSF	0	1	131.8	69.40	1	100	1	100
OPM	0	7	23.9	7.30	7	100	7	100
SBA	0	5	17.2	38.00	5	100	5	100
SSA	0	26	89.7	14.00	12	46	12 ^k	46

**Appendix II: Summary of Agency Responses
to OFPP-Directed Metrics**

Dollars in millions

Contracts/orders at or above agency specific dollar thresholds^a

Agency	Number of bundled contracts	Total number	Total dollars	Percentage of total agency procurement dollars for FY 2002	Review by OSDBU		Review by SBS ^b	
					Number	Percent	Number	Percent
State	0	0	0	0	0	0	0	0
Transportation	3	260	2,820.7	80.00	3	0m	260	100
Treasury	0	121	1,747.0	57.82	33	27	33	27
VA	11	240	2,811.7	47.14			Unknown	Unknown
Total	24							

Source: GAO analysis of agency reported OFPP required metrics.

Legend:

N/R = not reported, N/A = not applicable

^aDOD = \$7M; Energy, GSA, and NASA = \$5M; all other agencies = \$2M.

^bSmall Business Specialist.

^cCannot be calculated. Review of contracts is not correlated to OFPP threshold requirements.

^dThe OSDBU gets involved on a case-by-case basis, when needed.

^eDOD orders off Federal Supply Schedules (FSS) are not required to be reviewed (with a Form 2579), but may actually be reviewed by a SBS. As a result, this is a "floor" amount and may actually be higher because the number excludes all 78 orders off FSS.

^fOSDBU and SBSs only review new contracts, not orders against existing contracts.

^gContract actions above \$100,000 are reviewed by SBSs.

^hBreakdown of contract/orders: 2 were solo source; 9 were unilaterally small business set-asides; 8 were contracts open market contract awards reviewed by OSDBU and SBS; 4 were orders to large business off GSA Schedules; and 2 were orders to small businesses off GSA schedules.

ⁱNASA OSDBU reviews any contract/order over \$50M. Fifteen fell into this category.

^jNASA SB specialists review all procurement expected to exceed \$100,000. All 68 fit this category.

^kOSDBU serves in the capacity of a SBS.

^lVA's OSDBU does not review contracts and/or purchase orders. It does review the VA Form 2268 for specific requirements at specific thresholds. OSDBU records reveal that 168 forms were reviewed in fiscal year 2002.

^mActual percentage is 0.15.

ⁿNo SBSs.

Appendix III: Summary of Contract Bundling Rule Changes

The FAR Council and Small Business Administration issued final rules in 2003 amending the bundling requirements in the FAR and SBA regulations (effective October 20, 2003). These amendments implemented recommendations in the Office of Management and Budget’s October 2002 report “Contract Bundling: A Strategy for Increasing Federal Contracting Opportunities for Small Business.” The following table summarizes the changes and new mandates incorporated in the amendments.

Table 3: Bundling Regulations, before and after Amendments

Before amendments	After amendments
Applicability	
An agency was required to conduct market research to determine whether bundling was necessary and justified. FAR 7.107(a); 13 C.F.R. 125.2(d)(3).	Clarified that it also applies to: (1) multiple award indefinite quantity contracts; and (2) orders placed against an indefinite quantity contract under: —a Federal Supply Schedule contract; or —a task/delivery order contract awarded by <i>another</i> agency—i.e., governmentwide acquisition contract or multi-agency contract. FAR 2.101; FAR 7.107(a); 13 C.F.R. 125.2(d)(1)(iii)(iv).
Justification of “measurably substantial” benefits	
To justify contract bundling, an agency was required to demonstrate “measurably substantial” benefits, which included: (1) costs savings, (2) price reduction, (3) quality improvements, (4) reduction in acquisition cycle times, (5) better terms and condition, or (6) any other benefits.	Clarified that it also applies to orders.
Quantification of benefits: These benefits were required to be quantified as: (1) 10 percent of the contract’s value (including options) if the contract was \$75 million or less; or (2) 5 percent of the contract’s value (including options) or \$7.5 million, whichever is greater, if the contract was over \$75 million. FAR 7.107(b); 13 C.F.R. 125.2(d)(5)(i).	Same quantification of benefits analysis, but clarified it also applies to orders. FAR 2.101; FAR 7.107(b); 13 C.F.R. 125.2(d)(1)(iv); 125.2(d)(5)(i).
Threshold—substantial bundling	
Substantial bundling threshold was defined as a contract worth \$10 million or more. FAR 7.107(e); 13 C.F.R. 125.2(d)(1)(iii).	Threshold lowered to: (1) \$7 million for the Department of Defense; (2) \$5 million for the Department of Energy, the General Services Administration, and National Aeronautics and Space Administration; and (3) \$2 million for all other agencies. FAR 7.107(e); FAR 7.104(d)(2); 13 C.F.R. 125.2(b)(2)(i)(ii) and 125.2(d)(1)(iv).

**Appendix III: Summary of Contract Bundling
Rule Changes**

Before amendments	After amendments
Justification—substantial bundling	
<p>To justify “substantial bundling,” agency must, in the documentation of that strategy: (1) identify the specific benefits anticipated to be derived from bundling; (2) include an assessment of the specific impediments to small business participation that result from bundling; (3) specify actions designed to maximize small business participation as contractors; (4) specify actions designed to maximize small business participation as subcontractors; and (5) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use. FAR 7.107(e)(1)-(5); 13 C.F.R. 125.2(d)(7).</p>	<p>Added a sixth requirement: identify alternative strategies that would reduce or minimize the scope of the bundling and the rationale for not choosing those alternatives. FAR 7.107(e)(6); 13 C.F.R. 125.2(d)(7)(E).</p> <p>Clarified that these six requirements applied to orders. FAR 7.107(e).</p>
New mandates	
Not applicable	<p>Agency must coordinate acquisition strategies with agency Small Business Specialist (SBS) when the acquisition meets the applicable new threshold and is not set aside for small business; SBS must then notify agency OSDBU if the strategy involves bundling that is unnecessary, unjustified, or not identified as bundling by the agency; and</p> <p>SBS must identify alternative strategies that would reduce bundling. (FAR 7.104(d)(1); 13 C.F.R. 125.2(b)(2)).</p>
Not applicable	<p>Agency OSDBU must:</p> <ul style="list-style-type: none"> conduct annual reviews to assess small business share of federal procurements, the adequacy of bundling documentation, and actions taken to mitigate the effects; and submit assessment to the agency head and SBA Administrator. (FAR 19.201(d)(11)(12); 13 C.F.R. 125.2(e)). <p>Agency must:</p> <ul style="list-style-type: none"> for any bundling, provide all information about the bundling justification, including the acquisition strategy, to the SBA procurement center representative 30 days before solicitation issuance; and for substantial bundling, also provide substantial bundling justification documentation to procurement center representative and submit all information to agency OSDBU. (FAR 19.202-1(e)(1)(iii); 13 C.F.R. 125.2(b)(3) and (d)(7)(E)(ii)).

Source: GAO analysis of regulations.

Appendix IV: Comments from the Office of Management and Budget



OFFICE OF FEDERAL
PROCUREMENT POLICY

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 6, 2004

Mr. David E. Cooper
Director
Acquisition and Sourcing Management
United States General Accounting Office
Washington, DC 20548

Dear Mr. Cooper:

Thank you for this opportunity to comment on the draft General Accounting Office (GAO) report entitled, "Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business Is Uncertain" (GAO-04-454).

The Office of Management and Budget (OMB) appreciates GAO's thorough analysis of agency efforts to implement the Administration's strategy on contract bundling. However, we are concerned with GAO's draft recommendation that would require the Office of Federal Procurement Policy (OFPP) "to establish metrics to measure contract bundling and the extent to which contract bundling impacts contracting opportunities for small businesses." We are concerned that this recommendation envisions that we establish new, government-wide reporting and record keeping requirements outside of the Federal Procurement Data System (FPDS).

For efficient and effective agency operations, we need to maintain our reliance on automated procurement data gathering, rather than establishing duplicative, possibly labor-intensive reporting requirements. We have devoted considerable resources to improving FPDS in recent years. Accordingly, we suggest that the recommendation be revised to require OFPP to work with the Small Business Administration to explore possible inclusion of new reporting requirements in FPDS that would track the impact of bundling on contracting opportunities for small businesses.

I appreciate your consideration of our recommended change to the draft GAO report.

Sincerely,

A handwritten signature in cursive script that reads "Robert A. Burton".

Robert A. Burton
Associate Administrator

Related GAO Products

Contract Management: DOD Needs Measures for Small Business Subcontracting Program and Better Data on Foreign Subcontracts. [GAO-04-381](#). Washington, D.C.: April 5, 2004.

Small and Disadvantaged Businesses: Most Agency Advocates View Their Roles Similarly. [GAO-04-451](#). Washington, D.C.: March 22, 2004.

Reliability Federal Procurement Data. [GAO-04-295R](#). Washington, D.C.: December 30, 2003.

Small Business Contracting: Concerns About the Administration's Plan to Address Contract Bundling Issues. [GAO-03-559T](#). Washington, D.C.: March 18, 2003.

Small Business: Trends in Federal Procurement in the 1990s. [GAO-01-119](#). Washington, D.C.: January 18, 2001.

Small Business Subcontracting Report Validation Can Be Improved. [GAO-02-166R](#). Washington, D.C.: December 13, 2001.

Small Business: Limited Information Available on Contract Bundling's Extent and Effects. [GAO/GGD-00-82](#). Washington, D.C.: March 31, 2000.

How Selected DOD Consolidation Efforts Affected Small Business Opportunities. [GAO/NSIAD-83-30](#). Washington, D.C.: August 12, 1983.

GAO's Mission

The General Accounting Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to e-mail alerts" under the "Order GAO Products" heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, Managing Director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548