

GAO

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

December 2007

# FEDERAL ACQUISITION

## Oversight Plan Needed to Help Implement Acquisition Advisory Panel Recommendations





Highlights of [GAO-08-160](#), a report to the Committee on Oversight and Government Reform, House of Representatives

## Why GAO Did This Study

A growing portion of federal spending is related to buying services such as administrative, management, and information technology support. Services accounted for about 60 percent of total fiscal year 2006 procurement dollars. The Services Acquisition Reform Act (SARA) of 2003 established a Services Acquisition Advisory Panel to make recommendations for improving acquisition practices. In January 2007, the panel proposed 89 recommendations to improve federal acquisition practices.

GAO was asked to determine how the panel recommendations compare to GAO's past work and identify how the Office of Federal Procurement Policy (OFPP) expects the recommendations to be addressed. To do this, GAO analyzed the panel report and compared its findings and recommendations to GAO's past work and recommendations, obtained OFPP's views on how it expected the recommendations to be implemented, and reviewed proposed legislation in Congress to determine if legislative provisions had the potential to address some recommendations.

## What GAO Recommends

GAO recommends that OFPP develop an oversight strategy or plan with milestones and reporting requirements to help it ensure the implementation of the SARA Panel recommendations and to gauge how they improve federal acquisition. OFPP agreed with GAO's recommendation.

To view the full product, including the scope and methodology, click on [GAO-08-160](#). For more information, contact John Hutton (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov).

## FEDERAL ACQUISITION

### Oversight Plan Needed to Help Implement Acquisition Advisory Panel Recommendations

#### What GAO Found

The SARA Panel, like GAO, has made numerous recommendations to improve federal government acquisition—from encouraging competition and adopting commercial practices to improving the accuracy and usefulness of procurement data. The recommendations in the SARA Panel report are largely consistent with GAO's past work and recommendations. The panel and GAO have both pointed out:

- the importance of a robust requirements definition process and the need for competition;
- the need to establish clear performance requirements, measurable performance standards, and a quality assurance plan to improve the use of performance-based contracting;
- the risks inherent in the use of interagency contracts due to their rapid growth and their improper management;
- stresses on the federal acquisition workforce and the need for a strategy to assess these workforce needs;
- concerns about the role of contractors engaged in acquisition program management and procurement traditionally performed by government employees and the proper roles of federal employees and contractor employees in a "blended" workforce; and
- the adverse effects of inaccurate and incomplete federal procurement data, such as not providing a sound basis for conducting procurement analyses.

The panel also made recommendations that would change the guidance for awarding contracts to small businesses. While GAO's work has addressed some small business policy issues, GAO has not made recommendations that would change the guidance to be used for awarding contracts to small businesses.

OFPP representatives told GAO that OFPP agrees with almost all of the panel recommendations and expected that most of the 89 panel recommendations would be implemented through one of the following means: congressional actions; changes to the Federal Acquisition Regulation; OFPP actions, such as issuing new or revised policy; and federal agency actions. OFPP has already acted on some SARA recommendations, while other actions are pending or under consideration. Milestones and reporting requirements are in place to help OFPP gauge the implementation status of some recommendations but not for others. Moreover, OFPP does not have a strategy or plan to allow it to exercise oversight and establish accountability for implementing all of the panel recommendations and to gauge their effect on federal acquisitions.

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### Abbreviations

A-PART	Acquisition Performance Assessment Rating Tool
COPR	Contracting Officer Performance Representative
COTR	Contracting Officer Technical Representative
DAU	Defense Acquisition University
DHS	Department of Homeland Security
DII	Defense Industry Initiative
DOD	Department of Defense
FAR	Federal Acquisition Regulations
FAI	Federal Acquisition Institute
FPDC	Federal Procurement Data Center
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Services Administration
ISSA	interagency service support agreement
IV&V	Independent Verification and Validation
NDAA	National Defense Authorization Act
OCI	organizational conflict of interest
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
PBA	performance-based acquisition
PCI	personal conflict of interest
SARA	Services Acquisition Reform Act

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United States Government Accountability Office  
Washington, DC 20548

December 20, 2007

The Honorable Henry A. Waxman  
Chairman  
The Honorable Tom Davis  
Ranking Member  
Committee on Oversight and Government Reform  
House of Representatives

Each year the federal government—the single largest buyer in the world—spends billions of dollars to procure goods and services. In fiscal year 2006, it spent over \$400 billion. A growing portion of this spending is related to buying services such as administrative, management, and information technology support. Services now account for about 60 percent of total procurement dollars. In fiscal year 2006, for example, the Department of Defense (DOD) obligated more than \$151 billion on service contracts, an 82 percent increase since fiscal year 2000. Our prior work has shown that spending on goods and services requires sound acquisition practices—such as well-defined requirements, robust competition, effective monitoring of contractor performance, and the appropriate use of other agencies’ contracts and contracting services—to minimize unnecessary risk and the waste of government resources.

Congress passed the Services Acquisition Reform Act of 2003 (SARA), which provided federal agencies an array of tools to improve how they acquired services.<sup>1</sup> The act also established an acquisition advisory panel, which began work in February 2005, to review acquisition laws and regulations and make recommendations to improve federal acquisition practices. The SARA Acquisition Advisory Panel issued its final report dated January 2007, making 89 recommendations to improve the acquisition of services in the following areas: commercial practices, performance-based acquisitions, interagency contracting, small business, the federal acquisition workforce, the role of contractors supporting government, and federal procurement data.<sup>2</sup> Each of these areas is addressed as a separate chapter in the report. The panel directed most of its recommendations to the Office of Federal Procurement Policy (OFPP)

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<sup>1</sup>Pub. L. No. 108-136, 117 Stat. 1663 (2003).

<sup>2</sup>*Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007.

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within the Office of Management and Budget (OMB) for implementation, while the others were directed to Congress and federal agencies. You asked us to review the panel's recommendations. To do this, we determined (1) how the recommendations compare with our past work and recommendations and (2) how OFPP is addressing the recommendations.

For purposes of our review, we counted the panel recommendations based on actionable items. For example, the panel report contained 15 separate action items in the chapter on commercial practices, but it consolidated them into 10 recommendations. We counted 15 recommendations for this chapter. To determine how the panel recommendations compare to our work and recommendations, we analyzed the panel report and our related work. We determined whether the recommendations are consistent with our prior work, based on our broad institutional knowledge obtained through long-term involvement with the subject matter and our recommendations. In some cases, we considered the panel recommendations consistent with our past work if we thought their implementation would help address broader acquisition issues covered by our work, even though the panel recommendations were not identical or similar to our specific recommendations. For recommendations where we have no relevant work, we had no basis to take a position on the recommendations. To determine how OFPP is planning on addressing the panel recommendations, we reviewed OFPP policy memorandums issued to senior procurement executives and recent Federal Acquisition Regulatory Council initiatives. We also obtained OFPP views on how the agency expects each recommendation to be implemented. We also reviewed pending legislative proposals in the U.S. Senate and House of Representatives to identify legislative initiatives that could address some of the panel recommendations. Appendix I includes additional details about our scope and methodology. We conducted our review from March 2007 to November 2007 in accordance with generally accepted government auditing standards.

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## Results in Brief

The recommendations in the SARA Panel report are largely consistent with GAO's past work and recommendations. We have both pointed out

- the importance of a robust requirements definition process;
- the need for competition, which is a mandate that runs through the statutes and regulations governing federal procurement;

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- the need for clear performance requirements, measurable performance standards, and a quality assurance plan to improve the use of performance-based contracting;
  - the risks inherent in the use of interagency contracts due to their rapid growth and their improper management;
  - the stresses on the federal acquisition workforce and the need for a strategic approach to assess workforce needs;
  - concerns about the role of contractors engaged in acquisition program management and other procurement activities traditionally performed by government employees and the proper roles for contractor employees in a “blended” workforce; and
  - the adverse effects of inaccurate and incomplete federal procurement data, which cannot be relied on to conduct procurement analyses.

Like the panel, we have made numerous recommendations to address these issues and bring improvement to government procurement. The panel also made recommendations that would change the guidance for awarding contracts to small businesses. While our work on small business has addressed a number of these policy issues, we have not made recommendations that would change the guidance for awarding contracts to small businesses. Our analysis of each recommendation is shown in appendix II.

OFPP representatives told us the office agrees with almost all of the 89 panel recommendations and has already acted on some SARA recommendations, while other actions are pending or under consideration. Generally, efforts to implement the recommendations fall into the broad categories of (1) legislative action; (2) changes to the Federal Acquisition Regulations (FAR); (3) OFPP actions, such as issuing or revising policy; and (4) federal agency action. OFPP noted that legislative actions and pending FAR cases could address about one-third of the recommendations. OFPP is expected to address most of the remaining recommendations and plans to work with the Chief Acquisition Officer or senior procurement official within each agency to do so. Based on the information OFPP provided, an overall strategy or plan with milestones and reporting requirements has not yet been established to help provide visibility over the progress and results of implementing the recommendations. Without an overall strategy or plan, it is unclear how OFPP will gauge the successes and shortcomings in how the panel recommendations improve federal acquisitions. OFPP is supportive of all but two panel recommendations—one involving changing the name Contracting Officer Technical Representative (COTR) to Contracting Officer Performance Representative (COPR) and one allowing for protests

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of task and delivery orders over \$5 million that are awarded under multiple award contracts.<sup>3</sup> OFPP does not consider the name change to add significant value and prefers that the recommended bid protest threshold be higher.

Given that OFPP agrees with almost all of the panel recommendations and that they are largely supported by GAO's work, we are recommending that the Administrator of OFPP develop an oversight strategy or plan that would include milestones and reporting requirements that OFPP could use to gauge the progress and effectiveness of implementing the recommendations. OFPP officials provided oral comments on a draft of this report. They stated that OFPP generally agreed with our findings and observations and agreed in principle with our recommendation. They also noted that they would rely on Chief Acquisition Officers and senior procurement executives within federal agencies to help implement the recommendations.

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## Background

Section 1423 of the Services Acquisition Reform Act of 2003 directed the Administrator for Federal Procurement Policy to establish an acquisition advisory panel to (1) review all federal acquisition laws and regulations and, to the extent practicable, governmentwide acquisition policies, with a view toward ensuring effective and appropriate use of commercial practices, performance-based contracting, the performance of acquisition functions across agency lines of responsibility, and the use of governmentwide contracts and (2) make any recommendations for the modification of laws, regulations, or policies that are considered necessary to

- protect the best interests of the federal government;
- ensure the continuing financial and ethical integrity of acquisitions by the federal government; and
- enhance effective, efficient, and fair award and administration of contracts for the acquisition of goods and services.

The Administrator for Federal Procurement Policy appointed the panel members in February 2005. The panel held 31 public meetings and heard the testimony of 108 witnesses, representing 86 entities from industry,

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<sup>3</sup> Federal statutes do not allow for protests of task and delivery orders issued under Multiple Award Contracts.



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government, and public interest organizations. Witnesses included representatives from GAO. The panel's public deliberations produced about 7,500 pages of transcript. In addition, the panel received written public statements from over 50 sources, including associations, individual companies, and members of the public. The documents and transcripts associated with the panel's deliberations were available to the public via a Web site established specifically for the panel's work. The panel's final report, which was dated January 2007, was released in its final form in July 2007. The report contains seven chapters that cover the following areas: commercial practices, performance-based acquisition, interagency contracting, the federal acquisition workforce, the appropriate role of contractors supporting government, the federal procurement data, and small business.<sup>4</sup> In all, the panel made 89 recommendations for the modification of laws, regulations, or policies that it considered necessary as the result of its review.

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## Most SARA Panel Recommendations Are Consistent with Our Past Work

The 89 recommendations in the panel report are largely consistent with our past work and recommendations. Presented below is a discussion of the seven areas the panel reviewed, the general thrust of the panel's recommendations, and our views on them.

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### Commercial Practices

According to the panel, the bedrock principle of commercial acquisition is competition. The panel found that defining requirements is key to achieving the benefits of competition because procurements with clear requirements are far more likely to produce competitive, fixed price offers that meet customer needs. Further, the panel found that commercial organizations invest the time and resources necessary to understand and define their requirements. They use multidisciplinary teams to plan their procurements, conduct competitions for award, and monitor contract performance. Commercial organizations rely on well-defined requirements and competitive awards to reduce prices and obtain innovative, high-

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<sup>4</sup> *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007, p. 327. The federal acquisition workforce, the appropriate role of contractors, federal procurement data, and small business were not specific topics that Congress directed the panel to address. The panel added working groups to address these topics after it began its work. The panel believed issues in these areas needed to be addressed if it were to provide the insight and assistance sought by Congress.

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quality goods and services. Hence, practices that enhance and encourage competition were the basis of the panel recommendations. Among other things, the panel recommended that the requirements process be improved, competitive procedures be strengthened, and the definition of commercial services be amended.

Our work is generally consistent with the panel recommendations, and we have issued numerous products that address the importance of a robust requirements definition process and the need for competition. For example, in January 2007, we testified that poorly defined or broadly described requirements have contributed to undesired service acquisition outcomes.<sup>5</sup> To produce desired outcomes within available funding and required time frames, our work has shown that DOD and its contractors need to clearly understand acquisition objectives and how they translate into the contract's terms and conditions. The absence of well-defined requirements and clearly understood objectives complicates efforts to hold DOD and contractors accountable for poor acquisition outcomes. This has been a long-standing issue. Previously, in 2000, we reported that DOD was not clearly defining requirements for most information technology services.<sup>6</sup> Requirements were not clearly defined because the orders for information technology services covered several years of effort, and officials were uncertain what support they would need in future years. The 22 orders we reviewed—with an awarded value of \$553 million—typically provided for reimbursing the contractors' costs, leaving the government bearing most of the risk of cost growth. Further, a majority of these orders were awarded without competition. More recently, we testified, in July 2007, that agencies, among other things, need to translate their true needs into executable programs by setting realistic and stable requirements.<sup>7</sup> However, agencies too often promise capabilities they cannot deliver and proceed to development without adequate knowledge. As a result, programs take significantly longer, cost more than planned, and deliver different capabilities than promised.

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<sup>5</sup> GAO, *Defense Acquisitions: DOD Needs to Exert Management and Oversight to Better Control Acquisition of Services*, [GAO-07-359T](#) (Washington, D.C.: Jan. 17, 2007).

<sup>6</sup> GAO, *Contract Management: Few Competing Proposals for Large DOD Information Technology Orders*, [GAO/NSIAD-00-56](#) (Washington, D.C.: Mar. 20, 2000).

<sup>7</sup> GAO, *Federal Acquisitions and Contracting: Systemic Challenges Need Attention*, [GAO-07-1098T](#) (Washington, D.C.: July 17, 2007).

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Regarding competition, we have stated that competition is a fundamental principle underlying the federal acquisition process.<sup>8</sup> Nevertheless, we have reported numerous times on the lack of competition in DOD's acquisition of goods and services. For example, we noted in April 2006 that DOD awarded contracts for security guard services supporting 57 domestic bases, 46 of which were done on an authorized sole-source basis.<sup>9</sup> The sole-source contracts were awarded by DOD despite recognizing it was paying about 25 percent more than previously paid for the contracts awarded competitively. We also reported in July 2004 that guidance was needed to promote competition for defense task orders placed against indefinite delivery, indefinite quantity contracts.<sup>10</sup> We found that competition requirements were waived for nearly half (34 of 74) of the multiple-award contract and federal supply schedule orders we reviewed.<sup>11</sup> Often, contracting officers waived competition based on requests from the DOD program offices to retain the services of contractors currently performing the work. In addressing these requests, safeguards to ensure that waivers were granted only under appropriate circumstances were lacking. In addition, the requirements for documenting the basis for waivers were not specific, and there was no requirement that waivers be approved above the level of the contracting officer. We made recommendations to the Secretary of Defense to (1) develop guidance on the conditions under which a waiver of competition may be used, (2) require detailed documentation to support waivers, and (3) establish approval authority above the contracting officer level based on the value of the order. Although these recommendations were directed at DOD, they are relevant across all federal agencies and consistent with the panel

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<sup>8</sup> [GAO-07-359T](#).

<sup>9</sup> GAO, *Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach*, [GAO-06-284](#) (Washington, D.C.: Apr. 3, 2006).

<sup>10</sup> GAO, *Contract Management: Guidance Needed to Promote Competition for Defense Task Orders*, [GAO-04-874](#) (Washington, D.C.: July 30, 2004). Also, see GAO, *Small Business: Trends in Federal Procurement in the 1990s*, [GAO-01-119](#) (Washington, D.C.: Jan. 18, 2001). Indefinite Delivery, Indefinite Quantity contracts provide for an indefinite quantity, within stated limits, of goods or services during a fixed period of time. Agencies place separate task or delivery orders for individual requirements that specify the quantity and delivery terms associated with each order. The Federal Acquisition Regulation expresses a preference for multiple awards of these contracts, which allows orders to be placed using a streamlined, commercial-style selection process where consideration is limited to the contract awardees. FAR 16.504.

<sup>11</sup> Waivers are granted based on authority in the FAR and Defense Federal Acquisition Regulation Supplement.

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recommendations to strengthen competitive procedures across the federal government with respect to policy, procedures, and training.

As the panel noted, there have also been concerns about the federal government's definition of a commercial service. The panel finding was that the current regulatory treatment of commercial items and services allows for goods and services not sold in substantial quantities in the commercial market to be classified as "commercial" and purchased using streamlined procedures under Part 12 of the FAR, which deals with commercial items.<sup>12</sup> The panel noted that the most critical element of the definition of commercial services is that the service must be offered and sold competitively, in substantial quantities, in the commercial marketplace. If the definition is overly broad, misclassification can result and the government might lack assurances that the prices of those items and services are reasonable. When commercial market forces that meet the critical elements do not exist, the panel noted that more traditional methods, such as negotiated procurements described under FAR Part 15, should be used. FAR Part 15 describes the procedures to be used when an item or service is purchased under negotiated procurements.

While we addressed issues related to commercial items in the past, we have not specifically made recommendations on the definition of commercial items or services. However, in July 2006, we reported that DOD sometimes uses commercial item procedures to procure items that are misclassified as commercial items and therefore not subject to the forces of a competitive marketplace.<sup>13</sup> When an item is designated as commercial, the government should be able to determine if the price is reasonable based on prices found in the commercial marketplace. However, if the government designates a service (or an item) as commercial merely because the service is "of a type" that is sold commercially, but the offered service is not readily available in the commercial market, the government reduces its ability to assess the reasonableness of the contractor's price because it does not have prices derived through the benefit of competition in the commercial market place.

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<sup>12</sup> *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007, p. 95.

<sup>13</sup> GAO, *Contract Management: DOD Vulnerabilities to Contracting Fraud, Waste, and Abuse*, [GAO-06-838R](#) (Washington, D.C.: July 7, 2006).

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Another panel recommendation dealt with pricing of commercial services. The panel reasoned that if the service meets the definition of a commercial service—in other words, it is sold in the commercial marketplace in substantial quantities—then an agency should be able to obtain a reasonable price based on the effects of existing competition, market research, and analysis of prices for similar commercial sales. The panel reasoned that even if the agency purchased a commercial service with no or limited competition, the prices that would be obtained would reflect market forces. The panel recommended, therefore, that when an agency buys a commercial service that meets the definition of a commercial service, a contracting officer may not require certification of detailed cost breakdowns, nor may contractor costs be the subject of a postaward audit.

While we recognize the panel's position with regard to limiting the use of postaward audits with respect to procuring commercial services, our past work has been supportive of postaward audits as a tool that should be available to the acquisition workforce in certain other cases to ensure that the government receives fair and reasonable prices. Specifically, we reported that the General Services Administration (GSA) Inspector General found that the postaward audits of acquisitions using Multiple Award Schedules contracts were a deterrent to vendor pricing abuse.<sup>14</sup> Additionally, they can result in recovery of money from contractors that have overpriced their products after the contract was awarded. Both GSA and the Department of Veterans Affairs have recovered millions of dollars through the use of postaward audits for their schedule contracts. For example, we found the Department of Veterans Affairs recovered \$90 million from postaward audits during fiscal years 1999 to 2004.<sup>15</sup>

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## Improving Implementation of Performance-Based Acquisition

The panel reported that performance-based acquisition (PBA) has not been fully implemented in the federal government even though OMB has encouraged greater use of it—setting a general goal in 2001 of making performance-based contracts 40 percent or more of all eligible service

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<sup>14</sup> GAO, *Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts*, [GAO-05-229](#) (Washington, D.C.: Feb. 11, 2005).

<sup>15</sup> See GAO, *Contract Management: Further Efforts Needed to Sustain VA's Progress in Purchasing Medical Products and Services*, [GAO-04-718](#) (Washington, D.C.: June 22, 2004).

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acquisitions for fiscal year 2006.<sup>16</sup> The panel reported that agencies were not clearly defining requirements, not preparing adequate statements of work, not identifying meaningful quality measures and effective incentives, and not effectively managing the contract. The panel noted that a cultural emphasis on “getting to award” still exists within the government, which precludes taking the time to clarify agency needs and adequately define requirements. The panel recommended that OFPP issue more explicit implementation guidance and create a PBA “Opportunity Assessment” tool to help agencies identify when they should consider using PBA contracts.

Like the panel, we have found that agencies have faced a number of issues when using PBA contracts. For example, we reported in April 2003 that there was inadequate guidance and training, a weak internal control environment, and limited performance measures and data that agencies could use to make informed decisions on when to use PBA.<sup>17</sup> We have made recommendations similar to the panel’s. For example, we have recommended that the Administrator of OFPP work with agencies to periodically evaluate how well agencies understand PBA and how they can apply it to services that are widely available in the commercial sector, particularly with more unique and complex services.<sup>18</sup> The panel’s concern that agencies are not properly managing PBA contracts is also consistent with our work on surveillance of service contracts. In a March 2005 report, we found that proper surveillance of service contracts, including PBAs, was not being conducted, leaving DOD at risk of being unable to identify and correct poor contractor performance.<sup>19</sup> Accordingly, we recommended that the Secretary of Defense ensure the proper surveillance training of personnel and their assignment to contracts occur no later than the date of contract award. We further recommended the development of practices to help ensure accountability for personnel carrying out surveillance

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<sup>16</sup> PBA is an approach to acquisition that focuses on describing end results and compensating vendors on the basis of whether or not results are achieved. The FAR requires that a PBA have clear performance requirements, measurable performance standards, and a quality assurance surveillance plan. With a PBA, the manner in which the work is to be performed is left up to the contractor. FAR 37.6.

<sup>17</sup> GAO, *Federal Procurement: Spending and Workforce Trends*, [GAO-03-443](#) (Washington, D.C.: Apr. 30, 2003).

<sup>18</sup> GAO, *Contract Management: Guidance Needed for Using Performance-Based Service Contracting*, [GAO-02-1049](#) (Washington, D.C.: Sept. 23, 2002).

<sup>19</sup> GAO, *Contract Management: Opportunities to Improve Surveillance on Department of Defense Service Contracts*, [GAO-05-274](#) (Washington, D.C.: Mar. 17, 2005).

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responsibilities. We have also found that some agencies have attempted to apply PBA to complex and risky acquisitions, a fact that underscores the need to maintain strong government surveillance to mitigate risks.<sup>20</sup>

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## Interagency Contracting

Interagency contracts are designed to leverage the government's aggregate buying power and provide a simplified method to procure commonly used goods and services.<sup>21</sup> For example, the General Services Administration provides a wide range of contracts that are available to all government agencies for purchasing a wide range of commercially available supplies and services at competitive prices. The panel found that reliance on interagency contracts is significant. According to the panel report, 40 percent of the total 2004 obligations, or \$142 billion, was obligated through the use of interagency contracts. The panel also found that a significant reason for the increased use of these contracts has been reductions in the acquisition workforce accompanied by increased workloads and pressures to reduce procurement lead times. Accordingly, the panel made numerous recommendations to improve the use of interagency contracts with the intent of enhancing competition, lowering prices, improving the expertise of the acquisition workforce, and improving guidance for choosing the most appropriate interagency contract for procurements.

Our work is generally consistent with the panel's recommendations on interagency contracting. In fact, 15 of our products on interagency contracting were cited in the panel report. These reports included numerous recommendations that are consistent with the panel's recommendations. Our reports recognize that interagency contracts can provide the advantages of timeliness and efficiency by leveraging the government's buying power and providing a simplified and expedited method of procurement. However, a number of factors make these types of contracts high risk; these factors include their rapid growth in popularity, their use by some agencies that have limited expertise with this contracting method, and the number of parties that might be involved.

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<sup>20</sup> [GAO-02-1049](#).

<sup>21</sup> Interagency contracts include (1) multi-agency contracts that are task-order or delivery-order contracts established by one agency for use by other agencies, (2) the General Services Administration's Schedules Program, also known as the Federal Supply Schedules Program or Multiple Award Schedules Program, and (3) governmentwide acquisition contracts established pursuant to the Clinger-Cohen Act, 40 U.S.C. 11314(a)(2) for information technology. *Report of the Acquisition Advisory Panel, to the Office of Federal Procurement Policy and the United States Congress*, January 2007, pp. 228-232.

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Taken collectively, these factors contribute to a much more complex procurement environment—one in which accountability is not always clearly established.

In 2005, because we found that interagency contracts can pose risks if they are not properly managed, we designated the management of interagency contracting a governmentwide high-risk area.<sup>22</sup> Specifically, our prior work has found that agencies involved in the interagency contracting process have not always obtained required competition, evaluated contracting alternatives, or conducted adequate oversight. For example, our 2006 review at the Department of Homeland Security (DHS), found that DHS did not have comprehensive guidance for the use of all types contracts, including interagency contracts.<sup>23</sup> DHS relied on this contracting method for speed and convenience, but did not assess alternatives to ensure good value when selecting among these contracting options and did not evaluate the outcomes of this contracting method. Additionally, our 2005 review of DOD's use of two franchise funds<sup>24</sup> had similar findings.<sup>25</sup> For example, DOD did not have clear guidance on the proper use of interagency contracting services and selected them based on convenience without analyzing whether this was the best method meeting its purchasing needs. The franchise fund organizations providing these services did not always obtain the full benefits of competitive procedures, did not otherwise ensure fair and reasonable procedures, and may have missed opportunities to achieve savings on millions of dollars in purchases. In another review, we found task orders placed by DOD on a GSA schedule contract did not always satisfy legal requirements for

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<sup>22</sup> GAO, *High Risk Series: An Update*, [GAO-05-207](#) (Washington, D.C.: January 2005), and *High Risk Series: An Update*, [GAO-07-310](#) (Washington, D.C.: January 2007).

<sup>23</sup> GAO, *Interagency Contracting: Improved Guidance, Planning, and Oversight Would Enable the Department of Homeland Security to Address Risks*, [GAO-06-996](#) (Washington, D.C.: Sept. 27, 2006).

<sup>24</sup> Franchise funds are government-run, self-supporting businesslike enterprises managed by federal employees. Franchise funds provide a variety of common administrative services, such as payroll processing, information technology support, employee assistance programs, public relations, and contracting.

<sup>25</sup> GAO, *Interagency Contracting: Franchise Funds Provide Convenience, but Value to DOD Is Not Demonstrated*, [GAO-05-456](#) (Washington, D.C.: July 29, 2005).



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competition because the work was not within the scope of the underlying contract.<sup>26</sup>

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## Small Business

The panel stated that small businesses are recognized as one of the nation's most valuable economic resources. The report noted that studies commissioned by the U.S. Small Business Administration Office of Advocacy reveal that small businesses represent 99.7 percent of employers and employ about half of all private-sector employees. The panel reported that recognizing the vital role of small businesses in the U.S. economy, Congress has emphasized small business contracting as a fundamental socioeconomic goal underlying federal procurement policy. For example, Congress established a governmentwide small business contracting goal of awarding not less than 23 percent of the total value of all federal prime contracts to small businesses each fiscal year.

The panel made recommendations to change the guidance to contracting officers in awarding contracts to small businesses. These recommendations are intended to improve the policies and, hence, address the socioeconomic benefits derived from acquiring services from small businesses. All but one of the recommendations requires legislation for implementation.<sup>27</sup> While our work on small business has addressed a number of these policy issues, including how they are implemented,<sup>28</sup> we have not made recommendations that could change the guidance to contracting officers that would affect the socioeconomic benefits between achieving contract performance and ensuring opportunities for various categories of small businesses to participate in federal contracts. We do not usually make recommendations for statutory and regulatory changes when arguments for such changes are based on value judgments, such as those related to setting small business contracting goals.

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<sup>26</sup> GAO, *Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges*, [GAO-04-605](#) (Washington, D.C.: June 1, 2004).

<sup>27</sup> The panel recommends, for example, amending the Small Business Act to remove any statutory provisions (such as the one contained in the HUBZone Act) that appear to provide for a hierarchy of small business contracting among certain small business programs. *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007, p. 292.

<sup>28</sup> See GAO, *Contract Management: Reporting of Small Business Contract Awards Does Not Reflect Current Business Size*, [GAO-03-704T](#) (Washington, D.C.: May 7, 2003).

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## Federal Acquisition Workforce

The federal acquisition workforce was not one of the topics Congress directed the panel to address. The panel reported, however, that it could not provide the insight and assistance Congress sought without addressing the problems presented by the federal acquisition workforce. Specifically, panel members recognized a significant mismatch between the demands placed on the acquisition workforce and the personnel and skills available within the workforce to meet those demands. The panel found, for example, that demands on the federal acquisition workforce have grown substantially while at the same time, the complexity of the federal acquisition system as a whole has increased. Accordingly, the panel made a number of recommendations designed to define, assess, train, and collect data on the acquisition workforce and to recruit talented entry-level personnel and retain its senior workforce.

Our work is generally consistent with the panel findings and recommendations on the acquisition workforce. On the basis of observations made by acquisition experts from the federal government, private sector, and academia, we reported in October 2006 that agency leaders have not recognized or elevated the importance of the acquisition profession within their organizations.<sup>29</sup> The officials further noted that a strategic approach had not been taken across government or within agencies to focus on workforce challenges, such as creating a positive image essential to successfully recruit and retain a new generation of talented acquisition professionals. In September 2006, we testified that while the amount, nature, and complexity of contract activity has increased, DOD's acquisition workforce, the largest component of the government's acquisition workforce, has remained relatively unchanged in size and faces certain skill gaps and serious succession planning challenges.<sup>30</sup> Further, we testified that DOD's acquisition workforce must have the right skills and capabilities if it is to effectively implement best practices and properly manage the goods and services it buys. In July 2006 we reported that in the ever-changing DOD contracting environment, the acquisition workforce must be able to rapidly adapt to increasing workloads while continuing to improve its knowledge of market conditions, industry trends, and the technical details of the goods and

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<sup>29</sup> GAO, *Highlights of a GAO Forum: Federal Acquisition Challenges and Opportunities in the 21st Century*, [GAO-07-45SP](#) (Washington, D.C.: October 2006).

<sup>30</sup> GAO, *DOD Acquisitions: Contracting for Better Outcomes*, [GAO-06-800T](#) (Washington, D.C.: Sept. 7, 2006).

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services it procures.<sup>31</sup> Moreover, we noted that effective workforce skills were essential for ensuring that DOD receives fair and reasonable prices for the goods and services it buys and identified a number of conditions that increased DOD's vulnerabilities to contracting waste and abuse. We had previously stated in a report issued in 2002 that procurement reforms, changes in staffing levels and workload, and the need for new skill sets have placed unprecedented demands on the acquisition workforce.<sup>32</sup> For example, DOD's civilian acquisition workforce level was downsized in the 1990s. However, we noted that DOD's approach to acquisition workforce reduction was not oriented toward shaping the makeup of the workforce; rather, DOD relied primarily on voluntary turnover and retirements, freezes on hiring authority, and its authority to offer early retirements and buyouts to achieve reductions.

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## Contractors Supporting the Federal Government

The panel reported that, in some cases, contractors are solely or predominantly responsible for the performance of mission-critical functions that were traditionally performed by government employees, such as acquisition program management and procurement, policy analysis, and quality assurance. Further, the panel noted that this development has created issues with respect to the proper roles of, and relationships between, federal employees and contractor employees in the "blended" workforce. The panel stated that although federal law prohibits contracting for activities and functions that are inherently governmental, uncertainty about the proper scope and application of this term has led to confusion, particularly with respect to service contracting outside the scope of OMB's Circular A-76, which provides guidance on competing work for commercial activities via public-private competition.<sup>33</sup> Moreover, according to the panel, as the federal workforce shrinks, there is a need to ensure that agencies have sufficient in-house expertise and experience to perform inherently governmental functions by being in a position to make critical decisions regarding policy and program management issues and to manage the performance of their contractors. The panel recommended that the FAR Council consider developing a standard organizational

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<sup>31</sup> GAO, *Contract Management: DOD Vulnerabilities to Contracting Fraud, Waste, and Abuse*, [GAO-06-838R](#) (Washington, D.C.: July 7, 2006).

<sup>32</sup> GAO, *Acquisition Workforce: Status of Agency Efforts to Address Future Needs*, [GAO-03-55](#) (Washington, D.C.: Dec. 18, 2002).

<sup>33</sup> OMB, Circular A-76, *Performance of Commercial Activities* (Washington, D.C.: May 2003).

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conflict-of-interest clause for solicitations and contracts that set forth a contractor's responsibility concerning its employees and those of its subcontractors, partners, and any other affiliated organization or individual;<sup>34</sup> that OFPP update the principles for agencies to apply in determining which functions government employees must perform; and that OFPP ensure that the functions identified as those that must be performed by government employees are adequately staffed.<sup>35</sup>

On the basis of our work, we have similar concerns to those expressed by the panel, and our work is generally consistent with the panel's recommendations on the appropriate role of contractors supporting the federal acquisition workforce. We have testified and reported on the issues associated with an unclear definition of what constitutes inherently governmental functions, inadequate government experience and expertise for overseeing contractor performance, and organizational conflicts of interest related to contractor responsibilities.<sup>36</sup> We found that there is a need for placing greater attention on the type of functions and activities that could be contracted out and those that should not, reviewing the current independence and conflict-of-interest rules relating to contractors, and identifying the factors that prompt the government to use contractors in circumstances where the proper choice might be the use of government employees or military personnel. In our recent work at DHS, we found that more than half of the 117 statements of work we reviewed provided for services that closely support the performance of inherently governmental

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<sup>34</sup> See GAO bid protest decision, *Aetna Gov't Health Plans, Inc.; Foundation Health Fed. Servs., Inc.*, B-254397 et al., July 27, 1995, 95-2 CPD 129 at 12-13 for a discussion of issues associated with organizational conflicts of interest.

<sup>35</sup> According to the panel, it has been 15 years since OFPP's last comprehensive analysis of what constitutes an inherently government function. Also, there have been numerous changes in the way the government operates and the way that contractors are utilized since that time. As a result, the panel concluded that it would be appropriate for OFPP to adopt a set of general principles and best practices to identify those functions that should be performed by civil servants.

<sup>36</sup> GAO, *Homeland Security: Observations on the Department of Homeland Security's Acquisition Organization and on the Coast Guard's Deepwater Program*, [GAO-07-453T](#) (Washington, D.C.: Feb. 8, 2007). We have also found problems with contractors having too much control over the Department of Energy's nuclear energy programs, the Environmental Protection Agency's Super-fund Program, and the National Aeronautics and Space Administration's Space Shuttle Challenger and the Hubble Space Telescope. See GAO, *Government Contractors: Are Service Contractors Performing Inherently Governmental Functions?* [GGD-92-11](#) (Washington, D.C.: Nov. 18, 1991).

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functions.<sup>37</sup> We made recommendations to DHS to improve control and accountability for decisions resulting in buying services that closely support inherently governmental functions. Accordingly, our work is consistent with panel recommendations to update the principles for agencies to apply in determining which functions government employees must perform, and ensure that the functions identified as those that must be performed by government employees are adequately staffed.

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## Report on Federal Procurement Data

The Federal Procurement Data System-Next Generation (FPDS-NG) is the federal government's primary central database for capturing information on federal procurement actions. Congress, executive branch agencies, and the public rely on FPDS-NG for a wide range of information including agency contracting actions, governmentwide procurement trends, and how procurement actions support socioeconomic goals and affect specific geographical areas and markets. The panel reported that FPDS-NG data, while insightful when aggregated at the highest level, continue to be inaccurate and incomplete at the detailed level and cannot be relied on to conduct procurement analyses.<sup>38</sup> In its report, the panel noted its frustration with trying to use FPDS-NG data for selected detailed analyses. The panel believes the processes for capturing and reporting FPDS-NG data need to be improved if it is to meet user requirements. As a result, the panel made 15 recommendations aimed at increasing the accuracy and the timeliness of the FPDS-NG data. For example, the panel recommended that an independent verification and validation should be undertaken to ensure all other validation rules are working properly in FPDS-NG. The panel also recommended that Congress revise the OFPP Act<sup>39</sup>—an act that required a federal system for collecting and disseminating procurement statistics—to assign responsibility for timely and accurate data reporting to FPDS-NG or successor system to the head of executive agency. The panel recommended that OFPP ensure that FPDS-NG reports data on orders under interagency and enterprisewide contracts and make these

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<sup>37</sup> GAO, *Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services*, [GAO-07-990](#) (Washington, D.C.: Sept. 17, 2007).

<sup>38</sup> FPDS, the predecessor to FPDS-NG, first began collecting procurement data for fiscal year 1979 and, from that time on, there were concerns regarding the accuracy and completeness of FPDS data.

<sup>39</sup> *Report of The Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007, p. 430.

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data publicly available. For example, the panel recommended that the OFPP Interagency Contracting Working Group address data entry responsibility as part of the creation and continuation process for interagency and enterprisewide contracts. The panel expects its recommendations, if properly implemented, to increase the accuracy and usefulness of federal procurement data.

Our work has identified similar concerns as those expressed by the panel and made similar recommendations. The panel cited our work numerous times in its report. Like the panel, we have pointed out that FPDS-NG data accuracy has been a long-standing problem and have made numerous recommendations to address this problem. As early as 1994, we reported that the usefulness of federal procurement data for conducting procurement policy analysis was limited.<sup>40</sup> We have also had concerns about the accountability for data accuracy and reported in fiscal year 2002 that the Federal Procurement Data Center (FPDC) does not have the knowledge to correct inaccurate data or the authority to require agencies to do so. More recently, in 2005, we again raised concerns about the accuracy and timeliness of the data available in FPDS-NG.<sup>41</sup> We have also reported that the use of independent verification and validation function is recognized as a best business practice and can help provide reasonable assurance that the system satisfies its intended use and user needs.<sup>42</sup> We also reported in 2005 that the need for collecting and tracking data on interagency contracting transactions has become increasingly important.<sup>43</sup> One panel recommendation called for us to conduct an audit that addresses the quality of FPDS-NG data and agency compliance in providing accurate and timely data. As our work has shown, we have already addressed these issues and we believe such an audit would not be necessary if OFPP implements the other recommendations related to FPDS-NG data.

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<sup>40</sup>GAO, *OMB and GSA: FPDS Improvements*, AIMD-94-178R (Washington, D.C.: Aug. 19, 1994).

<sup>41</sup>GAO, *Improvements Needed to the Federal Procurement Data System-Next Generation*, [GAO-05-960R](#) (Washington, D.C.: Sept. 27, 2005).

<sup>42</sup>GAO, *DOD Business Systems Modernization: Navy ERP Adherence to Best Business Practices Critical to Avoid Past Failures*, [GAO-05-858](#) (Washington, D.C.: Sept. 29, 2005).

<sup>43</sup>GAO, *Improvements Needed to the Federal Procurement Data System-Next Generation*, [GAO-05-960R](#) (Washington, D.C.: Sept. 27, 2005).

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## OFPP Plans to Address Most SARA Panel Recommendations

OFPP representatives told us the office agrees with almost all of the 89 panel recommendations and has already acted on some SARA recommendations, while potential actions are pending on others. OFPP identified legislative actions and FAR cases that could address over one-third of the recommendations. OFPP expects to address at least 51 of the remaining recommendations and plans to work with the chief acquisition officer or senior procurement official within each agency to do so. In some cases, OFPP has established milestones and reporting requirements to help provide it with visibility over the progress and results of implementing the recommendations. Although OFPP has taken some steps to track the progress of selected recommendations, it does not have an overall strategy or plan to gauge the successes and shortcomings in how the panel recommendations are implemented and how they improve federal acquisitions.

Table 1 shows how OFPP expected the 89 recommendations to be implemented. This information is presented in detail in appendix II.

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**Table 1: OFPP Expectations for SARA Panel Recommendations as of October 2007**

	<b>Number of recommendations</b>
Legislative action	23
Changes to the FAR Initiated by OFPP	9
OFPP actions	51
Agency actions	6
<b>Total</b>	<b>89</b>

Source: GAO analysis of OFPP data.

Note: One recommendation in the “to be addressed by agencies” category was directed to GAO. We discussed this in the above section dealing with FPDS data.

OFPP noted that while the panel directed 17 recommendations to Congress, legislative actions could address as many as 23 panel recommendations. Panel recommendations directed to Congress include such potential legislative changes as authorizing the General Services Administration to establish a new information technology schedule for professional services and enacting legislation to strengthen the preference for awarding contracts to small businesses. An example of the latter is amending the Small Business Act to remove any statutory provisions that appear to provide for a hierarchy of small business programs. According to the panel, this is necessary because an agency will have difficulty meeting its small business goal if any one small business program takes a

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priority over the others. According to OFPP, the House or Senate versions of the National Defense Authorization Act (NDAA) for 2008 include provisions that, if passed, will address six of the panel recommendations. For example, a panel recommendation to expand the requirements under Section 803 of the NDAA for 2002 to all federal agencies, which addresses competition for task and delivery orders, is included in a version of the NDAA for 2008.

However, if Congress does not act on all or some of the recommendations included in the legislative proposals, responsibility for implementing more of the recommendations could shift to OFPP. For those that do not pass, OFPP representatives told us the office could take administrative actions, such as issuing a policy memorandum or initiating a FAR case, to implement most of them.

OFPP identified nine recommendations that it expects to address by proposing revisions to the FAR, which involve opening FAR cases. FAR cases follow a process that allows the public, as well as federal agencies, to comment on proposed changes to the FAR. Five cases have been opened thus far. For example, one case is addressing a panel recommendation to improve competition by making the requirements of Section 803 of the Fiscal Year 2002 National Defense Authorization Act applicable not just to DOD, but to all agencies. Currently, Section 803 requires DOD to give fair notice to all multiple award contract holders to ensure that competition is likely to occur when agencies buy from multiple award contracts.<sup>44</sup>

OFPP has identified 51 recommendations that it plans to address. According to OFPP, it will do this by using administrative mechanisms such as issuing policy memorandums and completing ongoing initiatives. According to OFPP, 34 recommendations have been addressed in some manner while 17 are still under review, as described below:

- According to OFPP, seven recommendations, and a portion of three others, have been addressed by issuing seven policy memorandums, as shown in appendix III. The memorandums cover a variety of issues including enhancing competition, improving the use of PBAs, addressing workforce shortfalls and capability gaps, and addressing

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<sup>44</sup> See FAR case number 2007-012 – Enhancing Competition Procedures for Multiple Award Contracts.



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FPDS-NG data problems. Some of the policy memorandums have reporting requirements that can provide OFPP some degree of oversight to determine whether agencies are implementing the policy requirements while some do not. For those that do, the chief acquisition officer within each federal agency is accountable for implementing the policy and reporting results to OFPP.

- OFPP expects to address 22 recommendations by completing implementation of existing initiatives. For example, several of the panel acquisition workforce recommendations are directed at getting federal agencies to accurately define its workforce. OFPP believes this initiative is being implemented through its existing policy and reporting requirements, in combination with agencies continuing to migrate workforce data into the Acquisition Career Management Information System. This system maintains data on acquisition workforce personnel such as employment history, education, training, certifications, grades, series, and retirement eligibility.
- According to OFPP, five recommendations are addressed because existing policy and regulations already exist. It is a matter of federal agencies properly adhering to the policy and regulations. For example, one of the panel recommendations addresses the use of time-and-material contracts. Specifically, the panel recommended that current policies limiting the use of time-and-material contracts and providing for the competitive awards of such contracts should be enforced. OFPP concurs and believes that, if current time-and-material policies are enforced by agencies, this panel recommendation will be implemented. Agencies' not adhering to existing policies and regulations, however, led to the panel's recommendation. OFPP has not established milestones and reporting requirements that would provide help it exercise oversight on agency actions and ensure that all existing policies and regulations are followed.
- The 17 panel recommendations that are still under OFPP review involve a wide variety of issues. Examples include updating the principles for agencies to apply in determining which functions must be performed by government employees and potentially modifying the FAR by (1) providing regulatory guidance to improve competition by establishing weights to be given to evaluation factors, and (2) creating a contract-specific "Performance Improvement Plan" tailored to specific acquisitions to improve postaward contract performance management. We have included two recommendations in this category that OFPP representatives told us they do not agree with. First, OFPP disagrees with the panel recommendation to rename Contracting

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Officer Technical Representatives as Contracting Officer Performance Representatives. The panel believed that this recommendation highlights the distinctive nature of the position while affording those filling it with sufficient education and training to meet demanding oversight requirements. Together, the name change and more training could help bring about a culture change in the way PBAs are dealt with by the acquisition workforce. OFPP does not believe that the benefit of changing the name from COTR to COPR would add significant value, given the expense of amending all documents and training materials, governmentwide that address COTRs. Second, OFPP disagrees with the panel recommendation dealing with the protest of task and delivery orders because the recommendation would permit protests of awards over \$5 million under multiple award contracts. The panel's position was that task and delivery orders over \$5 million were most likely not routine or repetitive purchases; rather, they were in effect contracts that should be subject to bid protests. The current bill for the National Defense Authorization Act for Fiscal Year 2008 includes a section that provides for bid protests of task and delivery orders over \$10 million.<sup>45</sup>

- The six recommendations that OFPP expects agencies to address include (1) ethics training for contractor employees, regarding which the SARA Acquisition Advisory Panel report states agencies should consider whether and how to provide such training; (2) human capital planning for the acquisition workforce, for which the panel declined to recommend that OFPP mandate a governmentwide solution; (3) the Federal Procurement Data System–Next Generation to ensure sufficient and appropriate personnel are available to test changes to the system and that sufficient funds are available for its operation. As noted above, ensuring that the panel's agency-specific recommendations are implemented requires OFPP oversight through the use of milestones and reporting requirements, but they have not been put in place for these agency-specific recommendations.

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## Conclusions

The SARA Panel, like GAO, has made numerous recommendations to improve federal government acquisition—from encouraging competition and adopting commercial practices to improving the accuracy and usefulness of procurement data. Our work is largely consistent with the panel's recommendations, and when they are taken as a whole, we believe the recommendations, if implemented effectively, can bring needed

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<sup>45</sup> H.R. 1585, 110<sup>th</sup> Congress, § 843 (as presented to the President on Dec. 14, 2007).

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improvements in the way the federal government buys goods and services. OFPP, as the lead office for responding to the report, is now in a key position to sustain the panel's work by ensuring that panel recommendations are implemented across the federal government in an effective and timely manner regardless of whether Congress takes action through legislation initiatives or responsibility for implementation eventually shifts to OFPP. To do this, OFPP will need to work with the chief acquisition officers and senior procurement officials across all the federal agencies to lay out a strategy or plan that includes milestones and reporting requirements that OFPP could use to establish accountability, exercise oversight, and gauge the progress and results of implementing the recommendations.

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## Recommendation for Executive Action

To help ensure timely and effective implementation of SARA Panel recommendations, we recommend that the Administrator of OFPP develop an oversight strategy or plan, in conjunction with agency chief acquisition officers and senior procurement officials, that would include milestones and reporting requirements OFPP could use to gauge the status and results of implementing the panel recommendations.

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## Agency Comments

OFPP officials provided oral comments on a draft of this report. They stated that OFPP generally agreed with our findings and observations and agreed in principle with our recommendation. They also noted that they would rely on Chief Acquisition Officers and senior procurement executives within federal agencies to help implement the recommendations. OFPP provided technical comments, which we incorporated into the report as appropriate.

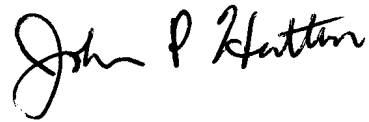
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As agreed, unless you publicly announce its contents, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the Director of the Office of Management and Budget and interested congressional committees. We will also make copies available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have questions about this report or need additional information, please contact me at (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov). Contact points

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for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were James Fuquay, Assistant Director; Julie Hadley; Daniel Hauser; John Krump; Jean Lee; Robert Miller; and Robert Swierczek.

A handwritten signature in black ink that reads "John P. Hutton". The signature is written in a cursive style with a large, looped initial "J".

John P. Hutton  
Director  
Acquisition and Sourcing Management

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# Appendix I: Scope and Methodology

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To determine how the Service Acquisition Reform Act (SARA) Acquisition Advisory Panel recommendations compare to GAO's past work and recommendations, we reviewed and analyzed the panel report and related GAO products. We compared the panel recommendations to relevant GAO products and determined whether each of the panel's recommendations is consistent with our work or whether we have no basis to take a position, based on the following criteria:

- The SARA Panel recommendation is consistent with our work and broad institutional knowledge obtained through long-term involvement with the subject,
- The SARA Panel recommendation is not consistent with our work and broad institutional knowledge obtained through long-term involvement with the subject,
- Our work provided no basis to take a position on the SARA Panel recommendation.

In some cases, we considered the panel recommendations consistent with our past work if we thought their implementation would help address broader acquisition issues covered by our work, even though the panel recommendations were not identical or similar to our specific recommendations. As part of our analysis, we also interviewed the chair of the panel to obtain additional information on the scope of work associated with some of the report issues and to discuss the rationale behind some of the panel recommendations.

The number of panel recommendations is dependent upon whether each actionable item is counted as a separate stand-alone recommendation or whether several actionable items are consolidated and counted as one recommendation. For example, the panel report contains 15 separate actionable items in its chapter on commercial practices. However, they are consolidated into 10 numbered recommendations. For the purposes of our review, we counted the actionable items as separate recommendations when we deemed it appropriate to do so. As a result, we show a total of 89 actionable items or recommendations.

To determine how the panel recommendations will likely be addressed, we obtained the Office of Federal Procurement Policy's (OFPP) comments on each recommendation and how OFPP plans or expects them to be implemented. In addition, we reviewed OFPP policy memorandums issued to senior procurement executives and recent Federal Acquisition Regulatory Council initiatives for those recommendations identified by OFPP as its planned action. We also reviewed pending legislative

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proposals in the U.S. Senate and House of Representatives as of October 31, 2007, to identify legislative initiatives that could address some of the panel recommendations. As a result, we present the recommendations in the following categories: (1) legislative action, (2) changes to the FAR, (3) OFPP actions, and (4) agency actions.

We conducted our review from March 2007 to November 2007 in accordance with generally accepted government auditing standards.

# Appendix II: GAO Assessment of SARA Recommendations and OFPP Implementation Plans

Appendix II lists the SARA Acquisition Advisory Panel recommendations and shows the recommendations that are generally consistent or not consistent with our past work, or for which we have no basis to take a position. The number of panel recommendations is dependent upon whether each actionable item is counted as a separate stand-alone recommendation or whether several actionable items are consolidated and counted as one recommendation. For example, the panel report contains 15 separate actionable items in its chapter on commercial practices. However, they are consolidated into 10 numbered recommendations. For the purposes of our review, we counted the actionable items as 15 separate recommendations, as shown below. As a result, we show a total of 89 actionable items or recommendations for all chapters in the report. We obtained the Office of Federal Procurement Policy’s comments on how each panel recommendation is being addressed and categorized as shown below.

**Table 2: Chapter 1 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent, or No Basis”**

Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
1.	Definition of Commercial Services  The definition of stand-alone commercial services in FAR 2.101 should be amended to delete the phrase “of a type” in the first sentence of the definition. Only those services that are actually sold in substantial quantities in the commercial marketplace should be deemed “commercial.” The government should acquire all other services under traditional contracting methods, e.g., FAR Part 15.			X	Under OFPP review

**Appendix II: GAO Assessment of SARA  
Recommendations and OFPP Implementation  
Plans**

Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
2.	<p>Improving the Requirements Process</p> <p>Current policies mandating acquisition planning should be better enforced. Agencies must place greater emphasis on defining requirements, structuring solicitations to facilitate competition and fixed-price offers, and monitoring contract performance. Agencies should support requirements development by establishing centers of expertise in requirements analysis and development. Agencies should then ensure that no acquisition of complex services (e.g., information technology or management) occurs without express advanced approval of requirements by the program manager or user and the contracting officer, regardless of which type of acquisition vehicle is used.</p>	X			OFPP issued policy memorandum dated May 31, 2007 Subject: Enhancing Competition in Federal Acquisition
3.	<p>Improving Competition</p> <p>The requirements of Section 803 of the FY 2002 Defense Authorization Act regarding orders for services over \$100,000 placed against multiple award contracts, including Federal Supply Service schedules, should apply uniformly government-wide to all orders valued over the simplified acquisition threshold. Further, the requirements of Section 803 should apply to all orders, not just orders for services.</p>	X			OFPP opened FAR Case 2007-010
4.	<p>Improving Competition</p> <p>Competitive procedures should be strengthened in policy, procedures, training, and application. For services orders over \$5 million requiring a statement of work under any multiple award contract, in addition to “fair opportunity,” the following competition requirements as a minimum should be used: (1) a clear statement of the agency’s requirements; (2) a reasonable response period; (3) disclosure of the significant factors and sub-factors that the agency expects to consider in evaluating proposals, including cost or price, and their relative importance; (4) where award is made on a best value basis, a written statement documenting the basis for award and the trade-off of quality versus cost or price. The requirements of FAR 15.3 shall not apply. There is no requirement to synopsise the requirement or solicit or accept proposals from vendors other than those holding contracts.</p>	X			OFPP opened FAR Case 2007-011



**Appendix II: GAO Assessment of SARA  
Recommendations and OFPP Implementation  
Plans**

Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
5.	<p>Improving Competition</p> <p>Regulatory guidance should be provided in FAR to assist in establishing the weights to be given to different types of evaluation factors, including a minimum weight to be given to cost/price, in the acquisition of various types of products or services.</p>	X			Under OFPP review
6.	<p>New Competitive Services Schedule</p> <p>Authorize GSA to establish a new information technology schedule for professional services under which prices for each order are established by competition and not based on posted rates.</p>	X			Requires Legislative Action
7.	<p>Improving Transparency and Openness</p> <p>Adopt the following synopsis requirement</p> <p>Amend the FAR to establish a requirement to publish, for information purposes only, at FedBizOpps notice of all sole source orders (task or delivery) in excess of the simplified acquisition threshold placed against multiple award contracts.</p> <p>Amend the FAR to establish a requirement to publish, for information purposes only, at FedBizOpps, notice of all sole source orders (task or delivery) in excess of the simplified acquisition threshold placed against multiple award Blanket Purchase Agreements.</p> <p>Such notices shall be made within 10 business days after award.</p>	X			OFPP opened FAR Case 2007-009
8.	<p>Improving Transparency and Openness</p> <p>For any order under a multiple award contract over \$5 million where a statement of work and evaluation criteria were used in making the selection, the agency whose requirement is being filled should provide the opportunity for a post-award debriefing consistent with the requirements of FAR 15.506.</p>	X			OFPP opened FAR Case 2007-012

**Appendix II: GAO Assessment of SARA  
Recommendations and OFPP Implementation  
Plans**

Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
9.	<p>Time-and-Materials Contracts</p> <p>The Panel makes the following recommendations with respect to T&amp;M contracts:</p> <p>(a) Current policies limiting the use of time-and-materials contracts and providing for the competitive awards of such contracts should be enforced.</p> <p>(b) Whenever practicable, procedures should be established to convert work currently being done on a time-and-materials basis to a performance-based effort.</p> <p>(c) The government should not award a time-and-materials contract unless the overall scope of the effort, including the objectives, has been sufficiently described to allow efficient use of the time-and materials resources and to provide for effective government oversight of the effort.</p>	X			Implementation of existing policies and regulations will address this recommendation
10.	<p>Protest of Task and Delivery Orders</p> <p>Permit protests of task and delivery orders over \$5 million under multiple award contracts. The current statutory limitation on protests of tasks and delivery orders under multiple award contracts should be limited to acquisitions in which the total value of the anticipated award is less than or equal to \$5 million.</p>	X			<p>Might be addressed by legislative action</p> <p>OFPP opposed this recommendation in a statement of administrative policy on Senate version of NDAA for 2008 (S. 1547, Sec. 821)</p> <p>According to OFPP, the markup includes flexibility for the Administrator of OFPP to raise the threshold for protest above \$5M but, in no event shall such threshold exceed \$25M.</p>
11.	<p>Pricing When No or Limited Competition Exists</p> <p>For commercial items, provide for a more commercial-like approach to determine price reasonableness when no or limited competition exists. Revise the current FAR provisions that permit the government to require “other than cost or pricing data” to conform to commercial practices by emphasizing that price reasonableness should be determined by competition, market research, and analysis of prices for similar commercial sales. Move the provisions for determining price reasonableness for commercial items to FAR Part 12 and de-link it from FAR Part 15.</p>	X			Might be addressed by legislative action

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Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
12.	<p>Pricing When No or Limited Competition Exists</p> <p>Establish in FAR Part 12 a clear preference for market-based price analysis but, where the contracting officer cannot make a determination on that basis (e.g., when no offers are solicited, or the items or services are not sold in substantial quantities in the commercial marketplace), allow the contracting officer to request additional limited information in the following order: (i) prices paid for the same or similar commercial items by government and commercial customers during a relevant period; or if necessary (ii) available information regarding price or limited cost related information to support the price offered such as wages, subcontracts or material costs. The contracting officer shall not require detailed cost breakdowns or profit, and shall rely on price analysis. The contracting officer may not require certification of this information, nor may it be the subject of a post-award audit.</p>			X	Might be addressed by legislative action
13.	<p>Improving Government Market Research</p> <p>GSA should establish a market research capability to monitor services acquisitions by government and commercial buyers, collect publicly available information, and maintain a database of information regarding transactions. This information should be available across the government to assist with acquisitions.</p>	X			Under OFPP review
14.	<p>Unequal Treatment of the Contracting Parties</p> <p>Legislation should be enacted providing that contractors and the government shall enjoy the same legal presumptions, regarding good faith and regularity, in discharging their duties and in exercising their rights in connection with the performance of any government procurement contract, and either party's attempt to rebut any such presumption that applies to the other party's conduct shall be subject to a uniform evidentiary standard that applies equally to both parties.</p>			X	Requires legislative action

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Rec. #	Chapter 1 – Commercial Practices	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
15.	Unequal Treatment of the Contracting Parties In enacting new statutory and regulatory provisions, the same rules for contract interpretation, performance, and liabilities should be applied equally to contractors and the government unless otherwise required by the United States Constitution or the public interest.			X	Requires legislative action

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

**Table 3: Chapter 2 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 2 – Improving Implementation of Performance-Based Acquisition (PBA) in the Federal Government	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
16.	OMB’s governmentwide quota of requiring 40 percent of acquisitions be performance-based should be adjusted to reflect individual agency assessments and plans for using PBA.	X			OFPP issued policy memorandum dated May 22, 2007, Subject: Using Performance-Based Acquisition to Meet Program Needs–Performance Goals, Guidance, and Training
17.	FAR Parts 7 and 37 should be modified to include two levels of PBA: Transformational and Transactional. OFPP should issue more explicit implementation guidance and create a PBA “Opportunity Assessment” tool to help agencies identify when they should consider using PBA vehicles.	X			OFPP issued policy memorandum dated May 22, 2007, Subject: Using Performance-Based Acquisition to Meet Program Needs– performance Goals, Guidance, and Training
18.	Publish a best practice guide on development of measurable performance standards for contracts.	X			OFPP issued policy memorandum dated May 22, 2007, Subject: Using Performance-Based Acquisition to Meet Program Needs – Performance Goals, Guidance, and Training
19.	Modify FAR Parts 7 and 37 to include an identification of the government’s need/requirements by defining a “Baseline Performance Case” in the performance work statement or statement of objectives. OFPP should issue guidance as to the content of Baseline Performance Cases.	X			Under OFPP review

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Rec. #	Chapter 2 – Improving Implementation of Performance-Based Acquisition (PBA) in the Federal Government	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
20.	Improve postaward contract performance monitoring and management, including methods for continuous improvement and communication through the creation of a “Performance Improvement Plan” that would be appropriately tailored to the specific acquisition.	X			Under OFPP review
21.	OFPP should provide improved guidance on types of incentives appropriate for various contract vehicles.	X			OFPP issued policy memorandum dated May 22, 2007, Subject: Using Performance-Based Acquisition to Meet Program Needs – Performance Goals, Guidance, and Training
22.	OFPP should revise the Seven Step process to reflect the panel’s new PBA recommendations.	X			OFPP will update as necessary
23.	Contracting Officer Technical Representatives (COTR) in PBA’s should receive additional training and be re-designated as Contracting Officer Performance Representatives (COPR).	X			Implementation under way  At this time, OFPP does not believe that the benefit of changing the name from COTR to COPR would add significant value given the expense of amending all documents and training materials, governmentwide, that address COTRs. More important, in OFPP’s view, is the training and certifications for those COTRs involved with PBAs that it addressed in the OFPP COTR certification memo issued on November 26, 2007.
24.	Improved data on PBA usage and enhanced oversight by OFPP on proper PBA implementation using an Acquisition Performance Assessment Rating Tool (A-PART).	X			Under OFPP review
25.	OFPP should undertake a systematic study on the challenges, costs, and benefits of using performance-based acquisition techniques five years from the date of the panel’s delivery of its final report.	X			Under OFPP review

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

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**Table 4: Chapter 3 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 3 – Interagency Contracting	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
26.	Increased transparency through identification of vehicles (e.g. GWACs, MACs, enterprise-wide) and Assisting Entities. OMB conduct a survey of existing vehicles and Assisting Entities to establish a baseline. The draft OFPP survey, developed during the Working Group’s deliberations should include the appropriate vehicles and data elements.	X			Implemented
27.	Make available the vehicle and assisting entity data for three distinct purposes.  Identification of vehicles and the features they offer to agencies in meeting their acquisition requirements (yellow pages).  Use by public and oversight organizations to monitor trends in use.  Improved granularity in fee calculations Standard FPDS-NG reports Use by agencies in business case justification analysis for creation and continuation/reauthorization of vehicles.	X			Implementation underway
28.	OMB institutionalize collection and public accessibility of the information, for example, through a stand alone database or module within transactions-based FPDS-NG.	X			Implementation underway
29.	OMB direct a review and revision, as appropriate, of the current procedures for the creation and continuation/reauthorization of GWACs and Franchise Funds to require greater emphasis on meeting specific agency needs and furthering the overall effectiveness of government-wide contracting. GSA should conduct a similar review of the Federal Supply Schedules. Any such revised procedures should include a requirement to consider the entire landscape of existing vehicles and entities to avoid unproductive duplication.	X			Implementation underway

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Rec. #	Chapter 3 – Interagency Contracting	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
30.	For other than the vehicles and entities described in #31 above, institute a requirement that each agency, under guidance issued by OMB, formally authorize the creation or expansion of the following vehicles under its jurisdiction: a. Multi-agency contracts b. Enterprise-wide vehicles c. Assisting entities	X			Under OFPP review
31.	Institute a requirement that the cognizant agency, under guidance issued by OMB, formally authorize the continuation/reauthorization of the vehicles and entities addressed in #32 on an appropriate recurring basis consistent with the nature or type of the vehicle or entity. The criteria and timeframes included in the OMB guidance should be distinct from those used in making individual contract renewal or option decisions.	X			Implementation underway
32.	Have the OMB interagency task force define the process and the mechanisms anticipated by recommendations #32 and #33.	X			Under OFPP review
33.	OMB promulgation of detailed policies, procedures, and requirements should include: a. Business case justification analysis (GWACs as model). b. Projected scope of use (products and services, customers, and dollar value). c. Explicit coordination with other vehicles/entities. d. Ability of agency to apply resources to manage vehicle. e. Projected life of vehicle including the establishment of a sunset, unless use of a sunset would be inappropriate given the acquisitions made under the vehicle. f. Structuring the contract to accommodate market changes associated with the offered supplies and services (e.g. market research, technology refreshment, and other innovations). g. Ground rules for use of support contractors in the creation and administration of the vehicle. h. Criteria for upfront requirements planning by ordering agencies before access to vehicles is granted. i. Defining post-award responsibilities of the vehicle holders and ordering activities before use	X			Implementation underway

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Rec. #	Chapter 3 – Interagency Contracting	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
	<p>of the vehicle is granted. These criteria should distinguish between the different sets of issues for direct order type vehicles versus vehicles used for assisted buys, including data input responsibilities.</p> <p>j. Guidelines for calculating reasonable fees including the type and nature of agency expenses that the fees are expected to recover. Also, establish a requirement for visibility into the calculation.</p> <p>k. Procedures to preserve the integrity of the appropriation process, including guidelines for establishing bona fide need and obligating funds within the authorized period.</p> <p>l. Require training for ordering agencies' personnel before access to the vehicle is granted.</p> <p>m. Use of interagency vehicles for contracting during emergency response situations (e.g. natural disasters).</p> <p>n. Competition process and requirements.</p> <p>o. Agency performance standards and metrics.</p> <p>p. Performance monitoring system.</p> <p>q. Process for ensuring transparency of vehicle features and use.</p> <p>Defined point of contact for public – Ombudsman</p> <p>r. Guidance on the relationship between agency mission requirements/core functions and the establishment of interagency vehicles (e.g. distinction between agency expansion of internal mission-related vehicles to other agencies versus creation of vehicles from the ground up as interagency vehicles)</p>				
34.	<p>OMB conduct a comprehensive, detailed analysis of the effectiveness of Panel recommendations and agency actions in addressing the findings and deficiencies identified in the Acquisition Advisory Panel Report. This analysis should occur no later than three years after initial implementation with a continuing requirement to conduct a new analysis every three years.</p>	X			<p>Implementation underway</p> <p>OFPP prefers continuous monitoring to assess if changes require in-process adjustments.</p>

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.



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**Table 5: Chapter 4 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
35.	<p>Guidance in using small business contracting programs</p> <p>The Panel recommends amending the Small Business Act to remove any statutory provisions (such as the one contained in the HUBZone Act) that appear to provide for a hierarchy of small business contracting among certain small business programs. This is necessary because an agency will have difficulty meeting its small business goals if any one small business program takes a priority over the others. Thus, the panel recommends the following:</p> <p>(2) Amend 15 U.S.C. § 657a (b) (2) to resolve any confusion and ensure that contracting officers have the discretion to award HUBZone set aside and sole source awards.</p> <p>15 U.S.C. § 657a (b) (2):</p> <p>(2) Address the authority of a contracting officer:</p> <p>(A) A contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if</p> <p>(B) A contract opportunity may be awarded pursuant to this section on the basis of competition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price; and</p>			X	Requires legislative action
36.	<p>Guidance in using small business contracting programs</p> <p>The Panel also recommends that the implementing regulations provide the contracting community discretion in utilizing the various programs, based in part upon the goals and needs of the agency. This does not mean that the goals should become the sole determining factor in directing an agency’s contracting behavior. Further, the contracting officer must still comply with the other statutory provisions for each program, e.g., anticipated award price limits for sole source or competitive awards, awards to be made at fair market price, etc.</p>			X	Requires legislative action

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
					<p>Thus, the panel recommends that the SBA and FAR regulations be amended to comply with these statutory changes and to resolve any current conflicts. The panel recommends the following:</p> <p>Delete 48 C.F.R. § 19.800 (e)</p> <p>Amend 48 C.F.R § 19.201 (c) to add the following at the end of the paragraph:</p> <p>In order to achieve the Government-wide and agency goals, the contracting officer is provided the discretion in deciding whether to utilize the 8(a) BD, HUBZone or SDVO SBC programs for a specific procurement. The contracting officer must comply with all other statutory and regulatory requirements related to the conduct of market research and the use of the various small business programs.</p> <p>Amend 13 C.F.R § 124.504 (j) to read as follows:</p> <p>The contracting officer shall consider setting aside the requirement for HUBZone, 8(a), or SDVO SBC participation before considering setting aside the requirement as a small business set aside.</p> <p>Redesignate paragraphs (b) through (e) as (c) through (f) and add a new paragraph (b) to 13 C.F.R. § 125.2 to read as follows:</p> <p>In order to achieve the Government-wide agency goals, the contacting officer is provided the discretion in deciding whether to utilize the 8(a) BD, HUBZone or SDVO SBC programs for a specific procurement. The contracting officer must comply with all other statutory and regulatory requirements related to the conduct of market research and the use of the various small business programs.</p> <p>Amend 13 C.F.R. § 125.19(b) to read as follows:</p> <p>If the contracting officer determines that § 125.18 does not apply, the contracting officer shall consider setting aside the requirement for 8(a), HUBZone, or SDVO SBC participation before considering setting aside the requirement as a small business set aside.</p> <p>Amend 13 C.F.R § 126.607 (b) to read as follows:</p> <p>If the contracting officer determines that § 126.605 does not apply, the contracting officer shall consider setting aside the requirement for</p>

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
	HUBZone, 8(a), or SDVO SBC participation before setting aside the requirement as a small business set aside. Delete 13 C.F.R. § 126.609				
37.	Guidance in using small business contracting programs  The Panel recommends that Congress repeal this new provision (Congress required regulatory guidance on the use of cascading procurements set forth in § 816 of the National Defense Authorization Act for Fiscal Year 2006, Public Law No. 109-163) and that language should be added to preclude the use of cascading procurement. The recommended amendments are as follows:  Add a new paragraph to 10 U.S.C. § 2304 as follows:  (1)The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies prohibiting the use of a tiered evaluation of an offer for a contract or for a task or delivery order under a contract.  Add a new paragraph to 41 U.S.C. § 253 as follows:  (j) The Federal Acquisition Regulation shall prescribe guidance for the executive agencies prohibiting the use of a tiered evaluation of an offer for a contract or for a task or delivery order under a contract.			X	Requires legislative action
38.	Guidance with contract consolidation  The panel Recommends that:  OFPP create an interagency task force to develop best practices and strategies to unbundle contracts and mitigate the effects of contract bundling.  OFPP coordinate the development of a governmentwide training module for all federal acquisition team members and program managers to acquaint them with the legislative and regulatory requirements of contracting with small business, as well as contract bundling. The training module should include a segment on the laws and regulations regarding bundling and subcontracting with small businesses, with the goal of developing a common understanding and standard implementation of small business	X			Under OFPP review

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?		GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	
	<p>subcontracting goals across government. Training should emphasize uniform guidance to large businesses in relation to developing and/ or specifying categorical small business goals for small business subcontracting plans. Training also should emphasize processes for determining realistic and achievable goals based on both the objective of achieving governmentwide small business utilization goals, and consideration and analysis of the unique functional and programmatic requirements of each particular solicitation.</p>			
39.	<p>Competition for multiple award contracts</p> <p>The Panel recommends that 10 U.S.C. § 2304a(d)(3) and 41 U.S.C. § 253h(d)(3) be amended to provide a new paragraph (C):</p> <p>(3) The regulations implementing this subsection shall—</p> <p>(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B);</p> <p>(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government; and</p> <p>(C) establish criteria for reserving one or more contract awards for small business concerns under full and open multiple award procurements, including the subcategories of small business concerns identified in Section 15(g)(2) of the Small Business Act (15U.S.C. 644(g)(2)), when a total set aside is not appropriate.</p>		X	Requires legislative action
40.	<p>Competition for task orders</p> <p>The Panel recommends that 10 U.S.C. § 2304c and 41 U.S.C. § 253j be amended to re-designate paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g) and include a new paragraph (c):</p> <p>(a) Issuance of orders.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:</p> <p>(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).</p>		X	Requires legislative action

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
	<p>(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.</p> <p>(b) Multiple award contracts – When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless—</p> <p>(1) the agency’s need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;</p> <p>(2)only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;</p> <p>(3)the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or</p> <p>(4)it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.</p> <p>(c) Notwithstanding paragraph (b) and Section 803 of Pub. Law No. 107-107, 115 Stat. 1012 (2002), a contracting officer has the discretion to set forth procedures in multiple award contracts that provide that competition for particular orders may be limited to small business concerns, including the subgroups identified in Section 15(g)(2) of the Small Business Act (15 U.S.C. 644(g)(2)).</p>				
41.	<p>Competition for task orders</p> <p>The Panel recommends that FAR § 16.504 be amended to provide:</p> <p>(a) Description. An indefinite-quantity contract provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period. The Government places orders for</p>			X	Requires legislative action

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		Consistent	Not consistent	No basis	
	<p>individual requirements. Quantity limits may be stated as number of units or as dollar values.</p> <p>(1) The contract must require the Government to order and the contractor to furnish at least a stated minimum quantity of supplies or services. In addition, if ordered, the contractor must furnish any additional quantities, not to exceed the stated maximum. The contracting officer should establish a reasonable maximum quantity based on market research, trends on recent contracts for similar supplies or services, survey of potential users, or any other rational basis.</p> <p>(2) To ensure that the contract is binding, the minimum quantity must be more than a nominal quantity, but it should not exceed the amount that the Government is fairly certain to order.</p> <p>(3) The contract may also specify maximum or minimum quantities that the Government may order under each task or delivery order and the maximum that it may order during a specific period of time.</p> <p>(4) A solicitation and contract for an indefinite quantity must—</p> <p>(iv) State the procedures that the Government will use in issuing orders, including the ordering media, and, if multiple awards may be made, state the procedures and selection criteria that the Government will use to provide awardees a fair opportunity to be considered for each order (see 16.505(b)(1)) and state whether competition for particular orders may be limited based on socioeconomic status</p>				
42.	<p>Competition for task orders</p> <p>The panel further recommends that FAR § 16.505 be amended to provide:</p> <p>(b) Orders under multiple award contracts—</p> <p>(1) Fair opportunity</p> <p>(i) The contracting officer must provide each awardee a fair opportunity to be considered for each order exceeding \$2,500 issued under multiple delivery-order contracts or multiple task-order contracts, except as provided for in paragraph (b)(2) of this section.</p> <p>(ii) The contracting officer may exercise broad discretion in developing appropriate order placement procedures. The contracting officer</p>				Requires legislative action  X

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43.	<p>should keep submission requirements to a minimum. Contracting officers may use streamlined procedures, including oral presentations. In addition, the contracting officer need not contact each of the multiple awardees under the contract before selecting an order awardee if the contracting officer has information available to ensure that each awardee is provided a fair opportunity to be considered for each order. The competition requirements in Part 6 and the policies in Subpart 15.3 do not apply to the ordering process. However, the contracting officer must—</p> <p>(A) Develop placement procedures that will provide each awardee a fair opportunity to be considered for each order and that reflect the requirement and other aspects of the contracting environment;</p> <p>(B) Not use any method (such as allocation or designation of any preferred awardee) that would not result in fair consideration being given to all awardees prior to placing each order;</p> <p>(C) Tailor the procedures to each acquisition;</p> <p>(D) Include the procedures in the solicitation and the contract; and</p> <p>(E) Consider price or cost under each order as one of the factors in the selection decision.</p> <p>(iii) The contracting officer should consider the following when developing the procedures:</p> <p>(A)(1) Past performance on earlier orders under the contract, including quality, timeliness and cost control.</p> <p>(2) Potential impact on other orders placed with the contractor.</p> <p>(3) Minimum order requirements.</p> <p>(4) The amount of time contractors need to make informed business decisions on whether to respond to potential orders.</p> <p>(5) Whether contractors could be encouraged to respond to potential orders by outreach efforts to promote exchanges of information, such as—</p> <p>(6) Whether competition for orders will be limited based on socio-economic status.</p>				
	Competition for task orders				
	The panel further recommends that DFAR §			X	Requires legislative action

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
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	216.505-70 be amended to provide:				
	(a) This subsection—				
	(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107);				
	(2) Applies to orders for services exceeding \$100,000 placed under multiple award contracts, instead of the procedures at FAR 16.505(b)(1) and (2) (see Subpart 208.4 for procedures applicable to orders placed against Federal Supply Schedules);				
	(3) Also applies to orders placed by non-DOD agencies on behalf of DOD, and				
	(4) Does not apply to orders for architect-engineer services, which shall be placed in accordance with the procedures in FAR Subpart 36.6.				
	(c) An order for services exceeding \$100,000 is placed on a competitive basis only if the contracting officer –				
	(1)(i) Provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to all contractors offering the required services under the multiple award contract; and				
	(ii) Affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered; or				
	(2)(i) Provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to all small business contractors offering the required services under the multiple award contract; and				
	(ii) Affords all small business contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.				
44.	Competition for task orders				
	The Panel recommends that FAR § 8.405-5 be amended to provide as follows			X	Requires legislative action
	(a) Although the mandatory preference programs of Part 19 do not apply, orders placed against schedule contracts may be credited toward the				



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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
	<p>ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.</p> <p>(b) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA.</p> <p>(1) Ordering activities may, in their sole discretion, explicitly limit competition for an order to small business concerns, including veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business schedule contractor(s).</p> <p>(2) At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business schedule contractor(s). GSA Advantage! and Schedules e-Library at <a href="http://www.gsa.gov/fss">http://www.gsa.gov/fss</a> contain information on the small business representations of Schedule contractors.</p> <p>(c) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.</p>				
45.	<p>Competition for task orders</p> <p>The Panel recommends that FAR § 8.405-2(d) be amended to provide:</p> <p>(d) Evaluation. The ordering activity shall evaluate all responses received using the evaluation criteria provided to the schedule contractors (unless competition was limited based on socio-economic status (see 8.405-5(b)(1))). The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. Place the order, or establish the BPA, with the schedule contractor that represents</p>				X Requires legislative action

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?		GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent basis	
	the best value (see 8.404(d)). After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.			

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
46.	<p>Competition for task orders</p> <p>The Panel also recommends that DFAR § 208.405-70 be amended to provide:</p> <p>(a) This subsection –</p> <p>(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107) for the acquisition of services, and establishes similar policy for the acquisition of supplies;</p> <p>(2) Applies to orders for supplies or services under Federal Supply Schedules, including orders under blanket purchase agreements established under Federal Supply Schedules; and</p> <p>(3) Also applies to orders placed by non-DOD agencies on behalf of DOD.</p> <p>(c) An order exceeding \$100,000 is placed on a competitive basis only if the contracting officer provides a fair notice of the intent to make the purchase, including a description of the supplies to be delivered or the services to be performed and the basis upon which the contracting officer will make the selection, to –</p> <p>(1) As many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fulfill the requirement, and the contracting officer –</p> <p>(i)(A) Receives offers from at least three contractors that can fulfill the requirements; or</p> <p>(B) Determines in writing that no additional contractors that can fulfill the requirements could be identified despite reasonable efforts to do so (documentation should clearly explain efforts made to obtain offers from at least three contractors); and</p> <p>(ii) Ensures all offers received are fairly considered; or</p> <p>(2) As many small business schedule contractors as practicable, consistent with market research appropriate under the circumstances, and the contracting officer receives offers from at least three small business schedule contractors that can fulfill the work requirements; or</p> <p>(3) All contractors offering the required supplies or services under the applicable multiple award</p>			X	Requires legislative action

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Rec. #	Chapter 4 – Small Business	Is GAO work consistent with SARA recommendations?			GAO categorization of how OFPP expects SARA Panel recommendations to be addressed
		Consistent	Not consistent	No basis	
	<p>schedule, and affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.</p> <p>(d) See PGI 208.405-70 (Pop-up Window or PGI Viewer Mode) for additional information regarding fair notice to contractors and requirements relating to the establishment of blanket purchase agreements under Federal Supply Schedules.</p>				

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

**Table 6: Chapter 5 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not consistent	No Basis	
47.	<p>Data Collection and Workforce Definition</p> <p>OFPP needs to ensure, going forward, that consistent and sensible definitions of the acquisition workforce are in place, and that accurate data is consistently collected about all of the relevant categories, from year to year and across all agencies.</p> <p>Data should be collected both about the narrow contracting specialties (along the lines of the current FAI count) and about the broader acquisition-related workforce (along the lines of the current DOD AT&amp;L workforce count methodology).</p>	X			Implementation of existing acquisition policy and regulation will address this recommendation.
48.	<p>Data Collection and Workforce Definition</p> <p>OFPP should prescribe a consistent definition and a method for measuring the acquisition workforce of both civilian and military agencies.</p> <p>Definitions and measures should be completed by OFPP within one year from the date of this Report.</p>	X			Implementation of existing acquisition policy and regulation will address this recommendation.

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Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
49.	<p>Acquisition Workforce Database</p> <p>OFPP should be responsible for the creation, implementation, and maintenance of a mandatory single government-wide database for members of the acquisition workforce.</p> <p>—The database should reflect the following purpose and elements:</p> <p>Purpose: To provide information to support effective human capital management of the acquisition workforce.</p> <p>Elements should include: employment experience, education, training, certifications, grade, pay, career series, and retirement eligibility.</p>	X			Implemented
50.	<p>Human Capital Planning for the Acquisition Workforce</p> <p>In each agency, as part of the overall agency Human Capital Management Plan, the Chief Acquisition Officer should be responsible for creating and implementing a distinct Acquisition Workforce Human Capital Strategic Plan designed to assess and meet the agency’s needs for acquisition workforce.</p>	X			Implementation underway
51.	<p>Human Capital Planning for the Acquisition Workforce</p> <p>Agency CAOs should be responsible for measuring and predicting, to the extent possible, the agency’s needs for procurement personnel.</p>	X			Implementation of existing acquisition policy and regulation will address this recommendation.
52.	<p>Human Capital Planning for the Acquisition Workforce</p> <p>It is not sufficient simply to try to retain and manage existing personnel resources. Resources needed must be identified and gaps between needed resources and available resources must be forthrightly acknowledged.</p>	X			Implementation underway
53.	<p>Human Capital Planning for the Acquisition Workforce</p> <p>Assessment of the role played by contractor personnel in the acquisition workforce should be part of the strategic plan.</p> <p>The strategic plan should consider whether the current use of contractor personnel to supplement the acquisition workforce is efficient or not.</p>	X			Agency specific recommendation

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Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
54.	Qualitative Assessment Agencies' human capital planning for the acquisition workforce needs to address the adequacy of existing resources in meeting each agency's procurement needs throughout the acquisition lifecycle. The standard should be whether the government is able to optimize the contribution of private sector capabilities, secured through the market, to the accomplishment of federal agency missions.			X	Implementation underway OFPP issued policy memorandum dated October 17, 2007 Subject: 2007 Contracting Workforce Competencies Survey addresses a portion of this recommendation.
55.	Workforce Improvements Need Prompt Attention Due to the severe lack of capacity in the acquisition workforce, aggressive action to improve the acquisition workforce must begin immediately. All agencies should begin acquisition workforce human capital planning immediately, if such plans are not already underway. Agencies should complete initial assessment and planning as quickly as possible. If initial human capital planning reveals gaps, agencies should take immediate steps to address such gaps, whether they arise in hiring, allocation of resources, training, or otherwise.	X			Implementation underway
56.	Need to Recruit Talented Entry-Level Personnel OFPP should establish a government-wide acquisition internship program to attract first rate entry-level personnel into acquisition careers	X			Implementation underway
57.	Hiring Streamlining Necessary OFPP and agencies need to identify and eliminate obstacles to speedy hiring of acquisition workforce personnel	X			Implementation underway OFPP issued policy memorandum dated September 4, 2007 Subject: Plans for hiring reemployed annuitants to fill acquisition-related positions
58.	Need to Retain Senior Workforce OFPP and agencies need to create and use incentives for qualified senior, experienced acquisition workforce personnel to remain in the acquisition workforce.	X			OFPP issued policy memorandum dated September 4, 2007 Subject: Plans for hiring reemployed annuitants to fill acquisition-related positions

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Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
59.	<p>Training</p> <p>In order to ensure the availability of sufficient funds to provide training to the acquisition workforce OMB should issue guidance directing agencies to:</p> <p>Assure that funds in agency budgets identified for acquisition workforce training are actually expended for workforce training purposes, by appropriate means including “fencing” of those funds.</p> <p>Require Head of Agency approval for use of workforce training funds for any other purpose.</p> <p>Provide OFPP an annual report on the expenditure of Acquisition Workforce Training Funds identifying any excess or shortfalls.</p> <p>OFPP should conduct an annual review to determine whether the funds identified by each agency for training of its acquisition workforce are sufficient to meet the agency’s needs for acquisition workforce training. Once an agency’s Human Capital Strategic Plan for the Acquisition Workforce is in place, that plan should guide this determination. OFPP’s review should also ascertain whether funds identified for such training were actually expended for acquisition workforce training needs.</p> <p>Congress should reauthorize the SARA Training Fund and provide direct funding/appropriations for the fund.</p>	X			Under OFPP review

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Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
60.	<p>Acquisition Workforce Education and Training Requirements</p> <p>Currently both DAWIA and Clinger-Cohen provide for waivers to Congressionally established education and training requirements. In order to ensure that the government’s Acquisition Workforce has both the competencies and skills to manage the life cycle of the acquisition process:</p> <p>Agencies should only grant permanent waivers to education and training requirements upon an objective demonstration that the grantee of the waiver possesses the competencies and skills necessary to perform his/her duties.</p> <p>Agencies should only grant temporary waivers to allow the grantee of the waiver sufficient time to acquire the lacking education or training.</p> <p>Agency CAOs (or equivalent) should report annually to OFPP on the agency’s usage of waivers to meet statutory training and education requirements, justifying their usage consistent with the foregoing requirements, and reporting on plans to overcome the need to rely excessively on waivers.</p> <p>OFPP should review these annual reports and provide an annual summary report on the use of waivers of DAWIA and Clinger-Cohen requirements.</p>	X			Under OFPP review
61.	<p>Acquisition Workforce University</p> <p>OFPP should convene a twelve-month study panel to consider whether to establish a government-wide Federal Acquisition University and/or alternative recommendations to improve training.</p>			X	Might be addressed by legislative action
62.	<p>An Acquisition Workforce Focus is Needed in OFPP</p> <p>There should be established in OFPP a senior executive with responsibility for acquisition workforce policy throughout the federal government.</p> <p>As part of OMB’s role in reviewing and approving agency Human Capital Plans in conjunction with OPM, OFPP should be delegated responsibility for receiving and reviewing the agency Acquisition Workforce Human Capital Strategic Plans, and for identifying trends, good practices, and shortcomings.</p>			X	Might be addressed by legislative action



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Rec. #	Chapter 5 – The Federal Acquisition Workforce	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
63.	Waiving Unnecessary Paperwork To the extent that agencies can demonstrate that they have implemented any recommendations (or parts thereof) that require a report to OFPP, the process established by OFPP should include criteria for a waiver from the reporting requirements; any waiver should include a requirement for a sunset.	X			Requires legislative action

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

**Table 7: Chapter 6 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 6 – Appropriate Role of Contractors Supporting Government	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
64.	The Office of Federal Procurement Policy should update the principles for agencies to apply in determining which functions must be performed by government employees.	X			Under OFPP review
65.	Agencies must ensure that the functions identified as those which must be performed by government employees are adequately staffed with federal employees.	X			Under OFPP review
66.	In order to reduce artificial restrictions and maximize effective and efficient service contracts, the current prohibition on personal service contracts should be removed. Government employees should be permitted to direct a service contractor’s workforce on the substance of the work performed, so long as the direction provided does not exceed the scope of the underlying contract. Limitations on the extent of government employee supervision of contractor employees (e.g. hiring, approval of leave, promotion or performance rating, etc.) should be retained.			X	Requires legislative action

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Rec. #	Chapter 6 – Appropriate Role of Contractors Supporting Government	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
67.	Consistent with action to remove the prohibition on personal services contracts, the Office of Federal Procurement Policy should provide specific policy guidance which defines where, to what extent, under which circumstances, and how agencies may procure personal services by contract. Within five years of adoption of this policy the Government Accountability Office should study the results of this change.			X	Requires legislative action
68.	The FAR Council should review existing rules and regulations, and to the extent necessary, create new, uniform, government-wide policy and clauses dealing with Organizational Conflicts of Interest, Personal Conflicts of Interest, and Protection of Contractor Confidential and Proprietary Data, as described in more detail in the following sub-recommendations.	X			OFPP opening FAR case
69.	Organizational Conflicts of Interest (“OCI”)  The FAR Council should consider development of a standard OCI clause, or a set of standard OCI clauses if appropriate, for inclusion in solicitations and contracts (that set forth the contractor’s responsibility to assure its employees, and those of its subcontractors, partners, and any other affiliated organization or individual), as well as policies prescribing their use. The clauses and policies should address conflicts that can arise in the context of developing requirements and statements of work, the selection process, and contract administration. Potential conflicts of interest to be addressed may arise from such factors as financial interests, unfair competitive advantage, and impaired objectivity (on the instant or any other action), among others.	X			OFPP opening FAR case

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Rec. #	Chapter 6 – Appropriate Role of Contractors Supporting Government	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
70.	<p>Contractor Employees' Personal Conflicts of Interest ("PCI")</p> <p>The FAR Council should determine when contractor employee PCIs need to be addressed, and whether greater disclosure, specific prohibitions, or reliance on specified principles will accomplish the end objective of ethical behavior. The FAR Council should consider whether development of a standard ethics clause or a set of standard clauses that set forth the contractor's responsibility to perform the contract with a high level of integrity would be appropriate for inclusion in solicitations and contracts. The FAR Council should examine the Defense Industry Initiative ("DII") and determine whether an approach along those lines is sufficient. As the goal is ethical conduct, not technical compliance with a multitude of specific and complex rules and regulations, the rules and regulations applicable to federal employees should not be imposed on contractor employees in their entirety.</p>	X			OFPP opening FAR case
71.	<p>Protection of Contractor Confidential and Proprietary Data</p> <p>The FAR Council should provide additional regulatory guidance for contractor access and for protection of contractor and third party proprietary information, including clauses for use in solicitations and contracts regarding the use of non-disclosure agreements, sharing of information among contractors, and remedies for improper disclosure.</p>	X			OFPP opening FAR case
72.	<p>Training of Acquisition Personnel</p> <p>The FAR Council, in collaboration with the Defense Acquisition University ("DAU") and the Federal Acquisition Institute ("FAI"), should develop and provide (1) training on methods for acquisition personnel to identify potential conflicts of interest (both OCI and PCI), (2) techniques for addressing the conflicts, (3) remedies to apply when conflicts occur, and (4) training for acquisition personnel in methods to appropriately apply tools for the protection of confidential data.</p>	X			OFPP opening FAR case

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Rec. #	Chapter 6 – Appropriate Role of Contractors Supporting Government	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
73.	Ethics Training for Contractor Employees Since contractor employees are working side-by-side with government employees on a daily basis, and because government employee ethics rules are not all self-evident, consideration should be given to a requirement that would make receipt of the agency's annual ethics training (same as given to government employees) mandatory for all service contractors operating in the multi-sector workforce environment.	X			Agency specific recommendation
74.	Enforcement In order to reinforce the standards of ethical conduct applicable to contractors, including those addressed to contractor employees in the multi-sector workforce, and to ensure that ethical contractors are not forced to compete with unethical organizations, agencies shall ensure that existing remedies, procedures, and sanctions are fully utilized against violators of these ethical standards.	X			Implementation of existing acquisition policy and regulations will address this recommendation

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

**Table 8: Chapter 7 - SARA Recommendations and GAO Assessment of Consistency with GAO Work Shown as “Consistent, Not Consistent or No Basis”**

Rec. #	Chapter 7 – Report on Federal Procurement Data	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
75.	OFPP shall ensure that FPDS-NG corrects the reporting rules for competition at the order level immediately.	X			Implementation underway
76.	OFPP shall ensure that validations apply equally to all agencies unless there is a statutory reason to differ.	X			Implementation underway

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Rec. #	Chapter 7 – Report on Federal Procurement Data	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
77.	An Independent Verification and Validation (“IV&V”) should be undertaken to ensure all other validation rules are working properly in FPDS-NG.	X			Implementation underway  Ensuring that validation rules are working properly will be addressed in OFPP’s initiative to assign specific FPDS reports an “agency owner,” responsible for the report.  Independent verification and validation is not planned at this time due to expense.
78.	Congress should revise the OFPP Act to assign responsibility for timely and accurate data reporting to FPDS-NG or successor system to the Head of Executive Agency.	X			Might be addressed by legislative action
79.	Agencies shall ensure that their workforce is trained to accurately report required contract data. The training should address the purpose and objectives of data reporting to include:  Improving the public trust through increased transparency  Providing a tool for sound policy-making and strategic acquisition decisions	X			OFPP issued policy memorandum dated March 9, 2007, Subject: Federal Procurement Data Verification and Validation
80.	OMB should establish, within 90 days of this Report, a standard operating procedure that ensures sufficient and appropriate Department and Agency personnel are made available for testing changes in FPDS-NG and participating on the Change Control Board.	X			Agency specific recommendation
81.	Agency internal reviews (e.g., Procurement Management Reviews, Inspector General audits) should include sampling files to compare FPDS-NG data to the official contract/order file.	X			Agency specific recommendation
82.	The OFPP Interagency Contracting Working Group should address data entry responsibility as part of the creation and continuation process for interagency and enterprise-wide contracts.	X			Implementation underway
83.	The GAO should perform an audit that covers not only the quality of FPDS-NG data but agency compliance in providing accurate and timely data.	X			Agency specific recommendation

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Rec. #	Chapter 7 – Report on Federal Procurement Data	Is GAO Work Consistent with SARA Recommendations?			OFPP comments on how SARA Panel recommendations will be addressed
		Consistent	Not Consistent	No Basis	
84.	OFPP should ensure that FPDS-NG reports data on orders under interagency and enterprise-wide contracts, making this data publicly available (i.e., standard report(s)). The OFPP Interagency Contracting Working group shall provide the specific guidelines consistent with the reports requested by the Panel to include competition information at the order level sufficient to answer, at a minimum: Who is buying how much of what using what type of indefinite delivery vehicle and if not buying it competitively, what exception to fair opportunity applies? Other considerations, such as pricing arrangements, socio-economic status, number of offers received, fee information, and PBA should be considered when designing the report.	X			Implementation underway
85.	The FPDS-NG report provided to the Panel that shows the dollar transactions by agency and by type of interagency vehicle (e.g., FSS, GWAC, BPA, BOA, other IDCs) and Product or Service Code should be made available to the public in the short term.	X			Implementation underway
86.	OFPP should devise a method and study the cost-benefit of implementing additional data reporting requirements sufficient to perform strategic sourcing and market research within and across agencies.	X			Under OFPP review
87.	OFPP should seek agency and industry perspective to determine if the UNSPSC classification or some other classification system is feasible as a new data element if the scope of data collection is expanded.	X			Under OFPP review
88.	OMB shall ensure agencies provide sufficient funds to ensure that these systems are financed as a shared service based on levels agreed to by CAO Council and OFPP sufficient to support the objectives of the systems.	X			Agency specific recommendation
89.	Within one year, OMB shall conduct a feasibility and funding study of integrating data on awards of contracts, grants, cooperative agreements, inter-agency service support agreements (“ISSAs”) and Other Transactions through a single, integrated and web-accessible database searchable by the public.				This recommendation has been overtaken by events. In August 2006, the Congressional Budget Office (“CBO”) released an estimate of \$15 million for implementing S.2590, the Federal Funding and Accountability Transparency Act of 2006. The President signed the bill into law on September 26, 2006 and OMB is currently working towards implementation.

Source: GAO analysis of the Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress - January 2007, and OFPP comments on how SARA Panel recommendations will be addressed.

# Appendix III: OFPP Memorandums Responding to SARA Acquisition Advisory Panel Recommendations

Subject, date, and addressees	Purpose	Reporting requirements to ensure implementation
Federal Acquisition Certification for Contracting Officer Technical Representatives November 26, 2007 Chief Acquisition Officers	Establishes a structured training program for Contracting Officer Technical Representatives and other individuals performing these functions, that standardize competencies and training across civilian agencies and improves collective stewardship of taxpayer dollars.	The Chief Acquisition Officer of each agency is responsible for the policies and programs necessary to implement this certification program.  There is no requirement for agencies to report their actions to OFPP.
2007 Federal Contracting Workforce Competencies Survey October 17, 2007 Chief Acquisition Officers	Highlights the key findings from the survey that CAOs should use in developing strategies to close the competency gaps in the acquisition workforce.	CAOs should review the agency's survey results with their Chief Human Capital Officer as they prepare the Gap Analysis Report and Improvement Plans for closing contracting workforce skills gaps, which are due to OPM by December 15, 2007. Also include in the report to OPM a succession plan for the GS-1102 series in your agency that identifies strategies and milestones for recruitment and retention at all levels.
Plans for Hiring Reemployed Annuitants to Fill Acquisition-Related Positions September 4, 2007 Chief Acquisition Officers and Senior Procurement Executives	Allow the hiring of retired annuitants to fill critical vacancies in the acquisition field.	<ol style="list-style-type: none"> <li>1. Agencies must develop plans, in coordination with OFPP, to implement the General Services Administration Modernization Act (P.L. 109-313).</li> <li>2. Annual reports on the use of this law are to be provided to the Office of Personnel Management and OFPP by November 1, each fiscal year beginning November 2008.</li> </ol>
Enhancing Competition in Federal Acquisition May 31, 2007 Chief Acquisition Officers and Senior Procurement Executives	Request help and leadership in reinforcing the use of competition and related practices for achieving a competitive environment.	<ol style="list-style-type: none"> <li>1. Each agency's competition advocate is required to submit an annual report, showing how the agency is promoting competition. The report is due December 20, 2007, and annually thereafter. A copy of the first annual report is to be provided to OFPP.</li> <li>2. The General Services Administration is to develop new competition metrics to be reported in the Federal Procurement Data System.</li> </ol>
Using Performance-Based Acquisition (PBA) to Meet Program Needs – Performance Goals, Guidance, and Training May 22, 2007 Chief Acquisition Officers and Senior Procurement Executives	Recommend appropriate PBA performance goals and identify PBA learning assets, including useful guides and training opportunities, to ensure this acquisition strategy is used effectively.	In fiscal year 2006 agencies were required to apply PBA methods to 40 percent or more of their eligible service actions over \$25,000. In December 2007, OFPP increased the goal to 50 percent for fiscal year 2008. Agencies must ensure that their PAB plans reflect their most current goal information.

**Appendix III: OFPP Memorandums  
Responding to SARA Acquisition Advisory  
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Subject, date, and addressees	Purpose	Reporting requirements to ensure implementation
Federal Acquisition Certification for Program and Project Managers April 25, 2007 Chief Acquisition Officers	Improve the partnership between program/project managers and contracting professionals for a common understanding of how to best meet acquisition needs.	<ol style="list-style-type: none"> <li>1. The Federal Acquisition Certification for Program and Project Managers shall be accepted by, at minimum, all civilian agencies as evidence that an employee meets the core training and experience requirements.</li> <li>2. The Federal Acquisition Institute will conduct periodic reviews to ensure the Federal Acquisition Certification for Program and Project Managers program is being managed consistently.</li> </ol>
Federal Procurement Data Verification and Validation March 9, 2007 Chief Acquisition Officers	Ensure that agencies take the necessary steps to verify and validate the accuracy of the data in the Federal Procurement Data System, since it is the government's principal repository of acquisition information.	Agencies must provide OFPP with responsibility assignments and data validation/verification policies to ensure that 2007 Federal Procurement Data System data reflect accurate and timely contract information. The initial report was due May 16, 2007.

Source: GAO analysis of OFPP policy memorandums.



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# GAO Products Related to SARA Acquisition Advisory Panel Report by Chapter

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## Chapter 1: Commercial Practices

*Federal Acquisitions and Contracting: Systemic Challenges Need Attention.* [GAO-07-1098T](#). Washington, D.C.: July 17, 2007.

*Defense Contracting: Improved Insight and Controls Needed over DOD's Time-and- Materials Contracts.* [GAO-07-273](#). Washington, D.C.: June 29, 2007.

*Defense Acquisitions: DOD Needs to Exert Management and Oversight to Better Control Acquisition of Services.* [GAO-07-359T](#). Washington, D.C.: January 17, 2007.

*DOD Contracting: Efforts Needed to Address Air Force Commercial Acquisition Risk.* [GAO-06-995](#). Washington, D.C.: September 29, 2006.

*Contract Management: DOD Vulnerabilities to Contracting Fraud, Waste, and Abuse.* [GAO-06-838R](#). Washington, D.C.: July 7, 2006.

*Contract Management: Opportunities to Improve Surveillance on Department of Defense Service Contracts.* [GAO-05-274](#). Washington, D.C.: March 17, 2005.

*Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts.* [GAO-05-229](#). Washington, D.C.: February 11, 2005.

*Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations.* [GAO-05-201](#). Washington, D.C.: April 29, 2005.

*Contract Management: Guidance Needed to Promote Competition for Defense Task Orders.* [GAO-04-874](#). Washington, D.C.: July 30, 2004.

*Contract Management: Further Efforts Needed to Sustain VA's Progress in Purchasing Medical Products and Services.* [GAO-04-718](#). Washington, D.C.: June 22, 2004.

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