

GENERAL SERVICES ADMINISTRATION

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MULTIPLE AWARDS SCHEDULE ADVISORY PANEL

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Friday, February 27, 2009

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The Panel met in room L1301 at
2200 Crystal Drive, Arlington, Virginia, at
9:00 a.m., ELLIOTT BRANCH, Chair, presiding.

PANEL MEMBERS PRESENT:

ELLIOTT BRANCH, Chair
ALAN CHVOTKIN, Professional Services
Council
JAN FRYE, Department of Veteran Affairs
JACQUELINE JONES, U.S. General Services
Administration
GLENN PERRY, U.S. Department of

Education
LESA SCOTT, U.S. General Services
Administration
THOMAS A. SHARPE, JR., Department of the
Treasury

ALSO PRESENT:

PAT BROOKS

Designated Federal Official

1 P-R-O-C-E-E-D-I-N-G-S

2 (9:45 a.m.)

3 CHAIRMAN BRANCH: Okay, we have
4 limited time today. And we finally have a
5 quorum. So it is probably a good thing to get
6 started. We have a lot of changes from our
7 last meeting.

8 So I think it probably makes sense
9 to go through the sections we didn't get to
10 see last meeting to make best use of our time.
11 I think the Panel has all of the files that
12 have been submitted by the various drafters.

13 So what I would like to suggest is
14 over the weekend we just take a look at those,
15 come in on Monday morning with our thoughts
16 pulled together as alternative language we
17 might want to see, and try to just work those
18 hard.

19 So Pat has the basic ordering
20 schedule guidelines up on the screen, which is
21 part 3 that talks about how the schedules
22 work.

1 MEMBER CHVOTKIN: Mr. Chairman,
2 this is the draft that Jackie prepared
3 earlier.

4 CHAIRMAN BRANCH: Yes.

5 MEMBER CHVOTKIN: I had a couple
6 of word changes. For example, even under the
7 ordering procedures, paragraph 2, I think it
8 is more emphatic that orders placed against
9 the schedules must follow or shall follow.
10 There's no discretion about that. So I would
11 recommend changing the word "should" to
12 "shall."

13 CHAIRMAN BRANCH: I guess I would
14 suggest that the word "must" might be better
15 simply because "must" is one that is more
16 common in its usage; whereas, we contract --

17 MEMBER CHVOTKIN: "Must"
18 accomplishes my goal as well.

19 CHAIRMAN BRANCH: Yes.

20 MEMBER CHVOTKIN: Just for the lay
21 reader, as opposed to those of us who were
22 mired in the minutia of government contracts.

1 CHAIRMAN BRANCH: I appreciate the
2 compliment.

3 (Laughter.)

4 (Whereupon, the foregoing matter
5 went off the record at 9:48 a.m. and went back
6 on the record at 9:49 a.m.)

7 MEMBER CHVOTKIN: Just suggest,
8 well, this is an adequate description, an
9 accurate description, of the goals in small
10 business participation, either here or
11 somewhere else in the report, because I didn't
12 see it elsewhere where we at least capture
13 some of the successes or some of the
14 statistics about the extent of small business
15 participation that they hold 70 percent of the
16 contracts and over the past 3 years rewarded
17 XYZ percent in F.Y. '01 or whatever the 6, 7,
18 8 numbers are available because I think this
19 chapter on ordering procedures is a little
20 dry.

21 And I think it can help to at
22 least some -- this is the only place I saw in

1 our report where we could talk about the
2 factual performance of the schedules to date,
3 such as in the small business participation.

4 I would make the same general
5 comment in the e-tools about the robust nature
6 of it. And the advantage is sort of a
7 snapshot of how many hits on advantage or how
8 many -- some numbers that would show that not
9 only do they exist but they are being
10 utilized.

11 MEMBER JONES: I can pull a report
12 to get the small business participation
13 numbers based on number of contractors and
14 sales. So would you like to see both of those
15 or --

16 MEMBER CHVOTKIN: For my purposes,
17 I think that would aid the report. And,
18 again, it shows the success that GSA has had
19 in utilizing that. We hear a lot about it.
20 So we might as well take advantage of it.

21 CHAIRMAN BRANCH: Yes. I think
22 that that would probably be a useful thing to

1 have in that section.

2 MEMBER JONES: Okay. I'll get
3 that. I will include that in a rewrite.

4 CHAIRMAN BRANCH: I guess looking
5 at this section, I think it is an excellent
6 description of how agencies order against
7 schedule contracts. But I would just like to
8 throw this thought out there. Do we need to
9 describe how GSA actually puts schedule
10 contracts in place?

11 MEMBER JONES: Didn't we do that
12 in the schedules background piece or would you
13 like more detail?

14 CHAIRMAN BRANCH: All right. I am
15 looking. It may be just the fact that we are
16 working with so many files today it is a
17 little hard to find things.

18 MEMBER JONES: I think it was
19 discussed in a general way in terms of how it
20 relates to the price reductions clause --

21 CHAIRMAN BRANCH: Right.

22 MEMBER JONES: -- in terms of

1 evaluating first relative to that. But if you
2 want more detail from the recouped of the
3 offer through the award process without
4 including clarifications and things like that,
5 --

6 CHAIRMAN BRANCH: Right.

7 MEMBER JONES: -- I mean, I can
8 add that, too.

9 CHAIRMAN BRANCH: Let's do that.
10 Let's wait until we kind of get this assembled
11 a little better. I do recall us having some
12 general discussion about it.

13 And, unfortunately, due to the
14 number of files that we are still working
15 with, I am not sure I can put my finger on it.
16 But when we do that merge, we might want to
17 bolster that narrative a little bit.

18 I think it is important for folks
19 to understand how GSA contracting officers put
20 those in place. And I think that would add to
21 the context.

22 MEMBER SCOTT: I was thinking

1 about this draft that you had written is these
2 are the paragraphs that I was thinking that we
3 would drop into the report. And that might --

4 CHAIRMAN BRANCH: Yes. I thought
5 we had --

6 MEMBER SCOTT: I call this the
7 Jackie-Thedlus when the draft that I put
8 together is dropped into paragraphs from this
9 that might be adequate.

10 CHAIRMAN BRANCH: So is that in
11 your file?

12 MEMBER SCOTT: I didn't insert it
13 yet, but if you want, I will take it back and
14 go ahead and do that if I've got it
15 electronically.

16 CHAIRMAN BRANCH: Okay. Yes. I
17 think that would --

18 MEMBER SCOTT: I will drop it in
19 where I -- where do the ordering procedures go
20 because this kind of touches both? So you
21 just bring them both into the same spot you
22 think?

1 CHAIRMAN BRANCH: I would think we
2 would bring them both into the same spot.
3 Then it gives the complete picture of, you
4 know, where an offer comes in, establishes a
5 schedule, and then how agencies use that
6 established contract to actually place orders.

7 MEMBER SCOTT: I will get with
8 Pat. I will need her to send this
9 electronically to me at a different address
10 than she has got.

11 CHAIRMAN BRANCH: Okay. Any other
12 comments on this section? I mean, it is very
13 thorough. It is very complete. I think it
14 directs the reader to the regulations very,
15 very well. And it talks about all of the
16 tools that GSA uses or makes available to
17 ordering agencies to place orders against
18 schedule contracts.

19 MEMBER JONES: Well, one of the
20 sections that I had some concern about, which
21 I didn't get a chance to do this but in the
22 area where it addresses the contractor teaming

1 arrangements and how that correlates with the
2 solutions piece of the recommendations because
3 I was saying earlier that the way that the
4 schedules are marketed to the customers is
5 that CTAs do provide an avenue for teaming
6 solutions.

7 So I think that this needs to be
8 reviewed in light of the solutions piece in
9 the recommendations to make sure that they
10 don't contradict each other.

11 CHAIRMAN BRANCH: Well, just
12 looking at this, I think our primary
13 discussion around the solutions piece was the
14 pricing of solutions. So I don't see anything
15 on the face of it that is inconsistent with
16 what you have written.

17 Is anyone else looking at that?
18 Okay. Pat has got it up on the screen. Does
19 anyone else see anything that would be
20 inconsistent with our recommendations with
21 respect to how those solutions would be
22 priced?

1 MEMBER SCOTT: I like that it uses
2 the language solution in it. I think it's
3 good.

4 CHAIRMAN BRANCH: Any other
5 comments on this section from the Panel?

6 (No response.)

7 CHAIRMAN BRANCH: So I think we're
8 at a point where we can decide we'll merge
9 this in as a whole. And then we'll take a
10 look at it in the context of the rest of the
11 report.

12 Pat, could you bring up the roles
13 and responsibilities section? I think that's
14 the other section we have not looked at that
15 Larry drafted.

16 MEMBER JONES: To be consistent
17 with the schedules background piece, I
18 included a pie chart in the schedules
19 background part to show the division of
20 dollars between products and services and
21 products and services combined.

22 Would you like to see -- while we

1 are addressing the small business
2 participation dollars and number of contracts,
3 to be consistent with that, would you like to
4 see another pie chart for the small business
5 piece?

6 CHAIRMAN BRANCH: I'm going to
7 defer to Alan on this one since this is the
8 issue he raised. Your thoughts on that, Alan?

9 MEMBER CHVOTKIN: I think the
10 visual is very helpful. And I don't know what
11 the end product will be in terms of color
12 capability in the document. If not bar charts
13 or some visual to break up page after page of
14 text I think is helpful for me.

15 CHAIRMAN BRANCH: Okay. Then if
16 that is the consensus of the Panel, let's put
17 the visual in there.

18 MEMBER PERRY: On the visuals, are
19 we prepared to put in some other similar types
20 for amount of schedule orders against a larger
21 and some other things to where we are going to
22 have those different references based on the

1 data we have?

2 It's a general question. I'm
3 looking at Pat, but --

4 MS. BROOKS: I don't see where we
5 would have any limitations on anything because
6 everything you guys prepare we would have it
7 on a disk or something. So it's just a matter
8 of copying it.

9 MEMBER JONES: Can you clarify,
10 Ed, what you mean by that?

11 MEMBER PERRY: That's okay. I
12 thought since you were going to do the small
13 business piece, I think there were a couple of
14 other pieces of data points we had where you
15 could show amount of scheduled sales versus
16 the greater whatever is going on or something
17 like that or some other things that I think we
18 have some data on if we could stick some
19 pictures in them to give people a relative
20 sense of what this means, this work means,
21 against the larger picture.

22 There is some stuff I know you

1 said we didn't have the data. And some places
2 it may be that we could turn that into, we
3 could easily turn that into, a pie chart or
4 something on that if you have that.

5 MEMBER SCOTT: What I'm showing is
6 the additional raw data that Jackie had in her
7 initial draft. And maybe some of this data
8 would flow to a pie chart or a bar graph. Do
9 you have the original on this, Jackie?

10 MEMBER JONES: Is that the list of
11 sales by schedule on that second page? That's
12 the dollars. And then that is the sales by
13 schedule.

14 MEMBER SCOTT: So this is the data
15 that turned into this chart?

16 MEMBER JONES: Yes.

17 MEMBER SCOTT: Okay. So maybe
18 there is some more data we might be able to --

19 MEMBER JONES: Yes. We have a
20 database where I can access certain data that
21 we collect for the purposes of reports, that
22 being one. And then the small business

1 dollars and number of contracts, that's
2 another report that's accessible that I can
3 include.

4 Are there any others, Glenn, that
5 you were thinking of?

6 MEMBER PERRY: No. Those are the
7 big items, I think. Anything that could sort
8 of add some weight to the findings and
9 recommendations that represent why we came to
10 some of those recommendations?

11 For example, -- and when I read
12 the section you have here, you have used the
13 word "may" very judiciously and some other
14 words in there. And I know what those mean,
15 but when I read it quick, it makes me think
16 the reader may think it is all in those cases
17 unless they see that word.

18 And with some of the findings we
19 had, it's clearly not all in each of these in
20 some of the description of some of the
21 activities that GSA puts forth, owns, like the
22 e-tools and some other things. So we have

1 some very specific recommendations about that
2 those have some shortcomings and those needs
3 to be addressed.

4 You know, that's for later on to
5 show that comparison and what it could be.

6 MEMBER CHVOTKIN: Mr. Chairman, if
7 I just may add that it seems like so long ago
8 already that we had sales data for, I believe
9 it was, '06 and '07. I can visualize the
10 single-page chart that had the schedule name
11 and the sales by two years.

12 The chart that you appended to
13 here is only the F.Y. '08 numbers. I think
14 maybe that changed a little bit in the update,
15 I think that couple-of-year comparison, no
16 longer than that, would still be very valuable
17 to have.

18 And then how the display goes I'm
19 not as sure, but it was a nice single chart
20 that carried it around to several -- I want to
21 make a point because you are going to see in
22 the numbers that we have got growth still. So

1 it's accentuating either the positives or the
2 risks that we have by continuing to do things
3 the way we are doing them now.

4 CHAIRMAN BRANCH: Yes. I think
5 that's a very good point. And, you know, I
6 have got to think to the extent that we're
7 going to spend the stimulus money in
8 contracts, rather than distributing that by
9 grants, we are likely to see somewhat of a
10 spike in schedule activity, you know, in the
11 coming year. So I think that is a very, very
12 good point.

13 MEMBER JONES: So what do you
14 want?

15 CHAIRMAN BRANCH: Well, not to put
16 words in Alan's mouth, but I think we have
17 some of that data. We have the data for '06
18 and '07. I think it's just a suggestion that
19 we get the '08 married up with it. I think
20 that's really what I've heard. So we've got
21 like a three-year look.

22 So we have Larry's section on

1 roles and responsibilities up on the screen.

2 Why don't we move through that and see if we

3 have got any comments?

4 MEMBER SCOTT: I kind of
5 envisioned something very different in my mind
6 when I looked at this. I am thinking I am
7 probably in a more traditional contracting
8 officer does this, ordering officer does this
9 type of format.

10 So I was having trouble with this
11 layout. Does anybody else have that?

12 CHAIRMAN BRANCH: Well, as I
13 recall, this was really to support the
14 recommendations. So I think it may be a
15 matter of when you cut it up and you put it
16 with recommendations, it's okay. I mean, just
17 going through this, I really think that the
18 first one really belongs with the
19 recommendations that we talked about on
20 disclosure.

21 You know, I think to the extent
22 that we -- if we want to keep the second one,

1 that really belongs in the introduction, the
2 background introduction section.

3 So I had a slightly different
4 view. I don't see this as one piece. I see
5 this as a set of paragraphs that would be
6 distributed throughout the report in the
7 appropriate place to support our findings and
8 recommendations.

9 MEMBER SCOTT: Which means we
10 still need a roles and responsibilities
11 section?

12 CHAIRMAN BRANCH: But I guess the
13 question is, do we need one that is a
14 stand-alone section?

15 MEMBER JONES: I just have a
16 suggestion for simplicity purposes, to section
17 off the different parties that are involved in
18 the roles and responsibilities and maybe
19 bulletize what those are under each area of
20 responsibility.

21 And then maybe some of the
22 supporting information can be outlined along

1 with that. It's just a suggestion.

2 MEMBER SCOTT: Yes, I have had a
3 lot of trouble with this because I found
4 myself reading a sentence, going, "But that's
5 a recommendation," "That's a finding." Yes.

6 It's a beautiful summation is what
7 I found myself feeling when I read this. And
8 I have been digging through it looking for the
9 sentences that are specific roles. I just had
10 a totally different format for what I thought
11 was going to come in on this section.

12 MEMBER CHVOTKIN: Mr. Chairman, I
13 had a concern similar to Lesa, but I missed
14 that portion of the meeting when Larry took on
15 this assignment.

16 This is a set of stand-alone
17 paragraphs. I am less concerned with them for
18 what they say, but now I can't tell you if
19 they're accurate in the context of the rest of
20 the report.

21 In a little while I think we'll
22 talk about the Panel findings and issues

1 draft. It looks like there's a multicolored
2 page that we have with the edits.

3 And maybe that's a way to capture
4 because I think this outline was sort of the
5 table of contents, if you will, to the rest of
6 the report. And if we added some paragraph or
7 two of descriptions of roles and
8 responsibilities -- and maybe Larry's first
9 paragraph can do that -- then depending on
10 where it goes in this document, it will then
11 tell us whether we should find this in chapter
12 1, 2, or 3.

13 And I'm not sure what that answer
14 is. We don't have it in 1. We don't have it
15 in chapter 2 on the MAS Panel. And we hadn't
16 really talked about it in process chapter.

17 So I still think there is a void
18 that needs to be filled. And this won't do
19 it.

20 CHAIRMAN BRANCH: Okay. I was
21 going to ask Pat if we had minutes or a
22 transcription of last session to kind of

1 refresh our memory. And then looking at the
2 outline that she gave us with the notes on it,
3 what I see here under heading 3, which is
4 "Description of Contract Pricing and Award
5 Process," we have the note "Add roles and
6 responsibilities for GSA ordering activity and
7 vendor. Look at the draft section."

8 So I think he perhaps went beyond
9 that charter. I think what Lesa points out
10 produced some very good material. So what I
11 might suggest is that we use the material as
12 it is appropriate in the reports to support
13 our findings and recommendations and then that
14 we perhaps take Jackie's suggestion and just
15 create a more streamlined section using
16 bullets or a responsibility, accountability,
17 consultation information chart, or RACI chart,
18 to look at the steps in the process and
19 allocate those responsibilities to the various
20 parties.

21 MEMBER SCOTT: I was trying to
22 make a list. We need a GSA contracting

1 officer, agency order, ordering contracting
2 officer, vendor. Any other rules come to mind
3 that we would probably need to describe more
4 fully?

5 And I will give a shot at it this
6 weekend with a short paragraph for each of
7 them, but it will be short because I am going
8 to try to merge in her --

9 CHAIRMAN BRANCH: Yes, I know.
10 And I don't think this needs to be long.

11 MEMBER SCOTT: Yes. I'll bring
12 that in. I am just going to merge those into
13 the one I created because I've got a place for
14 them. I don't know if it will fit with what
15 you have worked on.

16 MEMBER JONES: Well, what I had
17 envisioned or what I was suggesting is that
18 for each of the participants, GSA, the agency,
19 and the vendor, under each category that we
20 bulletize what those roles and
21 responsibilities are for the lay persons
22 because when someone picks up this report, it

1 needs to be easy to understand and for them to
2 understand as they look through the
3 recommendation who is responsible for what.

4 MEMBER SCOTT: I will probably do
5 it in sentences. I am more comfortable with
6 that. And then we can cut it down into
7 bullets if you would like. But I will drop in
8 a couple of things.

9 GSA ordering officer receives an
10 evaluation proposal and makes a determination
11 for whether they can make an award or not.
12 And they base the price on fair and reasonable
13 or CSP, you know, that.

14 And then the ordering officer has
15 to follow a point whatever and do whatever to
16 get to an order award. It will be short.

17 CHAIRMAN BRANCH: Okay. So Lesa
18 is going to take an action to come up with a
19 streamlined, an abbreviated description of
20 roles responsibilities.

21 And what I would suggest is that
22 people who took a lead on drafting a

1 particular section to take a look at Larry's
2 document and see if there are any nuggets
3 there that can be incorporated into those
4 drafts.

5 MEMBER SCOTT: Yes. Let me know
6 any nugget that you got or particularly I
7 guess I am looking for we've only got three.
8 Do we have any more roles that we specifically
9 want to address? Do we want to put IG in
10 here, for example? I am just trying to think
11 if there are any roles.

12 CHAIRMAN BRANCH: I'll just speak
13 for myself. I don't think so. I think we're
14 talking about the contract formation process,
15 the order formation process. And the key
16 individuals there are the GSA contracting
17 officer, the ordering agency, ordering
18 officer, and the vendor.

19 MEMBER PERRY: Yes. I think GSA
20 ordering agency is the vendor. If you want to
21 write something in about what GSA does as far
22 as whatever they're doing with the pricing,

1 which may involve different stakeholders. But
2 I don't think you want to get into the
3 details. But those are the key players.

4 CHAIRMAN BRANCH: Yes. And,
5 actually, you might. You might in the sense
6 that if you talk about the GSA contracting
7 officer's responsibility to exercise options
8 and use the industrial specialists to help you
9 test the market.

10 But I think the emphasis ought to
11 be on those three major participants. It's
12 the GSA contracting officer, the agency
13 contracting officer, and the vendor.

14 Any other discussion on that
15 section?

16 (No response.)

17 CHAIRMAN BRANCH: If not, I would
18 like to move on to the MAS findings and issue
19 draft. So, Pat, if you could bring that up?

20 MEMBER SCOTT: Just for point of
21 clarification, it looks like everybody is
22 using Arial 12 font, Arial, and then size is

1 12. I did change this document for everybody,
2 but it didn't make it to the table yet. So
3 just can anybody writing anything please use
4 Arial font size 12?

5 CHAIRMAN BRANCH: Oh, okay.

6 MS. BROOKS: Is this the one you
7 want yet?

8 CHAIRMAN BRANCH: No. You should
9 have one called "MAS Report Draft With Edits."
10 Lesa, I think.

11 MEMBER SCOTT: This is when I took
12 the draft. I was originally calling it "Glenn
13 is Master" because this was the document he
14 had originally drafted.

15 We went through it and renumbered
16 the paragraphs. So I reordered it just to
17 make it match to the outline, as we had
18 discussed at the previous meeting, and then
19 just through in a few places and clarified a
20 sentence or put in a comma minimal, tried to
21 do minimal edits to it.

22 I annotated here a couple like --

1 the very second paragraph down, you will see
2 a place where I was talking about dropping in
3 the document that Jackie and Thedlus had
4 created with the history of GSA and the
5 ordering procedures. Was it Judith? Thedlus
6 had offered some comments on it. And yes.

7 The bullets on the right are where
8 I did the crosswalk to the outline. I wasn't
9 sure. It was easier to work it this way for
10 me so that there is a -- the paragraphs could
11 be brought back in again.

12 We thought you would like the fact
13 that I was calling it "Glenn is Master."

14 Are you looking at the one in
15 Courier?

16 CHAIRMAN BRANCH: Yes. I was
17 looking at the one in Times New Roman.

18 MEMBER SCOTT: Yes. That's the
19 same document. I just changed the font to
20 make it match everybody else's.

21 CHAIRMAN BRANCH: Okay. So the
22 content is exactly? Okay.

1 MEMBER SCOTT: The paragraph on
2 the screen that says, "MAS Panel," Debra and
3 I worked on this initially. And we had a note
4 that we needed to insert something, but I need
5 some clarification from the members.

6 CHAIRMAN BRANCH: I owe you pieces
7 for sections 1 and 2. So I will try to get
8 those to you this weekend.

9 MEMBER JONES: I had a question in
10 this document about footnote 9. It's on page
11 4 or 5, in the, let's see, third paragraph
12 down, where it says, "Post-award reviews are
13 usually performed well into the period of
14 performance or at the time of option period
15 exercise, which in the case of MAS contracts
16 is normally five years after initial award."

17 This caused concern on the part of
18 the agency representatives on the Panel,
19 particularly for the large volume of smaller
20 transactions, where agencies rely heavily on
21 the pricing determinations.

22 But then there is a footnote down

1 here that is titled "Management Challenges,
2 October 17th, 2008," memo to the GSA Acting
3 Administrator from the GSA IG.

4 My question on that is, was that a
5 document that we looked at? Was that a part
6 of the record in terms of the documents that
7 the Panel had to review?

8 MEMBER SCOTT: All right. Glenn?

9 MEMBER PERRY: You know, now that
10 you mention it I don't know that we formally
11 did put it on the table.

12 MEMBER JONES: So if that's the
13 case, should it be in here in the report?

14 MEMBER CHVOTKIN: We had testimony
15 early on from representatives from the GSA
16 IG's office who addressed a number -- it
17 addressed everything, I'm sure, somewhere in
18 the record. And maybe it's just the
19 reference.

20 I think that sentence is confusing
21 a little bit. But as to the footnote itself,
22 I think we could either find testimony in the

1 record or refer to the IG's testimony back in
2 February, March of '08 that it probably would
3 document that position.

4 CHAIRMAN BRANCH: Yes. Just as to
5 ground rules, you know, I will make the
6 observation that we got a number of written
7 submissions. And we generally did not cover
8 those written submissions in Panel
9 discussions. And I believe that this was
10 something attached to one of the written
11 submissions. I will take an action to check
12 that.

13 But to the extent that that was
14 submitted to us as part of -- yes. We got
15 some submissions later on in the process. Pat
16 e-mailed them out at later meetings. I think
17 that is where I remember seeing that. I will
18 take an action to check.

19 The written submissions we got, we
20 got I think three or four after we stopped
21 taking public -- I guess, well, not public but
22 verbal testimony.

1 And, as I recall, that may have
2 been a document attached to one of those
3 written submissions, but I will take an action
4 to check.

5 MEMBER SCOTT: Even though we
6 could go back to the IG's presentation because
7 I know they touched on it in their
8 presentation, it's whether they touched on it
9 in both pre and post-award will be my
10 question. So I think it's in the testimony
11 when Andy Patchan talked to us.

12 MEMBER JONES: And one of the
13 reasons that came to my attention is because
14 that was in July and this memo is dated
15 October. So this memo would have been long
16 after his presentation.

17 MEMBER SCOTT: That's a good
18 catch, Jackie. We need to verify it. But I
19 think that we would possibly still get this
20 same content but would use the Andy Patchan IG
21 presentation from July as the reference.

22 CHAIRMAN BRANCH: Right. So it's

1 either an issue of verifying that we got it as
2 part of one of the written submissions we did
3 not discuss or changing the reference to where
4 that was entered into the record, which would
5 have been Andy's testimony to the Panel.

6 MEMBER CHVOTKIN: Mr. Chairman?
7 If I could stay in that same paragraph or we
8 can come back to it, whatever your preference?
9 But I think that opening sentence is lengthy.

10 I am not sure what thought we are
11 trying to convey, "Only a very small
12 percentage of awards is the information used
13 to determine the price basis." That didn't
14 convey a sentence to me. Well, it is a
15 sentence because it has a period at the end of
16 it, but that is about it, no criticism to --

17 MEMBER SCOTT: Talk to Glenn.

18 MEMBER CHVOTKIN: No. I was going
19 to say no criticism to the master, but --

20 MEMBER PERRY: Where are you,
21 anyway?

22 MEMBER CHVOTKIN: It's on page 4

1 of 5, the third full paragraph, beginning "The
2 Panel also heard that."

3 MEMBER SCOTT: If you're looking
4 at the Arial version, it's page 4 of 6.

5 MEMBER CHVOTKIN: Yes.

6 MEMBER SCOTT: It's my comment 16.
7 If you are looking through, it is easier if
8 you do it from the comment side. We probably
9 need to shorten the sentence into two
10 thoughts.

11 MEMBER PERRY: The point was that
12 we are only checking these on a very small
13 percentage basis. So there's no validation.

14 I'm trying to see if I did
15 something else where I did break. I broke up
16 some of these sentences after the original
17 ones. So that is why I was trying to find it.

18 MEMBER SCOTT: I did the same on
19 some of the sentences when I was doing the cut
20 and paste and rearranging. If you don't mind,
21 Glenn, when I am on it this weekend, I will go
22 ahead and take a look at chopping that

1 sentence.

2 MEMBER PERRY: That sounds like an
3 excellent idea.

4 MEMBER SCOTT: I'll take that on.

5 MEMBER CHVOTKIN: Lesa, may I
6 suggest that I wasn't sure what the term
7 "information used to determine price basis"
8 referred to. That just starts as that, and I
9 didn't see anything in the preceding paragraph
10 that is referenced. So that is where the
11 ambiguity came in my mind.

12 CHAIRMAN BRANCH: Right.
13 Actually, I think if you take out the phrase
14 -- and it doesn't polish the sentence
15 completely, but I think if you take out the
16 phrase "for only a very small percentage of
17 awards" and move that to the end of that
18 sentence, it kind of clarifies the thought.
19 It still needs to be cleaned up.

20 But I think what Glenn was trying
21 to say -- and he will spit these words out if
22 I am wrong -- is that the information used to

1 determine price reasonableness, either at the
2 time of award or exercise of an option is
3 independently validated in only a few cases.
4 I mean, that is what I think the thought was.

5 MEMBER SCOTT: Do you speak
6 German?

7 MEMBER CHVOTKIN: Yes. No.

8 MEMBER SCOTT: The verbs at the
9 end, I got to laughing.

10 CHAIRMAN BRANCH: Does anyone have
11 any comments on this section above that
12 footnote? We might want to just go to --

13 MEMBER CHVOTKIN: Mr. Chairman?

14 CHAIRMAN BRANCH: Yes?

15 MEMBER CHVOTKIN: Staying in that
16 same paragraph, if I may, I am not sure it's
17 accurate or that I want to leave the next
18 sentence right after Pat's insert. The
19 sentence says "GSA IG found flaws in over 70
20 percent of the initial proposals."

21 I remember vividly the discussion
22 in exchange with the Panel members about that

1 70 percent number. I think it was
2 subsequently revised or at least there is more
3 clarity around what that number is. Over the
4 long term, if this is an accurate sentence
5 that comes out of the testimony, we ought to
6 leave it there and document it.

7 But I think it was modified. And
8 that sentence standing alone I don't think
9 adequately reflects --

10 MEMBER PERRY: How many percent of
11 the proposals reviewed I believe is --

12 MEMBER SCOTT: All right. I was
13 going to make two edits to this, but I was
14 going to wait for today. One of them is to
15 make it clear this is the GSA IG's opinion,
16 one.

17 And, two, and it was for the ones
18 they reviewed. And Jackie and I both take
19 severe exception to this because of the way
20 they did their math, but it is what they
21 believe.

22 And as long as we make clear in

1 the report this is what they said, I
2 regrettably have to leave it in.

3 MEMBER CHVOTKIN: And I'll leave
4 it in as well because it is their opinion if
5 we properly characterize it, but we don't have
6 to leave only their opinion in. I remembered
7 Mr. Jackson spending a fair amount of time
8 discussing it. I know that you did as well,
9 Jackie, going back and forth on it.

10 And so if there is testimony in
11 the record that puts both sides of that
12 sentence in that if we are going to leave the
13 IG statement in, we ought to. And if there is
14 a counterbalancing view, that ought to be in
15 there as well. I think it goes to the very
16 nature of the understanding of the schedules
17 program. That would be an important one.

18 CHAIRMAN BRANCH: I'm comfortable
19 with that. However, I think, you know -- and
20 I'll put it in this context. I'll argue that
21 every proposal that I ever have gotten as a
22 contracting officer has a flaw in it.

1 You know, so we're talking initial
2 proposals. Rarely does anybody submit an
3 absolutely perfect proposal. It is always
4 subject to the acquisition of supplementary
5 clarifying information.

6 So I think what we may want to do
7 is we may want to establish the context for
8 that process when we talk about what GSA
9 contracting officers do because I get
10 proposals all the time. You'll see a minor
11 math error or somebody has forgotten to fill
12 the form out, you know, properly, it's missing
13 information.

14 My guess is that the IG given
15 their particular framework for looking at
16 things would characterize that as a flaw where
17 many contracting officers and vendors might
18 characterize that with a less severe term.

19 I think it may be important to
20 just put that into context.

21 MEMBER SCOTT: Actually, Mr.
22 Chairman, I think the problem I have with this

1 is in my recollection of it, we needed
2 somebody to verify it because I don't think it
3 was the proposal. It was the contracting
4 officer's evaluation of the proposal that they
5 took exception to.

6 CHAIRMAN BRANCH: Yes.

7 MEMBER SCOTT: They did not care
8 for the way the contracting officers did their
9 price evaluation in 70 percent of the cases.
10 So the problem is the word "proposal," and I
11 think we just picked up the wrong word.

12 CHAIRMAN BRANCH: Okay. So we
13 should verify that to see what that statement
14 is and put it in the proper context. But, as
15 I recall, the sample size was so small as in
16 my view to be meaningless.

17 MEMBER JONES: So if we leave this
18 in here for the purposes of including the IG's
19 opinion, should we quote it, rather than try
20 to restate it?

21 CHAIRMAN BRANCH: I would not
22 paraphrase that. I mean, if we are going to

1 -- if that is indeed the way the IG stated
2 their opinion, I would either quote that or if
3 you're going to paraphrase it, I would
4 footnote that and send it back to the source.

5 MEMBER SCOTT: Who can we talk
6 into taking the action to verify this? I'm
7 looking at Glenn.

8 MEMBER PERRY: I'll go back and
9 verify. I kind of hear where I think we are
10 going with this. And it's causing me some
11 concern.

12 I believe when you go back through
13 the various snippets, that -- and maybe I was
14 hearing that, one, GSA was using the IG to do
15 some of that validation work. That's part of
16 your -- because you didn't have industrial
17 specialists or whatever doing it.

18 In some part, you were relying
19 upon them to do that work for you. And they
20 came back and found that there were issues
21 with what was going on in the pricing. And
22 they came back with some things that I didn't

1 hear anybody from GSA say.

2 In fact, I think I read someplace
3 that, you know, you acknowledged that there
4 were issues and that you might not like the
5 percentage characterization, but, on the other
6 hand, they were finding some real issues
7 around substantive things, not about form.

8 And I might be in error with, I
9 believe, the IG and including it in management
10 challenges and the other. And maybe if we
11 missed it, maybe we should have had that put
12 into the record.

13 I think if someone goes to the
14 extent that if they followed the proper
15 procedures for their audits and the IG does
16 not usually -- IGs don't usually put things
17 into those management letters unless they have
18 got some supporting documentation for that.

19 And I believe that was
20 characterized in that management letter that
21 is part of GSA's financial statements and
22 performance reports and reports to the

1 Administrator.

2 So I found that fairly strong, the
3 fact that it was included. So there is an
4 issue there. We can change the language to
5 make it more vanilla or downplay a little bit,
6 but I think there is a serious issue there.
7 And I don't feel comfortable with saying,
8 "Well, the IG, they said something, and it's
9 like discounted." That's the way the --

10 CHAIRMAN BRANCH: Well, let me --

11 MEMBER PERRY: I just am --

12 MEMBER SCOTT: No. I agree with
13 you 100 percent. I just want to make sure we
14 do it completely accurately.

15 MEMBER PERRY: And that's correct.

16 CHAIRMAN BRANCH: Let me try to
17 clarify because I have the minutes from our
18 July 21st meeting. And we can refer to the
19 transcript because I have those available,
20 too.

21 The minutes reflect that the GSA
22 pre-award findings included -- and I quote

1 from the minutes -- "CSP is not clear,
2 accurate, and complete, tracking and reporting
3 of sales and discounts inadequate. Employees
4 do not possess education and experience for
5 labor categories."

6 And then under "Frequency of
7 Findings" for F.Y. 2007 reviews, it says,
8 "Seventy percent CSP not accurate." So that
9 would not indicate we were talking about the
10 contracting officer's analysis of that.
11 Seventy-one percent GSA not offered MSC
12 pricing, 34 percent unreported price
13 reductions, 48 percent proposed price
14 reduction clauses in effect of 34 percent
15 billing, vendor billing, system inadequate.

16 So I think that the statement as
17 written at least comports with the minutes.
18 And if we want to nail this one down further,
19 you know, we've got the transcript here. So
20 we can look at the transcript and see what
21 remarks were offered by the IG.

22 MEMBER SCOTT: I just remember we

1 all tried not to react to it emotionally
2 because it sounded so egregious, speaking for
3 me. And hopefully Jackie will jump in with me
4 there.

5 MEMBER JONES: Well, I think
6 there's --

7 CHAIRMAN BRANCH: Oh, I'm sorry.

8 MEMBER JONES: No. I mean,
9 hearing it from the notes is -- actually, it
10 is representative of what goes on as a result
11 of the disclosures. So that's why when I was
12 reading that and it says 70 percent of the
13 initial proposals, that is from the
14 contractor. That is something that they
15 provide to us as the CO.

16 So in reading that and then
17 hearing what those issues were supporting that
18 statement there, then they correlate to me.
19 But no. It really has nothing to do with the
20 CO. It has to do with the information
21 disclosures.

22 MEMBER SCOTT: Your memory of the

1 events is better than mine because I didn't
2 remember it that way.

3 MEMBER JONES: So, going back to
4 my point, I think we should quote it as it was
5 presented.

6 CHAIRMAN BRANCH: Yes. And I
7 think that's the fairest alternative to all
8 parties. So let's look at that reference. It
9 appears that the IG came to talk to us on the
10 21st of July. We ought to be able to
11 reference that from the transcript and then
12 render that quote accurately.

13 That seems to be a very
14 controversial paragraph for some reason. Are
15 there any other issues in that paragraph
16 before we move along?

17 I would like to suggest that we
18 move back up to IV and just kind of walk
19 through the finding section in sequence.

20 MS. BROOKS: Sir, do we change
21 documents or --

22 CHAIRMAN BRANCH: No. I think we

1 are in the same document. If you would just
2 go to IV in that document, which is where the
3 findings section starts? There we go.

4 MEMBER CHVOTKIN: Mr. Chairman, in
5 the paragraph labeled "Services," I don't
6 think that services have a concept to the
7 majority of purchases over the past 15 years.
8 I think that's been a more recent phenomenon.
9 So the sentence that says, "In addition, in
10 the last 10 to 15 years, services now
11 constitute" -- we can't talk about history and
12 then now.

13 CHAIRMAN BRANCH: Well, yes. So
14 --

15 MEMBER CHVOTKIN: That is
16 interesting. All right. So I would suggest
17 that we just simply eliminate the numbers and
18 to say services now constitute the majority of
19 purchases in the MAS program.

20 As long as we are there, I would
21 like to add a suggestion. I think it might be
22 helpful after the previous sentence, the one

1 that ends, "Of any particular service
2 requirement." We might want to add a sentence
3 to say, "The key elements in pricing services
4 are the quantity, skill mix, and skill type of
5 the individuals performing the work."

6 This goes back to a point that I
7 think Mr. Essig made very well that when you
8 are pricing services, you have really got to
9 look at it and say, you know, "What kind of
10 people do I need? What level of skills do I
11 think I need from those people, you know,
12 entry-level journeyman and advanced skills?
13 And how many of those people do I need?" So
14 I think that simply fleshes out the idea as
15 expressed in that sentence.

16 MEMBER SCOTT: I'll say quantity
17 of hours.

18 CHAIRMAN BRANCH: Quantity of
19 hours. Quantity of hours is fine.

20 MEMBER SCOTT: Would it be skill
21 type or skill set? You still have mix because
22 you have got to do the mix, but --

1 CHAIRMAN BRANCH: Well, actually,
2 type should be level. Okay? So you have
3 skill mix, financial people, management
4 analysts, engineers, and then you have
5 entry-level journeymen, senior-level. That's
6 really what I was trying to convey on behalf
7 of Mr. Essig.

8 I guess -- and I'll address this
9 one to Glenn -- we have the sentence "In most
10 cases agencies are requiring services for the
11 purpose of meeting performance outcomes,
12 rather than buying quantity of labor
13 categories." Do we really want to say that?

14 Yes. You know, I'm not sure that
15 I would be willing to say, given my
16 experience, that that is a true statement.
17 I'm comfortable with that if that is a Panel
18 consensus, but do we believe that to be
19 accurate, not against schedule contracts,
20 where we are buying time and material?

21 MEMBER SCOTT: Would it be prudent
22 to introduce that now that we have got this

1 changing environment, where we are supposed to
2 be focusing on performance, introduce it with
3 changing out of focusing on performance-based
4 type contracting? Is that --

5 CHAIRMAN BRANCH: Well, I'll guess
6 I'll go to a more basic question. So when you
7 wrote that sentence, what were you trying to
8 convey?

9 MEMBER PERRY: Well, when we were
10 originally trying to write these things, I
11 think we were trying to write these in a way
12 that would lead you to the recommendations.
13 Okay? I'm sorry.

14 The point I was trying to make is
15 -- and I can't speak for -- maybe since we
16 don't have any data on what individual
17 agencies are doing. But I believe we heard
18 and we talked about that for services-type
19 orders, whether or not folks are doing it, I
20 think they believe that they are stating when
21 they do the solicitations under the orders,
22 their RFQs, that they're stating those

1 requirements in terms of outcomes.

2 They are not saying, "I need six
3 of this" and "six of that" and "seven of
4 that." So in that sentence, those are
5 performance requirements. It's up to the
6 offerors to come back and the scheduled
7 contractors to come back and tell us this is
8 who we are proposing. And, by the way, they
9 happen to be in this category, and this is the
10 rate; in this category, and this is the rate
11 and that sort of thing.

12 Unless you have -- I think that's
13 the world we're in at the moment, at least for
14 the majority of the dollars that folks are
15 doing it that way. Then that's what you have.

16 And I was just trying to make the
17 point that if at that point you're doing that,
18 the work around those, the price reduction
19 clause around a labor category just has
20 minimal value or none at all.

21 CHAIRMAN BRANCH: Let me suggest a
22 modification to that sentence. Let me suggest

1 that we strike in the sentence "In most cases,
2 agencies are requiring services," we strike
3 the word "are," and we substitute for that
4 "should be," because I think what often
5 happens as a practical matter is you're right.

6 We put out a statement of work in
7 which we make a valiant attempt to focus on
8 outcomes. And because of the structure of the
9 schedule, the guy does come back with a
10 solution and says, "Okay. To get to this
11 solution or your outcome, you need these six
12 labor categories and you need this many hours
13 for each one of those labor categories."

14 And we go, "Roger that." But the
15 business arrangement then almost forces us
16 away from that solution because the business
17 model forces us into buying those hours. So
18 if the contractor underestimated or turned out
19 to be wrong, the reality of it is I have to
20 buy more hours to achieve that solution on a
21 time and material basis.

22 So I think there is kind of a

1 mixture there. I think you're right. We're
2 certainly trying to write performance-based
3 statements of work, but I am not sure that the
4 schedules the way they are structured from a
5 business standpoint really facilitate that
6 unless you are actually buying a fixed-price
7 task under the schedule.

8 So I would suggest that
9 modification of words to reflect I think what
10 the goal of every direct management
11 professional is, rather than to try to guess
12 at what the reality of it is.

13 MEMBER PERRY: That's fine.

14 MEMBER SCOTT: And then I would
15 make a slight other edit for flow purposes,
16 which would be, then, after the words "buying
17 quantity of labor categories, which then
18 minimizes," just insert the word "then," just
19 to make it flow.

20 MEMBER CHVOTKIN: I want to stay
21 in that same phrase after the comma, where
22 Lesa just inserted the word "then." And

1 that's a fine change or I was going to suggest
2 "In such cases, the value of GSA's fair and
3 reasonable price determination at the
4 schedule's level has less value or is less
5 important because you are looking at a
6 solution or a mixture." Obviously I didn't
7 try to write that set of words.

8 So in my view, if we put a
9 semicolon after the word "categories," we
10 would say that "In such cases, the value of
11 GSA's fair and reasonableness price
12 determination made at the schedule or the
13 contract level is less relevant," I think that
14 would set up the dichotomy that I think Glenn
15 was, hopefully the dichotomy that Glenn was
16 talking about.

17 MEMBER JONES: I have a further
18 comment about that, though. I guess we were
19 talking about the -- well, the focus is a
20 price reductions clause. So when we say, "In
21 such cases, the value of a GSA price
22 reasonableness determination at the MAS

1 contract level is less relevant," I am,
2 rather, thinking in such cases the value of
3 applying the price reductions clause at the
4 MAS contract level is less relevant.

5 MEMBER FRYE: Where is this going
6 to lead is to; that is, GSA and the VA, when
7 we -- what are we going to use to determine
8 price fair and reasonableness at the outset of
9 the award of these multiple award schedules,
10 which are ID/IQ contracts? I mean, what this
11 is leading us to, I think, is that we don't
12 have a fair and reasonable price on the
13 schedules that are out there right now. So
14 does that lead us, then, to say, "Get rid of
15 the schedules"? I think it does.

16 MEMBER SHARPE: Hear, hear.

17 CHAIRMAN BRANCH: I'm going to
18 take that one on. I think it is important to
19 look at the fact we are talking about services
20 here. And while the recommendations as we
21 came to closure tended to look very similar
22 for products and services, I think the

1 discussion was very different.

2 And I think the discussion around
3 services, at least those services that require
4 a statement of work that says, "Given that you
5 have companies offering you competing mixes of
6 labor, competing quantities of labor, and
7 competing skill levels of labor, that to look
8 at both the price reasonableness determination
9 as well in the case of services" was perhaps
10 not relevant at the contract level. It only
11 becomes relevant at the task order level when
12 those labor categories and labor rates are
13 given life in the form of a proposal to do
14 work.

15 And, therefore, if the price
16 reasonableness determination of those
17 categories of labor really took place when
18 they were given life, number one, what was the
19 real value of a price reasonableness
20 determination for the rate attached to any
21 category? And, therefore, as a derivative of
22 that, of what value would the price reduction

1 clause be?

2 So I agree with your observation,
3 Jan, and yours, Tom, when we're talking about
4 products. Then I think you get into a
5 philosophical argument with respect to being
6 concerned about the initial pricing.

7 But when you are talking about
8 services, I would argue that that is
9 meaningless until somebody comes in and
10 actually bids that because a management
11 analyst or an engineer or a medical technician
12 in and of itself is irrelevant until you put
13 hours next to it.

14 MEMBER FRYE: And I do agree with
15 you with regards to services, but I still go
16 back and ask GSA and my folks, but especially
17 GSA, how are you going to determine a fair and
18 reasonable price on those when you first award
19 those multiple-award contracts without this
20 provision?

21 I don't know how you're going to
22 do it. You know, it's that troublesome thing

1 that we have wherein the contracting officer
2 has to determine fair and reasonable price.

3 I would agree that in services,
4 it's a whole different ball game. But I
5 missed the meeting where we talked about
6 products. And I noticed that we are after the
7 most favored customer price reduction clause
8 and that type of thing in products as we go
9 down the road, too.

10 And, of course, the VA totally
11 disagrees with that. So I will be interested
12 to see what our final language is. But I go
13 back and say, how are you going to determine
14 a fair and reasonable price up front? Because
15 we are so hellbent to get rid of these
16 provisions that we're going to put the GSA and
17 I think the VA in a bad light when it comes to
18 awarding the multiple-award schedules.

19 CHAIRMAN BRANCH: Well, yes. I
20 think if we go back to the recommendations,
21 you know, it's very important because when we
22 talked about products, you know, I think we

1 came through a lot of that.

2 And it was a really interesting
3 meeting because I certainly walked into that
4 meeting conflicted about getting rid of the
5 price reduction clause for products. And I
6 think if I remember that meeting correctly,
7 that was one where we even had a very
8 difficult time starting that discussion.

9 But where I think we evolve to, if
10 you take a look at the recommendations for
11 price reasonableness, the issue was that the
12 GSA should be looking at not only the pricing
13 vertically.

14 So how does this vendor sell into
15 the commercial sector but that the GSA
16 contracting officer ought to be looking
17 horizontally and he ought to be testing that
18 price against other schedule contract holders
19 as well to determine reasonableness? So
20 certainly not in a competitive environment, as
21 we might express that in section XV but
22 certainly a test against the market.

1 And then, thirdly, if you look at
2 the recommendation that really tells GSA they
3 have to take the lead on collecting data at
4 the order level to provide GSA with some
5 pricing trends, I think that was, if you will,
6 the three-legged stool for products that the
7 Panel came to a consensus was would ensure
8 price reasonableness.

9 And if you look at the
10 recommendation to remove the price reduction
11 clause and substitute an 803-like process for
12 that, which is OPE now, of course, but to
13 substitute a process like that with respect to
14 product, the Panel recognized that until you
15 had that infrastructure in place, you could
16 not get rid of the price reduction clause,
17 which is why the recommendation specifically
18 on products is to remove it in phases.

19 So I think that is a fairly
20 balanced summary of the discussion we had with
21 respect to that. And I will open the
22 microphone if anybody wants to add anything.

1 MEMBER JONES: Well, I would.
2 Just conveying my own personal opinion about
3 that, I saw it as a trade-off, if you will,
4 because in the past, before CSP -- or I should
5 say yes, before CSP was the way that
6 contractors disclosed information, we had the
7 DSMDs, the discount sales and marketing data,
8 which also took into account sales to the
9 government.

10 Well, when the CSPs came along, it
11 totally relied on commerciality. And there
12 was no review of what the contractors were
13 selling to the government for.

14 So, with that said, the CSP only
15 disclosed commerciality. So we have this rate
16 on contract that is totally based on
17 commerciality. But, yet, we may have
18 contractors out there selling to federal
19 agencies at, let's say, 30 percent off that
20 rate.

21 So if we as contracting officers
22 had that information at contract formation, to

1 also be able to look at the transactions
2 within the government, then I personally think
3 that we would have more information to look at
4 in terms of establishing a more realistic
5 price on the schedules. So that was my
6 opinion of it.

7 CHAIRMAN BRANCH: Other comments?

8 (No response.)

9 CHAIRMAN BRANCH: Yes. I guess
10 what I would suggest is we kind of develop the
11 findings fully. If you have still got that
12 concern, let's talk about it, but I think
13 there is a lot more material to unfold here,
14 Jan. And this paragraph, I think, was
15 specifically focused on services.

16 Any other comments on this
17 particular paragraph?

18 MEMBER JONES: Yes, I had one.

19 CHAIRMAN BRANCH: Yes, Jackie?

20 MEMBER JONES: I was saying that
21 in such cases, the value of, rather than GSA
22 price reasonableness determination, it really

1 should be the value of the price reductions
2 clause.

3 MEMBER CHVOTKIN: Mr. Chairman, I
4 would agree completely. And that will
5 crystallize the discussion about the
6 recommendations.

7 CHAIRMAN BRANCH: Okay. So let's
8 make that change, Pat, that it is really about
9 the price reduction clause.

10 MEMBER SCOTT: Is it applying it?
11 Originally, Jackie, you said the value of
12 applying the price reasonableness. And I just
13 wanted to double-check with you so I could
14 make sure we get it.

15 MEMBER JONES: No. The value of
16 the price reductions clause. To go on, then,
17 I think a period should come after that, yes,
18 a period.

19 MEMBER FRYE: Is that a problem?

20 MEMBER SCOTT: And delete the rest
21 of the sentence.

22 MEMBER FRYE: What happens when

1 the value goes to zero and it's totally
2 irrelevant? Don't you have a problem with the
3 price reasonableness at the award?

4 MEMBER JONES: I don't understand
5 your question.

6 MEMBER FRYE: I think it's
7 becoming almost somewhat circular. I mean, if
8 that's a major basis for the fair and
9 reasonable determination at the point of the
10 schedule award, as agencies buy off of it and
11 we say the value of that becomes minimal and
12 irrelevant, that undercuts the value that it
13 serves at the award level, at the schedule.
14 It is kind of I think we are caught in a bit
15 of a circle.

16 MEMBER SCOTT: I think that's why
17 we're recommending it be released or removed.

18 MEMBER FRYE: Well, does anybody
19 here ever just go by an hour? I think that is
20 really the point. You know, we buy. For
21 services, we go buy to a statement of work.
22 The vendors tell us that the quantity hours,

1 the skill level of that labor and the skill
2 mix of the labor according to their own
3 categories, which is another one of the issues
4 that we kind of went around on, do we try to
5 rationalize categories into a single
6 definition.

7 So from that perspective, I guess
8 I would absolutely agree with you, Tom. No,
9 it really doesn't mean anything.

10 MEMBER SHARPE: Why do you have
11 it?

12 CHAIRMAN BRANCH: Why do you have
13 it? Because the statute says if you don't
14 have pricing in there, you don't have a
15 contract. So that on a services contract is
16 really a device to get to contract formation
17 and really nothing more.

18 MEMBER FRYE: So from my
19 perspective, then, I look at the GSA schedules
20 for services, saying, "We don't need them."
21 I just don't see any value in them if you
22 can't determine a fair and reasonable price at

1 the inception of the contract. You don't have
2 a way now.

3 MEMBER SCOTT: Well, it's not that
4 we don't have. We have a price. The
5 contracting officers made a determination of
6 price, fair and reasonable. What you are
7 saying, what I'm hearing you say, is that you
8 don't like that price.

9 You may not consider that as
10 valuable. You may not consider it as
11 meaningful. And that's why we also have the
12 recommendation to get rid of the price
13 reduction clause, go ahead and start
14 collecting that data, share back what the
15 basis of award was, and share the history of
16 that information so that the ordering officers
17 will have more confidence in that price or how
18 old -- my personal concern is how old that
19 price is.

20 If we make an award today and
21 you're placing an order against that schedule
22 three years from now, when was it last

1 refreshed? So how current is that price three
2 years from now? And is it a good price?

3 So that's really what -- I agree
4 with this because of that history of the
5 prices. They get old. They get aged. And we
6 don't have the facilities in place to update
7 them timely.

8 MEMBER SHARPE: Throughout all of
9 this, I keep hearing the prices maybe aren't
10 supported, certainly aren't good prices. We
11 can't rely on the prices. But, yet, we want
12 to leave the price there for the convention.
13 Otherwise you don't have a contract. I think
14 that's more bad than good.

15 CHAIRMAN BRANCH: Yes, I agree
16 with you, Tom. And I think one of the motions
17 that we advanced, failed for lack of a second.
18 I think I made a recommendation that we
19 recommend to the -- or I moved that we
20 recommend to the Administrator that he seek a
21 legislative proposal to let us take the
22 pricing out.

1 So I agree with you. And I think
2 we decided collectively that that was a bridge
3 too far. But, you know, at the end of the day
4 in a services contract, you are right. I
5 mean, the pricing information in my view --
6 and I will speak personally and not trying to
7 summarize a consensus of the Panel -- is
8 really to provide you with a bit of market
9 research information, you know, help you
10 perhaps build an independent government
11 estimate but really nothing more because until
12 you decide the number of hours you need to
13 buy, the skill mixes you need to buy, and the
14 labor categories you need to buy, the rate is
15 meaningless.

16 You know, I don't know that we
17 want to get bogged down in this one, but I
18 hear what you are saying. And I know that you
19 feel very passionately about it. I hear what
20 Jan is saying. And I know that there is a
21 great deal of energy around that as well. And
22 one of the ground rules we set at the

1 beginning of our process for deliberating is
2 that if you wanted to include in the report an
3 alternate view, that we would give you an
4 opportunity to do that.

5 So if you really feel that
6 strongly that we ought to strip pricing out of
7 that, out of those contracts, or make that
8 recommendation to the Administrator, offer us
9 an alternate view.

10 And, frankly, there are probably a
11 few of us. And I will speak for myself. I
12 would sign onto that with you.

13 MEMBER SHARPE: I may do just
14 that. I mean, the view I have exposed before,
15 the prices ought to be good. They ought to be
16 leveraged. They ought to be good prices.
17 They ought to be supported. That's more a
18 comment on products than services, but that is
19 how I would finish that thought.

20 I think we are going to be asked
21 individually and as a Panel, are these prices
22 any good? And I think I just talked to that.

1 And what did you do to improve them?

2 MEMBER SCOTT: Every KO up there
3 believes they are trying to get the best
4 price. They do that. The problem I have, as
5 I said, is the aging of those prices because
6 we don't have the resources to update them as
7 regularly, as fast, as quick as we should.

8 MEMBER SHARPE: I don't think that
9 is a true statement because it is a good price
10 for that vendor.

11 MEMBER SCOTT: Yes. Absolutely.

12 CHAIRMAN BRANCH: All right. So
13 this is one, you know, Pat, I would just ask
14 you to make a note we might potentially have
15 an alternate view offered here. Think about
16 what you want to do, Tom. And if you want to
17 give us a short alternate view, you know, work
18 something up. And we'll figure out how to
19 insert those into the organization of the
20 report.

21 MEMBER SCOTT: Yes. The only
22 thing is please reference the fact that it is

1 statutory. At that point we're talking
2 statutory change.

3 MEMBER SHARPE: I'm willing to do
4 that. I mean, how do we feel collectively
5 about answering the question, what do we do to
6 improve these prices? This is a bad economy.
7 There's a lot of volume through these
8 schedules.

9 CHAIRMAN BRANCH: Yes. Okay.
10 Jackie, microphone.

11 MEMBER JONES: I said, looking at
12 the transactional information is one way.

13 MEMBER SHARPE: Well, I mean, in
14 terms of BPAs, GSA has got that, right? You
15 hold the contracts.

16 MEMBER JONES: I don't understand
17 your point.

18 MEMBER SHARPE: GSA has placed
19 under your contract. You have that pricing
20 data.

21 MEMBER JONES: No, we don't.

22 MEMBER SHARPE: Why?

1 MEMBER JONES: Agencies don't
2 report --

3 MEMBER SHARPE: You could simply
4 ask for it.

5 MEMBER JONES: -- their task
6 orders to us.

7 MEMBER SHARPE: BPAs?

8 MEMBER JONES: Yes. You can't ask
9 for that?

10 MEMBER SCOTT: We don't have the
11 capability of collecting it and collating.
12 That is one of the other recommendations that
13 we have already got in there is we have got to
14 collect this data so we can start the feedback
15 look to reestablish and reconsider pricing on
16 a more timely basis.

17 CHAIRMAN BRANCH: Yes. You know,
18 let me take a shot at that. I feel obligated
19 to do that because I think I am going to have
20 to speak for this report as Chairman of the
21 Panel once it is issued.

22 What have we done to improve the

1 pricing here? I think what we have done is we
2 have made a set of recommendations to the
3 Administrator. I think we are in the process
4 of making a set of recommendations to the
5 Administrator that fundamentally re-architects
6 the way GSA and the agencies work together to
7 ensure reasonable prices.

8 So the first of those would be
9 that we are going to recommend to the
10 Administrator that he clarify the policy for
11 his own people as to how to arrive at a fair
12 and reasonable price.

13 The second piece is that GSA
14 disclose to the agency ordering officer how it
15 came to that fair and reasonable price
16 determination so that the agency ordering
17 officer can exercise his independent judgment
18 with respect to how aggressively to seek a
19 price reduction under the schedule, which is
20 an allowable business practice.

21 Thirdly, we have given GSA a
22 recommendation to take the lead on creating a

1 system of data collection which would allow it
2 to use the data to be gathered from individual
3 agency orders to really start to leverage
4 those prices, to go back in to vendors after
5 a certain amount of activity under the
6 schedule and say to a vendor, "You know, I
7 know you gave me a schedule price of \$50 for
8 this program analyst. But, you know, I have
9 looked at a year's worth of data. And you
10 have never sold that program analyst for more
11 than 37.50 an hour. And that really ought to
12 be reflected in your schedule price."

13 And, fourth, to make it clear to
14 GSA contracting officers that they not only
15 should look vertically but horizontally when
16 they go to establish that price reasonableness
17 and they should use the data we talked about
18 collecting to refresh those prices.

19 So can I say that we with one wave
20 of a magic wand have done anything to
21 instantaneously improve these prices?
22 Absolutely not. Can I say that we have given

1 the Administrator an architecture to go do
2 that, an architecture that can be built with
3 the cooperation of ordering agencies? I would
4 say resoundingly yes, we have done that.

5 So that would be my answer to your
6 question. This is what we have done to help
7 improve those prices. You know, I think we
8 are moving closer to the vision that you have
9 often expressed in this Panel, which is we
10 really ought to be acting as a government that
11 uses the information it holds to leverage our
12 combined buy-in power.

13 We are just not in a position --
14 you know, our systems and DOD don't talk to
15 each other. You know, heck, my systems in
16 Navy don't talk to each other. It's not
17 pretty. And we've got to disentangle
18 ourselves from it.

19 Okay. Next paragraph. Any
20 comments on it?

21 MEMBER CHVOTKIN: Mr. Chairman, I
22 would just raise that the last sentence, it

1 says the ordering agencies could use this
2 information. I think that is a little weak.
3 And we had heard from the ordering activities
4 and purchasers that they would substantially
5 benefit from the information. It's a lot
6 stronger suggestion than the ordering agencies
7 could.

8 Well, maybe you could use the
9 information or maybe not. I think even the
10 discussion right here would tell us that there
11 would be substantial benefit.

12 CHAIRMAN BRANCH: Would you like
13 to propose a change in the verbiage?

14 MEMBER CHVOTKIN: Yes. I would
15 strike the words "could use" and insert the
16 words "would substantially benefit from."

17 MEMBER SCOTT: And I'll smooth out
18 the rough edges.

19 CHAIRMAN BRANCH: Other comments
20 on that paragraph? I think we lose our quorum
21 when you leave.

22 (Whereupon, the foregoing matter

1 went off the record at 11:12 a.m. and went
2 back on the record at 11:13 a.m.)

3 CHAIRMAN BRANCH: Other comments
4 on that paragraph?

5 MEMBER JONES: I don't understand
6 the intent of the first sentence.

7 CHAIRMAN BRANCH: What sentence?
8 Is it the sentence that starts, "While GSA
9 states that competition requirements"? Okay.
10 You're in the next paragraph. So does anyone
11 have any comments, final comments, on the
12 paragraph that Alan has suggested an amendment
13 to? If not, we'll move on to the next
14 paragraph.

15 MEMBER CHVOTKIN: Mr. Chairman, I
16 might suggest a slight revision of the first
17 sentence. I will read my suggested change.
18 And then I will go back and make sure. "The
19 Panel found that GSA has limited and in some
20 instances no order data available for its own
21 use as well as for use of the ordering
22 agencies."

1 This is just what we were talking
2 about, that GSA does not currently collect
3 data on the orders. Sometimes it has it, but
4 that is just happenstance, not through a
5 systematic method of collecting it.

6 MEMBER JONES: Well, I think we
7 need to be a little bit more specific, then,
8 if we're going to talk about the data that
9 we're referring to for GSA and the data for
10 the ordering agencies because that is
11 different. The GSA data and the ordering
12 agencies' data is two separate data sets.

13 MEMBER CHVOTKIN: Let me just ask,
14 Jackie. When GSA as a buying activity places
15 orders off the schedule, does the schedule's
16 office have visibility into that transaction
17 set?

18 CHAIRMAN BRANCH: When we as an
19 agency order off the schedules? Well, it
20 depends. It depends on who the office is. I
21 mean, if we're establishing BPAs in our
22 office, let's say, for example, and we're

1 establishing a BPA against a mobile schedule,
2 of course, we have the contracts there.

3 But I guess what I am referring to
4 is that the data that we would use at contract
5 formation and the data that an ordering agency
6 would use in placing the task order are two
7 different data sets. That is what I am
8 getting at.

9 MEMBER SCOTT: I think that is the
10 crux of our problem. Right?

11 MEMBER CHVOTKIN: Exactly. I was
12 looking here at GSA as an ordering agency no
13 different from the Interior Department or
14 Treasury or VA.

15 We don't even need that because
16 what we are really trying to get at is the
17 flip side of the prior paragraph, which is GSA
18 has limited data available for the use of the
19 ordering agencies about prices, orders and
20 prices, or prices on orders.

21 MEMBER SCOTT: Well, we're back to
22 the refresh issue. I mean, to me the sentence

1 is the crux of what came up, what is the
2 backbone of the recommendation to try to
3 collect data and share data so that we know
4 what the orders are that were placed against
5 our contracts to know if they are getting
6 better deals than what we have got on the
7 basic contract.

8 MEMBER JONES: But the footnote is
9 based on the services acquisition reformat.
10 I guess what is confusing to me when I read
11 this sentence is that we have limited data in
12 terms of the transactional information from
13 the ordering agencies, but the ordering
14 agencies have data available to them through
15 GSA Advantage. But they don't have the
16 information that we use at contract formation.

17 So it's two different sets of
18 information that we would require: one at
19 contract formation, the other by the ordering
20 activity.

21 MEMBER SCOTT: But it also --

22 MEMBER PERRY: I understand the

1 distinction. I don't know what we're trying
2 -- the point originally -- and this is
3 suffering a little bit from splitting some of
4 this up.

5 The point that was trying to be
6 made by this paragraph, which followed another
7 paragraph on data originally, data
8 transparency, is that I thought we talked
9 about and agreed that it was really a circular
10 use of data that would continually -- what we
11 were trying to get to and we were trying to
12 make recommendations on should be a circular
13 informing of if GSA is going to set these
14 prices in the contract schedule, then it needs
15 to be informed as to what is happening in the
16 marketplace in which the schedules are
17 serving.

18 And also the contracting officer
19 at the ordering agency needs to know what the
20 other pieces of the information are that are
21 coming into the equation, which obviously they
22 are relying in some part on as long as we are

1 maintaining that GSA does create this price
2 that is fair and reasonable.

3 I thought I heard from both ends
4 of that, both sides, both ends of that circle,
5 both polars of that circle that they're
6 feeling that it was inadequate in order to get
7 to the state that our Chairman just eloquently
8 set forth. And I hope we captured that in
9 every word.

10 I am going to pile onto that. I
11 am going to come out of this that we shouldn't
12 have a system where any contracting,
13 individual contracting, officer is using as a
14 basis for their determination of fair and
15 reasonableness any singular price in the
16 schedule that isn't backed up by good market
17 data as to what is happening in the
18 marketplace.

19 I have on the other spectrum from
20 your \$50 real examples where, for example, at
21 the very high end, where there are schedule
22 prices for people, services that would equate

1 to over a million dollars a year to pay for
2 that person on a full-time basis on a project
3 that you may have going. And that is
4 outrageous.

5 And I have seen contracting
6 officers use that as a basis for their price
7 reasonableness because they thought GSA
8 somehow had come to some conclusion that that
9 was a good price at five, six, seven hundred
10 dollars an hour. And we all know that that is
11 not the case for work that is happening at the
12 agencies.

13 I want a world where we don't have
14 those kinds of prices sitting there being sold
15 as fair and reasonable, that then we have to
16 have contracting people go behind that and
17 have to get it back to where it should be for
18 the work that is being done.

19 That is what I want to come out of
20 this, out of these recommendations.

21 MEMBER SHARPE: How do we do that?
22 I like the way you described the value. I

1 think it was very well-said. How do we do
2 that? If we are going to come out with a
3 specific recommendation, those prices might be
4 fair and reasonable for GSA purposes to form
5 their contract, but it's not for an order.

6 And the second question, are we
7 going to make a recommendation around the
8 data? Are we going to make a specific
9 recommendation what GSA ought to do, a
10 mandatory contract clause, everything goes
11 into Advantage? I don't know what the answer
12 is.

13 Because if all the prices were out
14 there, I think it would solve a lot of the
15 problems that I see with the use of the
16 schedules.

17 MEMBER JONES: Well, I have a
18 suggestion based on what you just said, Glenn.
19 I think what you are trying to say -- and
20 correct me if I am wrong -- there is limited
21 transparency between GSA and the ordering
22 activities' pricing.

1 MEMBER SHARPE: Agree.

2 MEMBER SHARPE: I think we agree
3 around that transparency. The specific --

4 MEMBER SCOTT: Yes. Let me read
5 you the recommendation as it is presently
6 worded. Recommendation number 10 in the
7 document that we got from Pat, "The
8 Administrator of GSA develop a solution that
9 captures pricing at the order level and makes
10 it available to the contracting officers at
11 both the schedule and order levels to conduct
12 market research, determine fair and reasonable
13 pricing at the contract level, and competition
14 at the order level."

15 So yes, we are not going to tell
16 them how to do it. We are going to tell them
17 what we want for the outcome.

18 MEMBER SHARPE: Okay. What about
19 to Glenn's comment? Is there a recommendation
20 that prices not be considered fair and
21 reasonable for an order?

22 CHAIRMAN BRANCH: No. I think we

1 a lot of discussion around that. And I think
2 the compromised position on that was that GSA
3 disclose the basis of their price
4 reasonableness determination. And we did that
5 I think with some strong counsel from Debra
6 not to forget the small agencies.

7 So if you have got a schedule
8 where the GSA schedule contracting officer
9 said, "Hey, this price was determined to be
10 fair and reasonable on the basis that I sell
11 you onesies and twosies at a small volume" if
12 you've got a contracting officer how
13 literally, say, just wants to buy temporarily
14 help to pick up the phone for six months, you
15 ought to be able to do that.

16 On the other hand, as you roll out
17 spending on TARP or a stimulus package and you
18 know that is going to require hundreds, if not
19 thousands, of man-hours, that that puts your
20 contracting officer on notice that you should
21 aggressively seek a discount.

22 So I think that that was kind of

1 the compromise. And I think the compromise
2 was really driven by the fact that sometimes
3 we want to buy smaller quantities and when we
4 often buy those small quantities in small
5 agencies, where they don't have the
6 wherewithal to exercise the kind of
7 sophisticated contract management techniques
8 that the rest of us might have and large
9 activities.

10 MEMBER CHVOTKIN: Mr. Chairman,
11 just, again, I apologize to my colleagues
12 about the schedule, even for this morning.
13 Can I ask for you to tell us, then, what the
14 plan is between now and Monday?

15 CHAIRMAN BRANCH: I think we're
16 looking at some of this cold, at least in kind
17 of a non-unified format. Let me put it that
18 way. So what I would like everybody to do
19 over the weekend is to really look at the
20 pieces you have.

21 If you have issues with the
22 language as drafted, please mark them up and

1 come ready to discuss those markups on Monday.
2 And let's hit it hard because I fear that we
3 may well have the same kinds of challenges on
4 Monday.

5 I have got to leave early, I know.
6 I have got a plane to catch. I think Lesa may
7 have to leave early as well. And I would ask
8 Pat this afternoon if you could follow up with
9 the rest of the Panel members who are not here
10 to verify that we will have them on Monday
11 because I would prefer not to waste anybody's
12 time coming into Crystal City if we're not
13 going to have a quorum for at least part of
14 the day. So if I could ask you to do that and
15 communicate with us this afternoon or early
16 evening by e-mail, that would be helpful.

17 MEMBER PERRY: So could we clarify
18 what we are going to spend our time focusing
19 on? Is it this document that you have? I
20 don't want to waste any time on the --

21 CHAIRMAN BRANCH: I think yes, I
22 --

1 MEMBER PERRY: Let's agree on
2 which things we are going to focus on trying
3 to fit into the original outline and then just
4 focus on that. So if I see, if you agree that
5 we are going to use the thing, what you wrote,
6 then I will go back to what I did here. And
7 let's forget that. I'll try to do something
8 with this.

9 CHAIRMAN BRANCH: I would like to
10 focus on, I guess, Lesa's version of the Perry
11 edits. I think it is the most comprehensive
12 piece that we have. And I guess we talked
13 about roles and responsibilities. So we're
14 going to have to chop that up and integrate
15 that.

16 But it seems to me, interestingly
17 enough, we seem to be assuring ourselves that
18 we have really come to the right set of
19 recommendations. I think that is an important
20 and useful thing.

21 I think the findings and
22 recommendations are primarily embedded in that

1 document. So let us focus over the weekend on
2 really taking a good read of that document.

3 If you really can't live with the
4 way things are worded or if you really can't
5 live with what we said here, we need to talk
6 about that, run that to ground as quickly as
7 possible, actually talking about this one.

8 MEMBER SHARPE: Which one is that?

9 CHAIRMAN BRANCH: I think we have
10 a couple of versions of this running around:
11 one in Times New Roman and one in Arial. But
12 they are both the same. The content is the
13 same, yes.

14 MEMBER PERRY: So, Pat, could you
15 send the one with your comments to all of us
16 on this document and the other one we covered
17 this morning? My suggestion is take the piece
18 that I gave you. You need to ditch, throw
19 that.

20 I'm looking at Pat, when you send
21 stuff out, not send out this one that I have
22 that was buried in the outline. Okay?

1 CHAIRMAN BRANCH: Right. So we
2 can get focused on where we're at. So which
3 ones are we really focusing on?

4 MEMBER CHVOTKIN: May I suggest,
5 Pat, why don't you go ahead and accept all the
6 changes on this document that we have been
7 working on today, put today's date on it, and
8 redistribute that so that everybody will have
9 what we have done as of noon today, put the
10 noon today version. Everybody then on the
11 Panel will have that. And if that could get
12 out early this afternoon, then that could be
13 the basis on which we re-edit the document.

14 CHAIRMAN BRANCH: Alan, I think
15 that is a very good plan. Is everybody okay
16 with that? So we'll take what we have done to
17 this point today. And, Pat, if you will get
18 that out to everybody, that will be the focus
19 of Monday.

20 MEMBER SCOTT: When I get Pat's
21 document, I will take the pieces that Jackie
22 and Judith originally wrote up about the

1 schedule in the program and insert them. I
2 don't think I will get that done before Pat
3 does her thing.

4 So I will insert what she did.
5 And then I need to talk with you to see what
6 you did on this. And we'll see what can be
7 integrated from here because you have got some
8 good things there.

9 CHAIRMAN BRANCH: All right. So
10 assuming --

11 MEMBER SCOTT: So we will do a
12 little integration of your two documents.

13 CHAIRMAN BRANCH: All right. So
14 assuming that Pat is going to send out an
15 all-Panel e-mail and you are going to do that,
16 would it be possible for you to then get that
17 to the Panel before Monday?

18 MEMBER SCOTT: I will try.

19 CHAIRMAN BRANCH: Okay. I mean,
20 that is all we can ask. And, you know, I
21 don't know that that is critical to what we
22 need to talk about on Monday, but I think the

1 closer we get to a complete document that can
2 be read in context, the better off we are.

3 MEMBER SCOTT: The second thing I
4 would offer up is that when Debra and I got
5 together and worked on just running the
6 documents through for flow and we agreed to do
7 the Arial font and we agreed that we would
8 capitalize the word "Panel," we did little
9 nitpicks of that kind, the intent was that the
10 recommendations document would drop in in
11 toto, just drop into that section. So that
12 these two documents --

13 MEMBER PERRY: Yes, Pat. Just
14 drop the recommendations into that document.
15 Let's use her document as the master document,
16 have one document.

17 CHAIRMAN BRANCH: All right.
18 Given that we have some Panel members that
19 need to depart, I will turn it over to Pat to
20 kind of close it up.

21 MS. BROOKS: Just one question.
22 Given that you have to leave early Monday,

1 would you want to start at 8:00? And I could
2 include that in my message.

3 CHAIRMAN BRANCH: Yes, starting at
4 8:00 is fine. Do I hear 7:30? Just kidding.
5 I think let's choose 8:00. That is a
6 civilized hour to start.

7 MEMBER SCOTT: I am getting
8 dropped off at 7:00. So 7:00 is okay with me.

9 MS. BROOKS: Yes. The meeting
10 will be back here on Monday.

11 CHAIRMAN BRANCH: 8:00 o'clock.
12 All right. Well, it's a deal.

13 (Whereupon, the foregoing matter
14 was recessed at 11:32 a.m., to be reconvened
15 on Monday, March 2, 2009 at 8:00 a.m.)

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