

CHAPTER 3

Interagency Contracting

Table of Contents

I. Introduction and Background	219
A. Introduction	219
B. Background	225
1. Types of Interagency Contract Vehicles	227
a. Multi-Agency Contract	227
b. Governmentwide Acquisition Contract (GWAC)	229
c. GSA Schedules Program	232
d. Enterprise-wide Contract Vehicles	235
e. Interagency Assisting Entities	236
2. Parties Involved in Interagency Contracting	238
3. Creation and Continuation in Interagency Contracting	238
a. Incentives to Use Interagency Contract Vehicles	239
b. Incentives to Create Interagency Contract Vehicles	242
c. Oversight Concerns	243
4. Transparency	243
a. Data on Use	243
b. Data on Management	244
c. Data and Transparency	245
II. Issues and Findings - Creation and Continuation	245
A. Proliferation	246
B. Inconsistent Oversight	248
1. Lack of Transparency	248
2. Little Systematic Coordination Among Vehicles	248
3. No Consistent Standards for Creation and Continuation	249

4. No Procedures for Aligning Vehicles to Leverage Government Purchasing Power	250
5. No Central Database or Consistent Methodology to Help Agencies Select Appropriate Contract Vehicles.	250
C. Incentives for Creation Don't Always Translate Into Benefits for the Taxpayer	250
D. Some Diversity is Desirable.	251
E. Focus on Process of Creation and Continuation will Improve Use of the Vehicles	251
III. Recommendations	251
IV. Appendices.	259
Appendix A: Business Case to Support Executive Agent Redesignation.	259
Appendix B: Agency Application for Franchise Fund Pilot Program	265

I. Introduction and Background

A. Introduction

Among the specific requirements for the Acquisition Advisory Panel outlined in Section 1423 is the review of the performance of acquisition functions across agency lines of responsibility and the use of government-wide contracts.

The performance of acquisition functions across agency lines is almost exclusively accomplished through the use of interagency contract vehicles described in detail in the next section. The significant increase in the use of these vehicles by agencies over the last ten years has raised a number of complex policy issues and has been the subject of extensive oversight by Congress, the Government Accountability Office (“GAO”), the inspectors general (“IGs”) of various federal agencies, outside organizations, and the media. This attention has highlighted significant benefits in award efficiencies these vehicles provide to the federal government and the taxpayer. It has also uncovered past deficiencies in their creation and administration and continuing risks associated with their use.

Several critical observations have been made regarding the creation and use of interagency contract vehicles. In its January 2005 High Risk Update, GAO observed that a number of factors contribute to making these vehicles high risk in certain circumstances:

- 1) they are attracting rapid growth of taxpayer dollars;
- 2) they are being used and administered by some agencies with limited expertise in this contracting method; and
- 3) they contribute to a significantly more complex environment in which accountability has not always been clearly established.¹

In light of these recent studies, it is interesting to note that most of the management challenges in these recent studies were identified over eight years ago in “the Multiagency/GWAC Program Managers Compact” signed by the major federal program managers in September 1997. In this document, entitled, “a Consensus on Principles Applicable to the Acquisition of Services under Multiagency Contracts and Governmentwide Acquisitions,” federal program managers set forth and agreed to a series of principles that would guide their business conduct. The “Compact” recognized that federal agencies, in the interest of economy and efficiency, are placing increased emphasis on the use of multi-agency contracts and that “[w]hen *properly* developed and used,” these vehicles may enable agencies to fulfill their missions.²

The Panel has identified all of the relevant laws, regulations and policies applicable to interagency vehicles and assembled relevant GAO and IG audits. It also identified other studies, reviews, hearing testimony, data, and information available on interagency contracts and similar enterprise-wide vehicles as well as their use by interagency assisting entities. In addition, the Working Group conducted over 80 meetings and, among other things, interviewed key federal managers involved with these vehicles and entities.

After receiving stakeholder input and reviewing the relevant source material, the Panel concluded that interagency contract vehicles have played an important role in streamlining

¹ U.S. GAO, GAO High-Risk Series: An Update, GAO-05-207, 25 (Jan. 2005).

² See <http://www.thecre.com/fedlaw/legal25/magycom.htm>.

the federal government's acquisition process. The 2005 GAO High Risk Update mentioned above concluded that when managed properly these vehicles serve an important purpose. The report stated that, "[t]hese contracts are designed to leverage the Government's aggregate buying power and provide a much-needed simplified method for procuring commonly used goods and services."³ The report went on to say that "[t]hese contract vehicles offer the benefits of improved efficiency and timeliness; however, they need to be effectively managed." The Panel agrees with the GAO's view that interagency contract vehicles are of significant value when managed properly.

Based on the growing challenges being faced by the acquisition community (*e.g.*, growing workload, aging workforce), the Panel determined that interagency contract vehicles play a critical role in allowing agencies to accomplish their missions. The Panel focused its recommendations on maintaining the value and efficiencies created by interagency contracts while responding to key management challenges that have arisen from their increased use.

As the Panel conducted its work, there was a great deal of activity concerning interagency contract vehicles in Congress and the Executive Branch. In response to internal reviews and congressional oversight, the General Services Administration ("GSA") embarked on a major reorganization of its schedules and assisted purchasing programs. The reorganization was intended to address some of the issues raised in the audit and oversight reports considered by the Working Group.⁴ Concurrently, individual federal agencies, such as the Department of Homeland Security ("DHS") and elements within the Department of Defense ("DoD"), began the establishment of internal, enterprise-wide purchasing programs for specific types of services that are offered under the GSA schedules program and through other interagency vehicles and programs. These programs, such as the Navy's SeaPort-e program for engineering support services, are touted as offering similar support to buying activities as the schedules, but with more effective administration, reduced overhead cost, and improved spend analysis insight. Due to their similarities to interagency vehicles and as a result of the growing number being established within agencies, these enterprise-wide vehicles may have adverse impacts on the overall administrative efficiencies and cost savings associated with interagency vehicles. Consequently, the Panel expanded its review and recommendations to cover these enterprise-wide vehicles.

Congress has also passed legislation that could significantly impact the use of interagency vehicles in the future. Section 811 of the National Defense Authorization Act for Fiscal Year 2006 expanded the scope of the initial DoD IG compliance review of DoD's use of the GSA Client Support Centers, DoD's use of interagency vehicles through the Department of Treasury and Department of Interior Franchise funds and the National Aeronautics and Space Administration government-wide vehicles. Section 812 of the same bill requires the establishment of a management structure within the DoD for the management of services acquisition, including those services procured through interagency contract vehicles. Section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007

³ GAO-05-207 at 24.

⁴ The General Services Administration Modernization Act created the Federal Acquisition Service ("FAS") by consolidating the FTS and the Federal Supply Service. See Pub.L. 109-313, § 2(c), Oct. 6, 2006. This organizational change does not affect the Federal Supply Schedule ("FSS") program also known as the Multiple Award Schedule ("MAS") program.

further expands the scope of the DoD IG review of interagency contracts to include the National Institutes of Health and the Department of Veterans Affairs. The Panel noted these more recent developments in formulating its recommendations, but at this time has refrained from drawing any conclusions about the specific proposals and actions.

Finally, criticism of the federal response to the Hurricane Katrina disaster has led to discussions about the degree to which interagency contract vehicles may be among the most useful tools for allowing federal agencies to acquire goods and services for national emergencies. Interagency contract vehicles, such as the GSA Schedules program, can potentially offer a broad range of goods and services to assist with disaster preparation and recovery. In response, section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 provided that the GSA may authorize state and local governments to use Federal Supply Schedules for goods or services that are to be used to facilitate recovery from a major disaster declared by the President or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.⁵ Beginning with sound agency advance planning, interagency vehicles could provide pre-negotiated line items and special terms and conditions that would allow for rapid deployment of assistance to affected communities.

Although the identification of sources and issues continued to the end of the review process, the Panel focused on identifying the scope of the issues it would consider in making its recommendations. Four basic questions concerning interagency contract vehicles were identified:

What are they?

Why do agencies use them?

How do agencies use them?

How should agencies use them?

As in other areas, the Panel believes that there is no privileged perspective from which to answer these four questions. There are a number of valid stakeholders with disparate points of view that must be considered. These stakeholders are identified in the next section.

In reviewing the various audits, studies, reviews, presentations and commentaries, the panel strove to avoid duplicating the audit work of the GAO or agency IGs. It attempted to look at higher-level policy issues of a systemic nature appropriate for review by such an independent panel. In following the Section 1423 charter, the Panel has developed recommendations for changes to laws, regulations, and policies to:

- Establish overarching goals and acquisition planning mechanisms to balance competing policy mandates;
- Address systemic issues identified in GAO, IG and other reports;
- Foster restructuring and consolidation of programs and vehicles where appropriate;
- Import applicable best practices from both government and private sector experience;
- Increase the scope of competitive forces in interagency vehicle transactions;
- Address acquisition workforce issues related to the use of interagency vehicles; and
- Establish reliable and meaningful data collection to allow for effective management and oversight.

⁵ Pub. L. No. 109-364, § 833.

As will be seen below, the Panel’s recommendations fall into two broad categories. The first set of issues is clustered around the creation and continuation of interagency vehicles and the organizations that use them to provide acquisition assistance across the federal government. The Panel concluded that some of the most fundamental issues associated with interagency and enterprise-wide vehicles could be best addressed by establishing more formal procedural requirements for initially establishing such vehicles and subsequently for authorizing their continued use. The second related set of issues is associated with the use of such vehicles by federal agencies. This category includes issues associated with competition, pricing, acquisition workforce requirements, and the methodology of choosing the most appropriate vehicle for a specific procurement action.

Findings	Recommendations
B1. Lack of Transparency	1: 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.
B1. Lack of Transparency B2. Little Systematic Coordination Among Vehicles B5. No Central Database or Consistent Methodology to Help Agency Select D. Some Diversity is Desirable	2: Make available the vehicle and assisting entity data for three distinct purposes. (a) Identification of vehicles and the features they offer to agencies in meeting their acquisition requirements (yellow pages). (b) Use by public and oversight organizations to monitor trends in use. i. Improved granularity in fee calculations ii. Standard FPDS-NG reports (c) Use by agencies in business case justification analysis for creation and continuation/ reauthorization of vehicles.
B1. Lack of Transparency	3: OMB institutionalize collection and public accessibility of the information, for example through a standalone database or module within transactions-based FPDS-NG.

Findings	Recommendations
<p>B4. No Procedures for Aligning Vehicles to Leverage Government Purchasing Power</p> <p>E. Focus on Process of Creation and Continuation Will Improve Use of the Vehicles</p> <p>C. Incentives for Creation Don't Always Translate Into Benefits for the Taxpayer</p>	<p>4: 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.</p>
<p>B4. No Procedures for Aligning Vehicles to Leverage Government Purchasing Power</p>	<p>5: For other than the vehicles and entities described in #4 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:</p> <ul style="list-style-type: none"> (a) Multi-agency contracts (b) Enterprise-wide vehicles (c) Assisting entities
<p>B3. No Consistent Standards for Creation and Continuation</p> <p>C. Incentives for Creation Don't Always Translate Into Benefits for the Taxpayer</p>	<p>6: Institute a requirement that the cognizant agency, under guidance issued by OMB, formally authorize the continuation/reauthorization of the vehicles and entities addressed in #5 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.</p>
<p>B3. No Consistent Standards for Creation and Continuation</p>	<p>7: Have the OMB interagency task force define the process and the mechanisms anticipated by recommendations #5 and #6.</p>

Findings	Recommendations
<p>A. Proliferation</p> <p>B2. Little Systematic Coordination Among Vehicles</p> <p>B3. No Consistent Standards for Creation and Continuation</p> <p>B4. No Procedures for Aligning Vehicles to Leverage Government Purchasing Power</p> <p>C. Incentives for Creation Don't Always Translate Into Benefits for the Taxpayer</p> <p>D. Some Diversity is Desirable</p> <p>E. Focus on Process of Creation and Continuation will Improve Use of the Vehicles</p>	<p>8: OMB promulgation of detailed policies, procedures, and requirements should include:</p> <ul style="list-style-type: none"> (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 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. (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. (k) Procedures to preserve the integrity of the appropriation process, including guidelines for establishing bona fide need and obligating funds within the authorized period. (l) Require training for ordering agencies' personnel before access to the vehicle is granted. (m) Use of interagency vehicles for contracting during emergency response situations (e.g., natural disasters).

Findings	Recommendations
	(n) Competition process and requirements. (o) Agency performance standards and metrics. (p) Performance monitoring system. (q) Process for ensuring transparency of vehicle features and use. <ul style="list-style-type: none"> • Defined point of contact for public –Ombudsman. (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 vs. creation of vehicles from the ground up as interagency vehicles)
E. Focus on Process of Creation and Continuation will Improve Use of the Vehicles	9: 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.

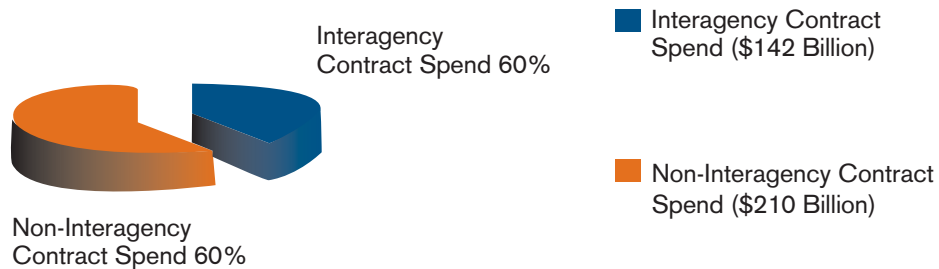
B. Background

Interagency contracting has been recognized as one of the fastest growing fields in federal acquisition. In Fiscal Year 2006, the two leading programs, the Federal Supply Schedules Program and the GSA's Governmentwide Acquisition Contracts ("GWACs") provided over \$46 billion of supplies and services to federal agencies (GSA-managed Schedules: \$35.1 billion; VA-managed Schedules: projected to be well over \$8 billion [FY 2005 sales were \$7.9 billion]; GSA GWACs: \$3.0 billion).⁶ These and other interagency contract vehicles, offered by other federal agencies under GWAC or multi-agency contract authorities, have been gaining increasing popularity due to the ease of use associated with streamlined ordering and the apparent value afforded by volume purchasing. Federal Procurement Data System – Next Generation ("FPDS-NG"), in its first year of reporting the spending under interagency contract vehicles, shows that 40 percent of total fiscal year 2004 obligations, or \$142 billion, was spent on these vehicles.

⁶ Source: GSA Data, "Contractors Report of Sales - Schedule Sales FY 2006 Final" dated 10/24/2006.

Percent of Government-wide Spend on Interagency Contract Vehicles for FY 2004

Total Government Spend=\$352,435,113,606



Source: Ad-Hoc Report prepared for Panel by the Federal Procurement Data Center (FPDC), Aug. 2006. Interagency contracting spend was defined, in part, as fiscal year obligations under any indefinite delivery vehicle that was not coded in FPDS-NG for use by only one agency.

In addition to these interagency contract vehicles, GSA and other agencies, referred to as “Interagency Assisting Entities” were authorized to provide interagency acquisition support services based on enactment of the Government Management Reform Act (“GMRA”) of 1994 or other intragovernmental revolving (“IR”) fund authority. According to the 2003 GAO study, thirty-four IR funds were created to provide common support services to meet federal agency requirements.⁷ Twelve of these IR funds, including five of the six franchise fund pilots specifically authorized by GMRA, have “explicit authority” to charge and retain fees for an operating reserve.⁸ To fulfill customer requirements, these interagency assisting entities either utilize existing interagency contract vehicles such as GSA’s Schedules Program or other multi-agency contracts, or establish their own contracts utilizing Federal Acquisition Regulation (“FAR”) procedures. Recently, several of these IR funds have come under scrutiny because of improper use of the GSA Schedules Program and for questionable retention of expired customer funds.⁹ From a customer agency’s perspective, the availability of numerous direct and indirect interagency contract vehicles, along with their multilayered usage schemes, provides an array of useful tools to better meet agency requirements, but at the same time creates accountability challenges associated with effectively managing contracts and tracking funds.

Due to their heavy usage of interagency contract vehicles, several agencies, including DoD, have become increasingly cognizant of the aggregate amount of the fees charged by GSA and IR funds for use of their vehicles and services. There has also been a growing recognition, driven in part by congressional oversight, of the challenges of tracking the funding transferred to other agencies under such vehicles and ensuring compliance with the

⁷ U.S. GAO, Budget Issues: Franchise Fund Pilot Review, GAO-03-1069 (Aug. 2003).

⁸ *Id.* at 4.

⁹ See e.g., Shane Harris, Bad to Worse, Government Executive (Sept. 15, 2004), <http://www.govexec.com/features/0904-15/0904-15newsanalysis2.htm>; U.S. DoD IG, DoD Purchases Made through the General Services Administration, D-2005-096 (Jul. 2005); U.S. GAO, Franchise Funds Provide Convenience, but Value to DoD is Not Demonstrated, GAO-05-456 (Jul. 2005).

Antideficiency Act (“ADA”) and other fiscal laws.¹⁰ Recently, the DoD IG issued a follow-up audit of financial procedures for DoD use of non-DoD contracts, finding that the Department potentially incurred an additional 69 ADA violations using non-DoD contracts since its previous audit.¹¹ These are among the major concerns driving agencies to bring contracting for requirements in-house by establishing their own enterprise-wide contracting vehicles. The U.S. Navy’s SeaPort and SeaPort-e are recent examples of this enterprise-wide acquisition strategy.

When examining federal interagency transactions, the Economy Act provides important insight in classifying the type and authority associated with the transactions. Certain interagency transactions are governed exclusively by the Economy Act and its controls, which most notably involve restrictions on funds transfer and usage. In addition, the Economy Act currently serves as an overarching interagency transactional authority that applies when more specific authority for the transaction does not exist. Increasingly a greater number of transactions are falling outside the control of the Economy Act. Today, most of the widely used interagency contract vehicles such as the GSA Schedules program and GWACs are not governed by the Economy Act, but by specific statutes and regulations. To address this, DoD issued guidance on financial management policy for non-Economy Act transactions utilizing non-DoD contracts.¹²

Described below are brief overviews of these vehicles and entities.

1. Types of Interagency Contract Vehicles

a. Multi-Agency Contract

The authority for interagency acquisitions comes from specific statutory authority (*e.g.*, Government Employees Training Act) or, when specific statutory authority does not exist, the Economy Act. The Economy Act of 1932, as amended,¹³ authorizes an agency to place orders for goods and services with another government agency when the head of the requesting agency determines that it is in the best interest of the government and decides ordered goods or services cannot be provided as conveniently or cheaply by contract with a commercial enterprise. Congress amended the Act in 1942 to allow military servicing agencies the authority to contract and extended the authority to the civilian agencies in 1982. Congress further amended the Act under the Federal Acquisition Streamlining Act of 1994 (“FASA”)¹⁴ to require advance approval by a requesting agency’s Contracting Officer (or, as implemented in FAR 17.503(c), an official designated by the agency head) as a condition for using Economy Act authorities, as well as establishment of a system to monitor procurements awarded under

¹⁰ For example: U.S. DoD IG, FY 2005 DoD Purchases Made Through the General Services Administration, D-2007-007 (Oct. 2006); U.S. DoD IG, Report on FY 2005 DoD Purchases Made Through the Department of the Treasury, D-2007-032 (Dec. 2006); U.S. DoD IG, FY 2005 Purchases Made Through the Department of Interior, D-2007-044 (Jan. 2007); Memorandum from the Under Secretary of Defense (Comptroller) to Secretaries of the Military Departments, et al., Proper Use of Interagency Agreements with Non-Department of Defense Entities Under Authorities Other Than the Economy Act (Mar. 27, 2006) and Non-Economy Act Orders (Oct. 16, 2006) <http://www.acq.osd.mil/dpap/specificpolicy>.

¹¹ U.S. DoD IG, Potential Antideficiency Act Violations on DoD Purchases Made Through Non-DoD Agencies, D-2007-042, ii (Jan. 2007).

¹² Memorandum from the Under Secretary of Defense (Comptroller) to Secretaries of the Military Departments, *Non-Economy Act Order*, (Oct. 16, 2006) <http://www.acq.osd.mil/dpap/specificpolicy>.

¹³ 31 U.S.C. 1535.

¹⁴ Pub. L. No. 103-355, Title I, § 1074, Oct. 13, 1994, 108 Stat. 3243, 3271.

the Act. FASA provided additional specific conditions that must be met before making Economy Act transactions. Namely, unless the servicing agency is specifically authorized by law or regulation, in order to utilize a servicing agency's contract, the requesting agency must document (verify or demonstrate or certify) that the servicing agency has either an appropriate pre-existing contract available for use or that it has specialized expertise that is not resident within the requesting agency.¹⁵

According to the FAR, "multi-agency contract" means "a task-order or delivery-order contract established by one agency for use by Government agencies to obtain supplies and services, consistent with the Economy Act."¹⁶ As stated in the 1932 House Report of the 72d Congress, the legislative intent behind the creation of multi-agency contracts was the administrative efficiency and cost savings associated with the utilization of an existing contract by other agencies with similar needs.

Out of this broad interagency contracting authority evolved several more targeted initiatives, such as statutory authorities providing for the GWACs. GWACs were established pursuant to the Clinger-Cohen Act, 40 U.S.C. 11314(a)(2) (formerly cited as 40 U.S.C. 1424(a)(2)), for information technology. GWACs, although a subset of multi-agency contracts, are distinguished from non-GWAC multi-agency contracts in terms of the governing statute. For this reason, GWACs are often referred to as separate interagency contract vehicles throughout this report. In addition, executive agencies may enter into indefinite-delivery/indefinite-quantity ("IDIQ") contracts under which delivery orders (for supplies) or task orders (for services) may be issued.¹⁷ FASA clarified the authority for use of IDIQ task and delivery order contracts. IDIQ contracts may be single award or multiple award, and, in either instance, the contract may permit orders to be placed by agencies other than the contract holder. The GSA Schedules are another form of interagency contract. Although the Schedules were in use prior to 1984, the Competition in Contracting Act provided express authority for the Schedules.¹⁸ Today, the Economy Act remains the overarching interagency contracting authority and applies only when more specific statutory authority does not exist (FAR 17.500(b)).

When using those multi-agency contracts that are governed by the Economy Act, the ordering agency (*i.e.*, requirement agency) is required to support its action through a written Determination and Finding ("D&F") approved by its contracting officer or by another official specifically designated by the agency head.¹⁹ A D&F is a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions.²⁰ Once this D&F is in place, typical ordering procedures established by the multi-agency contract's host agency include: a) customer agency submits a requirements package, including necessary funding and fees, to the host agency contracting officer; b) the host agency contracting officer requests price/cost and technical proposals from contractors in the program; c) customer and contracting officer evaluate proposals and make a best value determination; d) the host agency

¹⁵ FASA § 1074(b)(2).

¹⁶ FAR 2.101.

¹⁷ 10 U.S.C. §§ 2304a-2304d; 41 U.S.C. § 253(h).

¹⁸ 41 U.S.C. § 259.

¹⁹ FAR 17.503(c).

²⁰ FAR 1.701.

contracting officer awards a task/delivery order to the winning vendor; and e) the order is jointly administered by the host agency contracting officer and the customer agency's technical managers.²¹ The solicitation and evaluation of proposals for task/delivery orders must be consistent with the fair opportunity requirement of FAR 16.505(b)(1).

Due to a lack of government-wide coordination and relative ease of creation, it is not known how many non-GWAC multi-agency contracts (IDIQ contracts) are currently in place or how many purchases have been made through these contracts (although FPDS-NG gathers such information, the reliability of the data has yet to be verified). Several of the relatively well known multi-agency contracts are managed by the Defense Information Systems Agency ("DISA"), which features thirteen multiple award IDIQ contracts available for both internal and external agency customers (see <http://www.disa.mil/main/support/contracts/idiq.html>). Its "ENCORE" contracts provide Information Technology ("IT") solutions to DoD and other federal agencies. The multiple award IDIQ contracts have a seven-year, \$2 billion ceiling, and the orders are placed by the DISA contracting officers at one percent fees.

b. Governmentwide Acquisition Contracts

Governmentwide Acquisition Contracts ("GWACs") are a subset of multi-agency contracts. However, unlike non-GWAC multi-agency contracts, they are not subject to the requirements and limitations of the Economy Act. The FAR defines a GWAC as—

A task-order or delivery-order contract for information technology established by one agency for Governmentwide use that is operated—

- (1) By an executive agent designated by the Office of Management and Budget pursuant [to section 5112(e) of the Clinger-Cohen Act, 40 U.S.C. 11302(e)]; or
- (2) Under a delegation of procurement authority issued by the General Services Administration (GSA) prior to August 7, 1996, under authority granted GSA by former section 40 U.S.C. 759, repealed by Pub. L. 104-106. The Economy Act does not apply to orders under a Governmentwide acquisition contract.²²

From 1965 until 1996, GSA was the sole authority for the acquisition of IT and telecommunications across the entire federal government. The authority was set forth in Section 111 of the Federal Property and Administrative Services Act of 1949 and was referred to as the Brooks Act. The Brooks Act was repealed in 1996 by the Clinger-Cohen Act, which vested government-wide responsibility for IT in the Office of Management and Budget ("OMB"). Having been delegated IT procurement authority from GSA prior to the enactment of Clinger-Cohen Act, GSA's Federal Technology Service ("FTS") operated under the previously granted authority. Beginning in 2000, all agencies offering GWAC programs were required to report revenues and costs in accordance with OMB guidance and federal financial accounting standards.

²¹ See *e.g.* DISA ENCORE multi-agency contract ordering process at <http://www.ditco.disa.mil/hq/contracts/encorchar.asp>.

²² FAR 2.101.

As of September 2005, there were four executive agents with GWAC authority: the Department of Commerce (“DOC”), GSA²³, the National Aeronautics and Space Administration (“NASA”), and the National Institutes of Health (“NIH”). (The ITOP GWAC program previously managed by the Department of Transportation (DOT) was relocated to GSA in June 2004). As part of its executive agent designation, OMB requires that these agents submit an initial business case, annual activity reports, and a quality assurance plan (“QAP”) covering, among other things, training of executive agent staff and customers, order development and placement, procedures for implementation of orders including contract administration responsibilities, and management review.²⁴ OMB stated that it intended the GWAC QAPs to “serve as models that may be adopted and tailored by other agencies that manage a significant amount of interagency acquisitions.”²⁵ Due to management controls by OMB over their creation and continuation, existing GWAC programs are well-defined when compared to other IDIQ multi-agency contracts.

Accessing a GWAC is done in two different ways. In a usual situation, a customer agency (*i.e.*, requesting agency) chooses an appropriate GWAC program to use and enters into a memorandum of understanding or an interagency agreement with the host agency (*i.e.*, servicing agency). It then forwards a requirements package, including project funding and fees, to the host agency for assisted acquisition service. Typically, upon acceptance, the host agency contracting officer issues a solicitation among the contractors within the program and, with the assistance of the customer agency, evaluates the proposals received. A task or delivery order is then issued by the host agency’s contracting officer and the resulting order is managed jointly by the technical representatives of the customer agency and the host agency’s contracting officer. In contrast, when direct order and direct billing authority is available, the customer agency may choose to manage its own project and funding after receiving the delegation of authority from the host agency. In this scenario, a customer agency follows the ordering procedures set forth by the host agency to solicit proposals and make award directly to the contractor, and thus, no interagency transfer of funds is needed.

The legislation authorizing GWACs did not provide meaningful guidance with respect to how financial transactions should be accounted for and fees managed under these contracts. As a result, according to GAO, host agencies are left to choose on their own whether these transaction fees “would be accounted for through existing revolving funds or in standalone accounts.”²⁶ As of July 2002, GSA and NIH operated under revolving funds, while NASA and DOC operated their GWACs in standalone reimbursable accounts.²⁷ This issue of fee management is discussed in more detail in a later section of this report.

A closer look into each of the GWACs follows:

²³ Initially managed by the Federal Technology Service (“FTS”) at GSA. However, the General Services Administration Modernization Act created the Federal Acquisition Service (“FAS”) by consolidating the FTS and the Federal Supply Service. See Pub.L. 109-313, § 2(c), Oct. 6, 2006.

²⁴ Executive Agent Designation Letter and Additional Provisions (on file with OFPP).

²⁵ *Id.*

²⁶ U.S. GAO, *Contract Management: Interagency Contract Programs Need More Oversight*, GAO-02-743, 9 (July 2002).

²⁷ *Id.*

Governmentwide Acquisition Contracts (GWACs)						
Contract	Description	Ceiling	# Contracts	Term (incl. options)	Fee	Top Customers
Department of Commerce (DOC)						
COMMITTS	Commerce Information Technology Solutions (COMMITTS) - Set-aside for SB	\$1.5B	N/A	8/2000-6/2009	N/A	DOC, EPA, DoD
COMMITTS NexGen	Commerce Information Technology Solutions (COMMITTS) NexGen - Set-aside for SB	\$8B	55	1/2005-1/2015	0.5%-1.75%	DOC
General Services Administration (GSA)						
ANSWER	Applications' Support for Widely-diverse End-user Requirements (ANSWER)	\$25B	10	12/1998-4/2009	0.75%	HHS, Air Force, Army
Millennia	Provides Large System Integration and Development Projects	\$25B	9	4/1999-4/2009	0.75% (Capped at \$25,000)	EPA, Army, DHS
Millennia Lite	Provides IT Solutions in Four Functional Areas	\$20B	36	4/2000-4/2010	0.75%	Army, Air Force, HHS
HUBZone	Historically Underutilized Business Zone (HUBZone) - Set-aside for HUBZone SB	\$2.5B	61 (36 Awardees)	1/2003-1/2008	0.75%	DOJ, EPA, Navy
8(a) STARS	8(a) Streamlined Technology Acquisition Resources for Services (STARS) - Set-aside for 8(a); Replaced 8(a) FAST	\$15B	423	6/2004-6/2011	0.75%	Air Force, Army, DoD
VETS	Veterans Technology Services (VETS) - Set-aside for Service-Disabled Veteran-Owned SB	\$5B	44 est.	2007-2017	0.75%	N/A
(Alliant)	(Coming soon); Will replace ANSWER, Millennia, & Millennia Lite	\$50B	25-30	10yrs	0.75%	N/A
(Alliant SB)	(Coming soon); Set-aside for SB	\$15B	20 est.	10yrs	0.75%	N/A
Department of Health and Human Services (HHS)						
CIO-SP2i	Chief Information Officer Solutions and Partners 2 Innovations	\$19.5B	45	12/2000-12/2010	0.5%-1%	HHS, DoD, DOT
IW2nd	Image World 2 New Dimensions	\$15B	24	12/2000-12/2010	0.25%-1%	DoD, Treasury, USDA
ECS III	Electronic Commodity Store (ECS) III	\$6B	65	11/2002-11/2012	1%	DoD, HHS, DOJ

Governmentwide Acquisition Contracts (GWACs)						
Contract	Description	Ceiling	# Contracts	Term (incl. options)	Fee	Top Customers
National Aeronautics and Space Administration (NASA)						
SEWP III	Scientific and Engineering Workstation Procurement (SEWP) - IT Products	4-4.5B	25 (16 Awardees)	Various (7/2001-9/2007)	0.65% with \$10,000 Order Cap	DoD, GSA, NASA, DOJ, HHS
SEWP IV	(Coming Soon); Scientific and Engineering Workstation Procurement(SEWP) IV - IT Products	\$5.6B	26-39 est.	7yrs	0.65% with \$10,000 Order Cap	N/A

Source: Compiled by Panel staff from OFPP Survey/Data Call, Agency websites and publications, and Agency Representatives.

c. GSA Schedules Program

The GSA Schedules Program is also known as the Federal Supply Schedule (“FSS”) Program or the Multiple Award Schedules (“MAS”) Program. Pursuant to the authority granted to GSA as a centralized federal procurement and property management agency, GSA took over the management of the “General Schedule of Supplies” from the Department of the Treasury, and this evolved into what is now known as the GSA Schedules Program. The GSA Schedules have a separate authorizing statute.²⁸

While the GSA’s pricing policies and procedures have evolved over time, GSA’s core objective has remained unchanged—“to use commercial terms and conditions and the leverage of the Government’s volume buying to achieve the best possible prices and terms for both customers and taxpayers.”²⁹ To this end, GSA utilizes Most Favored Customer (“MFC”) pricing; an approach whereby GSA negotiates with its vendors for the best prices afforded their preferred customers for like requirements of similar scale. Accordingly, the essence of GSA Schedule contract price analysis is comparison of the offered prices to prices paid by others for the same or similar items (including services), under similar conditions. This pricing approach, combined with GSA’s Price Reductions clause,³⁰ is intended to operate to ensure that a specific pricing relationship is maintained throughout the duration of the contract.

There has been, however, some criticism of MFC pricing, in that it may inflate prices by forcing contractors to set prices based on a minimum order quantity. It is argued that, without any firm commitment for a definite order quantity, and to avoid triggering the Price Reductions clause, contractors attempt to avoid risk by offering a ceiling price for a single unit rather than the most competitive price. In addition, witnesses before the Panel suggested that the MFC price technique may not be suitable for pricing commercial services. They pointed out that the commercial market, in contrast to the MFC pricing technique, utilizes dynamic pricing for services based on the labor mix for a specific task rather than relying on prearranged standard labor rates.³¹

²⁸ 41 U.S.C. § 259.

²⁹ FSS Procurement Information Bulletin 04-2 (internal GSA document).

³⁰ GSAM 552.238-75.

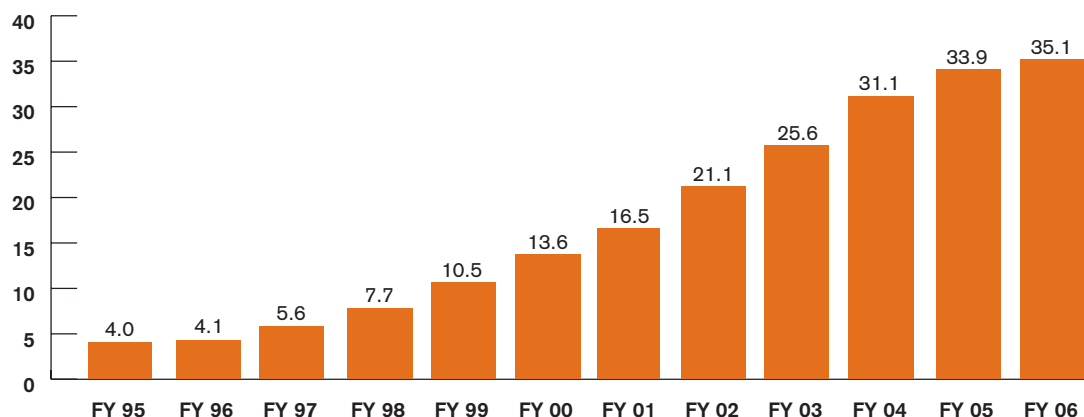
³¹ Test. of Geraldine Watson, GSA, AAP Pub. Meeting (Aug. 18, 2005) Tr. at 16-20; Test. of Bhavneet Bajaj, Technology Partners, Inc., AAP Pub. Meeting (Mar. 17, 2006) Tr. at 161-167.

As of October 2006, GSA administered 42 Schedules providing more than 11.2 million different commercial services and products through its 17,862 contracts.³² Within each Schedule, supplies and services are categorized by what are referred to as Special Item Numbers (“SINs”). SIN 132-51 for “Information Technology Services” under Schedule 70 (General Purpose Commercial Information Technology Equipment, Software, and Services) is one of the most widely used SINs in the entire Schedules program. There are 1,278 SINs under the 42 Schedules.

The significance of the GSA Schedules Program in today’s federal contracting landscape is easily seen by looking at the sales figures in recent years. In Fiscal Year 2006, sales under the program were \$35.1 billion,³³ representing 3.8 percent annual growth (note: this is a significant drop from 8.9 percent during FY 2005 and 21.5 percent growth during the previous year). During the last ten years, GSA Schedule sales have experienced over 20 percent average annual growth.³⁴

Within the GSA Schedules Program, the professional services offerings, such as the Mission Oriented Business Integrated Services (“MOBIS”), the Professional Engineering Services (“PES”), and the Financial and Business Solutions (“FABS”) Schedules, have shown a notable increase in sales in recent years. Combined, the sales under the three Schedules in Fiscal Year 2006 were \$6.5 billion.³⁵ During the last three years, their combined sales have grown by 79 percent, indicating a growing demand for professional services. In comparison, after rapid growth in the late 1990s, the sales under the IT Schedule (Schedule 70), have shown signs of continued but less dramatic growth. Its sales grew by less than one percent during Fiscal Year 2006.³⁶ Still, the IT Schedule sales in Fiscal Year 2006 were \$17.0 billion, accounting for approximately 48.3 percent of total Schedule sales.

Sales Under the GSA Schedules Program (Excluding VA Schedules)



³² Source: GSA Data, “October FY 2007 MONTH END Sales and Contracts in Effect Reports” dated 11/30/2006.

³³ In addition, sales under the medical Federal Supply Schedules program managed by the Department of Veterans Affairs are estimated to be well over \$8 billion in FY 2006. Its sales in FY 2005 were \$7.9 billion.

³⁴ Source: GSA Data, “October FY 2007 MONTH END Sales and Contracts in Effect Reports” dated 11/30/2006.

³⁵ Individually, FY 2006 sales under the three Schedules are as follows: 874 MOBIS (\$3.19 billion), 871 PES (\$2.57 billion), 520 FABS (\$749 million). GSA Data, “October FY 2007 MONTH END Sales and Contracts in Effect Reports” dated 11/30/2006.

³⁶ Sales under the 70 IT Schedule grew by 0.47 percent in FY 2006. GSA Data, “October FY 2007 MONTH END Sales and Contracts in Effect Reports” dated 11/30/2006.

As of October 2006, of the 17,862 Schedule contracts, about 81 percent were awarded to small businesses. Small business received 37.6 percent or \$13.2 billion of the \$35.1 billion Schedule sales in FY 2006. Compared to the previous three fiscal years, the small business participation in the Schedules Program has grown steadily greater.³⁷

The Program is intended to provide federal agencies with a simplified process for obtaining commonly used commercial supplies and services at prices associated with volume buying. Using commercial item acquisition procedures in FAR Parts 12, 15, 16, and 38, GSA awards indefinite delivery contracts to commercial firms to provide supplies and services at stated prices for given periods of time. The operating assumption is that the price for such supplies and services has been tested in the market, and that a price can be established as fair and reasonable without an initial price competition among multiple offerors. Schedule contracts allow for orders to be issued on a firm-fixed-price, fixed-price with economic price adjustment, or on a time-and-materials basis. The contracts are known as “evergreen” and are typically awarded with a 5-year base period and three 5-year options. They include conditions under which a contractor may offer a price discount to authorized users without triggering mandatory across-the-board price reductions. Under the GSA Schedule Program’s continuous open solicitation policy, offers for commercial supplies or services may be submitted at any time. Similarly, contractors may request to add supplies/services to their contracts at any time during the term of their contracts.

Prior to awarding a Schedule contract, GSA determines the contractor to be responsible in accordance with FAR Subpart 9.1, negotiates and approves an acceptable subcontracting plan from large businesses, and negotiates and awards fair and reasonable pricing based on the firm’s Most Favored Customer rates. Because GSA performs much of the up-front work, agencies then benefit from a streamlined ordering process. A study conducted by GSA indicates that, notwithstanding the difference in the items being acquired, it takes users an average of 15 days to issue an order under a Schedule contract compared to an average of 268 days to put a stand alone contract in place.³⁸

Competition and the Use of e-Tools

e-Buy is an online Request for Quotation (“RFQ”) tool designed to facilitate the request for and submission of quotations or proposals under the Schedules program. It is also available for GSA GWACs. When using the *e-Buy* system, ordering agencies first prepare a simple RFQ or a detailed RFQ including Statement of Work and evaluation criteria per FAR 8.405-2(c). The agencies then select one or more appropriate Special Item Numbers (“SINs”) under applicable Schedules. Among the list of vendors under the selected SINs, the agencies select the ones to send e-mail notifications. The rest of the vendors within the selected SINs can still view the RFQ under the bulletin board and submit quotations.

For example, an ordering agency with a requirement for an IT business improvement task may choose SIN 132-51, IT Services, under the Schedule 70-Information Technology and SIN 874-1, Consulting Services, under the Schedule 874- MOBIS. The *e-Buy* system will show the list of 3,966 vendors available under SIN 132-51 and 1,703 vendors under

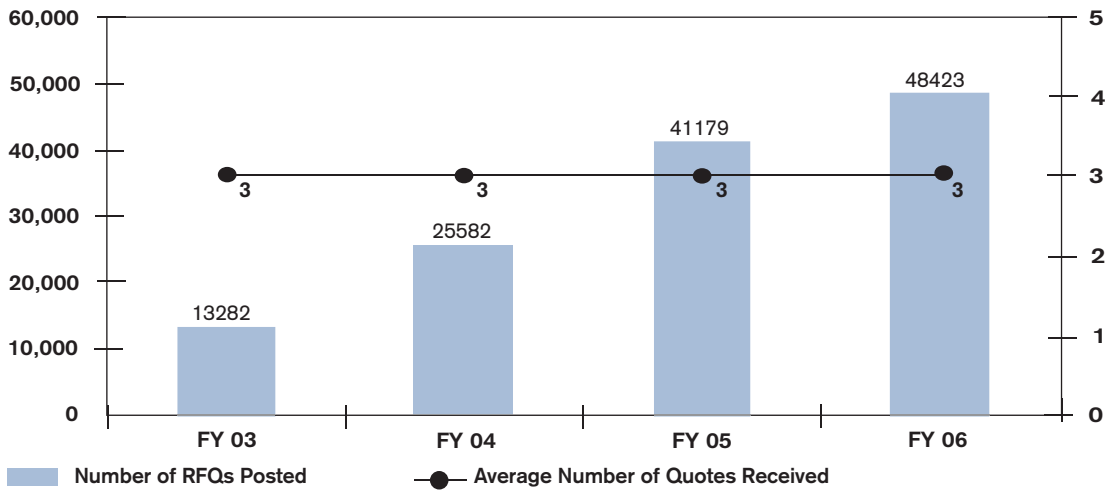
³⁷ Source: GSA Data, “Final FY 2006 Schedule Data - Contracts in Effect, “Contractors Report of Sales - Schedule Sales FY 2006 Final” dated 10/24/2006.

³⁸ John W. Chierichella & Jonathan S. Aronie, *Multiple Award Schedule Contracting*, 41 (Xlibris Corp. 2002) (citing Impact of FAR 8.4 Comparison Analysis of Customer-Elapsed Time Savings (1998)).

SIN 874-1 (numbers as of 1/13/2006). The agency will then select the vendors to whom to send e-mail notifications about the RFQ (“select all vendors” is also an available option). However, the rest of the vendors within the two SINs may still view the RFQ in the bulletin board and submit quotes. Under FAR 8.405-2(d), the ordering agencies must evaluate all responses received. The agency can determine a reasonable response time.

Postings on e-Buy have been continually increasing since its inception in August 2002. In FY 2003, 13,282 notices were posted. Postings increased to 25,582 in FY 2004 and 41,179 in FY 2005. Finally, in FY 2006, there have been 48,423 postings representing an approximately 18 percent increase in usage over the previous year. On average, three quotes have been received per closed RFQ during FY 2005 and FY 2006.

e-Buy Usage



d. Enterprise-wide Contract Vehicles

An emerging contract vehicle that is modeled after interagency vehicles is the so-called enterprise-wide contract. As these vehicles are intended to serve as an alternative to interagency contracts, they share certain features with those vehicles (IDIQ ordering vehicles), but their use is generally confined within the boundaries of a single agency. Because of their similarities to interagency vehicles and the fact that a growing number are being established within agencies as alternatives to existing interagency vehicles, the Panel expanded its review and recommendations to cover these vehicles.

Enterprise-wide contract vehicles are intra-agency IDIQ contracts established solely for use by an agency’s major internal constituent sub-organizations. Such vehicles do not, however, operate under the more flexible statutory authority enjoyed by GSA for the Schedules program. The agency creates these vehicles for a variety of reasons, which include: ability to tailor requirements for agency-unique purposes; improved consistency of processes and requirements across the enterprise; ability to establish and enforce inclusion of tailored terms and conditions; perception of reduced administrative overhead, availability of better spend analysis information; ability to aggregate requirements; and avoidance of incurring the fees that would otherwise be sent to the GSA or another outside agency.

An example of such a vehicle is the SeaPort-e program administered by Naval Sea Systems Command (“NAVSEA”). SeaPort-e is a program intended to improve the acquisition of services across 22 functional areas using IDIQ contracts awarded in seven regional zones covering the United States. NAVSEA claims that SeaPort-e offers many of the same advantages as interagency contract vehicles, such as streamlined acquisition of services, while also providing for improved collection of business intelligence data,³⁹ additional competition, and the ability to measure performance in such areas as customer satisfaction. Other agencies, such as DHS and the United States Postal Service have established additional enterprise-wide vehicles as alternatives to existing interagency contract vehicles.

As of December 2006, the SeaPort-e program awarded 935 prime contracts with a yearly rolling admissions process.⁴⁰ SeaPort-e is described as the Virtual SYSCOM’s⁴¹ “mandatory acquisition vehicle of choice,” meaning that SYSCOM customers must obtain Senior Executive Service (“SES”) or Flag Officer level approval to use an Interagency Assisting Entity other than SeaPort-e.⁴² Even if a SYSCOM contracting officer executes an unassisted award, he must obtain business case approval to use a vehicle other than SeaPort-e, such as GSA’s Federal Supply Schedules program.

The stated goal of SeaPort-e is to eventually ensure that all Virtual SYSCOM work within its scope falls under SeaPort-e unless it does not make business sense to do so. Existing NAVSEA contracts will be allowed to expire and the work under them will be migrated into SeaPort-e. The SeaPort-e program manager testified to the Panel that the business intelligence data uniquely available under SeaPort-e should facilitate improved strategic purchasing in the Virtual SYSCOM. He also testified that no additional Navy personnel were added or needed to manage the SeaPort-e program representing a significant administrative savings to the Navy especially when compared to fees otherwise paid for the use of other interagency contracts.⁴³

e. Interagency Assisting Entities

Interagency Assisting Entities, such as the franchise funds, are not contracts, but are part of the interagency contracting landscape. The Working Group decided to include consideration of assisting entities in its review and recommendations for several reasons. An agency’s use of an assisting entity involves relying on an outside organization for performance of contracting functions. Assisting entities also rely almost exclusively on interagency vehicles to meet customer agencies’ needs. Use of an assisting entity also involves the transfer of funds from one agency to another.

While interagency funds transfer is generally prohibited by law, the Economy Act of 1932 provides a broad exception by allowing an agency to enter into an agreement to provide goods or services to another federal agency. Under the Economy Act, the payment from the client agency must be based on the “actual cost of goods or service” provided and

³⁹ Relevant business intelligence data include information on spending by individual activities under specific task orders for specific engineering services. Testimony of Jerome Punderson, NAVSEA, AAP Pub. Meeting, (August 18, 2005) Tr. at 304.

⁴⁰ See the List of Prime Vendors at: <https://auction.seaport.navy.mil/Bid/PPContractListing.aspx>.

⁴¹ The Virtual SYSCOM for purposes of SeaPort-e includes: NAVAIR, NAVFAC, NAVSUP, SPAWAR, and NAVSEA. Punderson Test. at 296-297.

⁴² *Id.* at 299-303.

⁴³ *Id.* at 345.

the client agency is required to deobligate fiscal year funds at the end of the period of availability to the extent that these funds have not been obligated by the performing entity.⁴⁴ However, when an interagency agreement is based on specific statutory authority other than the Economy Act, funds availability and retention are governed by the specific legal authorities. These specific legal authorities creating IR funds at the agency level describe the funds' purpose and authorized uses, and detail the receipts or collections the agency may credit to the fund. In general, compared to the Economy Act, they provide "more flexibility by allowing client agency funds to remain obligated, even after the end of the fiscal year, to pay the performing IR fund."⁴⁵

According to the study conducted by GAO in 2003, there were 34 IR funds operated by various federal agencies providing common administrative support services on a reimbursable basis to other agencies.⁴⁶ While most of these funds operate under similar legal authorities providing "advances and reimbursements, as well as the carryover of unobligated balances to recover the costs of accrued leave and depreciation," twelve of these IR funds, including five of the six franchise fund pilots, have explicit authority to charge for an operating reserve and/or to retain funds for the acquisition of capital equipment and financial management improvements.⁴⁷

The Government Management Reform Act of 1994⁴⁸ authorized OMB to designate six franchise fund pilots, and OMB subsequently designated pilots at the Departments of Commerce, Veterans Affairs, Health and Human Services, Interior, and Treasury, and at the Environmental Protection Agency. As a subset of IR funds, these franchise funds were designed to be "[s]elf-supporting business-like entities providing common administrative services on a fully reimbursable basis."⁴⁹ With the exception of the Interior and HHS, these franchise funds have been granted permanent authorization.

Accordingly, most of the Interagency Assisting Entities provide contract support services under IR fund authorities rather than the Economy Act. In particular, franchise funds are provided in many cases with explicit or implicit authority to retain funds to maintain a current operating reserve (*e.g.*, depreciation, accrued leave, and contingencies) and to retain up to an additional four percent of total annual income for the acquisition of capital equipment, and for the improvement and implementation of capital improvements in financial management, IT, and other support systems. This authority to retain funds provides great operating flexibility to those six agencies that are granted franchise fund authority.

From a contract administration standpoint, this arrangement creates unique challenges. A typical transaction may involve multiple parties including the customer agency's program office, its contracting officer, its finance office, the assisting entity's contracting officer, the assisting entity's finance office, and the contractor. A recent GAO report pointed out that the customer agency and the franchise fund, who "share responsibility for ensuring value through sound contracting practices such as defining contract outcomes and overseeing contractor performance," had not adequately defined requirements and delineated

⁴⁴ GAO-03-1069 at 15.

⁴⁵ *Id.*

⁴⁶ *Id.* at App III.

⁴⁷ *Id.* at 4.

⁴⁸ Pub. L. No. 103-356 § 403.

⁴⁹ GAO-03-1069 at 9.

responsibilities.⁵⁰ The GAO report concluded that the two franchise funds, GovWorks and FedSource, and DoD, had failed to coordinate to adequately “define outcomes,” “establish criteria for quality,” and “specify necessary criteria for contract oversight” resulting in these entities not being able to demonstrate value.⁵¹

Listed below are several well-known Interagency Assisting Entities:

Agency	Program Name	Fund Type	Authorization
DOI	GovWorks	Franchise Fund	31 U.S.C. 501 note (GMRA), Reauthorization Required
	National Business Center	Working Capital Fund	43 U.S.C. 1467; 31 U.S.C. 1535 (Economy Act)
GSA	Federal Systems Integration and Management Center (FEDSIM)	Acquisition Services Fund	40 U.S.C. 321, 40 USC 501; 40 U.S.C. 11302(e); Permanent
	FTS Client Support Center		
Treasury	FedSource	Franchise Fund	31 U.S.C. 322, note (GMRA); Permanent (PL 108-447 §219)
Veterans Affairs	BuyIT.gov	Franchise Fund	GMRA, Permanent (PL 109-114 §208)
HHS	Program Support Center	Service and Supply Fund, Franchise Fund	42 U.S.C. 231; GMRA, Reauthorization Required

2. Parties Involved in Interagency Contracting

The Panel has identified four groups or stakeholders involved with interagency contract vehicles who have distinct and different sets of interests and perspectives. The first group includes the holders of the requirements within the agencies. The second includes the holders of the vehicles as well as the assisting entities who use the vehicles as a means of satisfying the acquisition needs of the holder of a requirement in another agency or activity. The third group consists of the contractors with the federal government under the vehicles. The fourth group includes the oversight organization within the Executive Branch, as well as Congress, charged with protecting the interest of the ultimate stakeholder, the taxpayer.

3. Creation and Continuation in Interagency Contracting

Several types of interagency contract vehicles, as well as enterprise-wide contracts, provide for varying levels of internal procedural uniformity and monitoring with respect to their creation. While these procedures and types of monitoring vary in their effectiveness, it is important to review the current landscape.

⁵⁰ GAO-05-456 at 2.

⁵¹ *Id.* at 21.

GSA's Schedules Program. GSA has established a formal written policy for both the establishment and continuation of schedules and SINs. The policy, contained in "GSA Form 1649–Notification of Federal Supply Schedule Improvement Process" requires business case approval for establishment of new schedules and SINs. This policy also requires that existing schedules and SINs must meet certain annual revenue criteria to continue in the program.

GWACs. OMB's Executive Agent Designation and Redesignation process requires GWAC holders, or Executive Agents, to submit business cases and yearly reports to OMB for review and approval or redesignation. Approved Executive Agents are required to submit a business case (Appendix A) that addresses the agency's continued suitability, the amount and source of demand, value to the government including performance metrics, contracting practices (*e.g.*, fair opportunity, small business participation, and performance-based acquisition ("PBA")), management structure, and the division of roles and responsibilities between the Executive Agent and its customer agencies.

Franchise Funds. The initial application process, issued by OMB in 1995, required agencies to address criteria to help OMB determine agency suitability and capacity to manage a franchise fund (Appendix B). The franchise funds are required, through the budget process, to report on specific financial management elements but do not include reporting on contracting practices. Such funds are evaluated on the basis of revenue and customer satisfaction.

IDIQ Contracts. Any agency may award IDIQ contracts—single or multiple award—that permit orders to be placed by other agencies.

Enterprise-wide Contracts. There is no uniform policy for establishing or monitoring these IDIQ contracts. According to the SeaPort-e Program Manager's testimony to the Panel, the decision to make SeaPort-e an enterprise-wide contract was driven among other considerations by the need for business intelligence data not readily available through the various interagency contracts that had previously been used to fulfill requirements. SeaPort-e reports a number of performance metrics to include cycle time to award, business volume, small business participation and workload.⁵²

a. Incentives to Use Interagency Contract Vehicles

While acquisition reform streamlined the process for purchases under the simplified acquisition threshold, purchasing above that threshold remains complex and technical.⁵³ This is particularly true of services contracting which has become increasingly more sophisticated and complex especially in the areas of information technology and professional and management support. Services now account for over 60 percent of the government's yearly contract spending.⁵⁴ In response to a Panel request for data, FPDS-NG provided the following breakout of supplies and services purchased in Fiscal Year 2004 using interagency contracts:

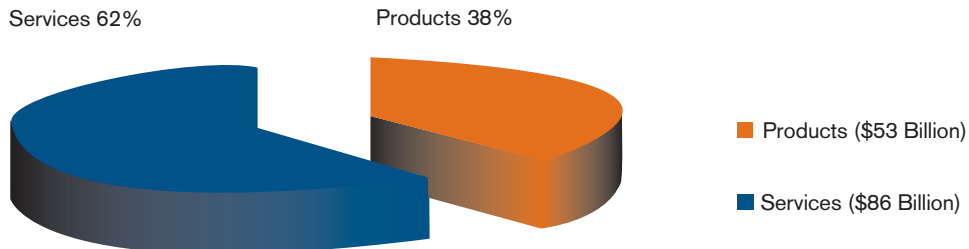
⁵² NAVSEA presentation, AAP Pub. Meeting (Aug. 18, 2005) Tr. at 28 et seq for public testimony to Panel, August 18, 2005.

⁵³ U.S. GAO, *Contract Management: Taking a Strategic Approach to Improving Service Acquisitions*, GAO-02-499T (Mar. 2002).

⁵⁴ Federal Procurement Report for FY 2005 available on-line at <https://www.fpds.gov>.

Services to Product Breakout for FY 2004 Interagency Contract Spend

Total Interagency Contract Spend= \$139,346,384,302



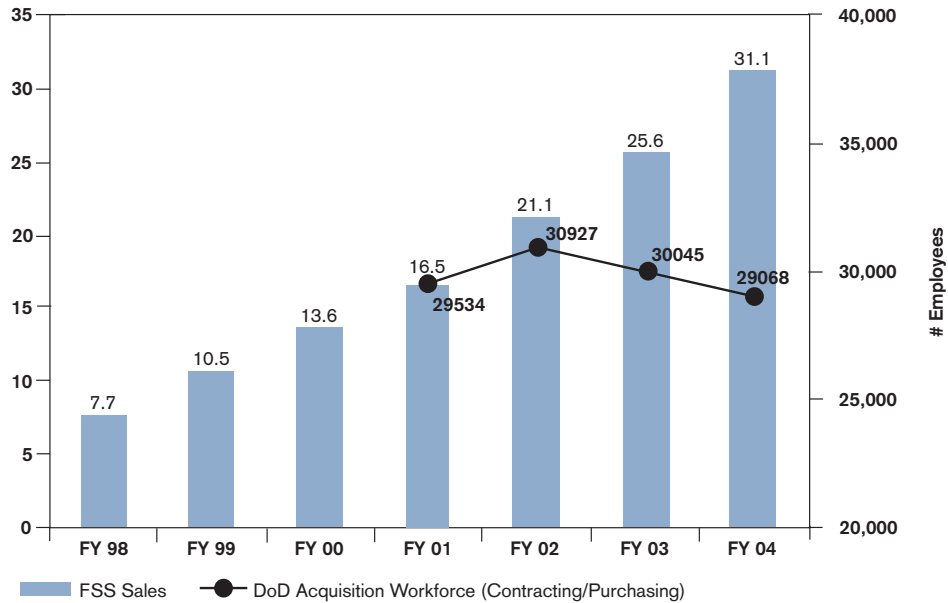
Source: Ad-Hoc Report prepared for Panel by the Federal Procurement Data Center (FPDC), Nov. 2005

A number of factors have led agencies to turn to interagency contract vehicles to meet demands for services. The major factors are summarized below.

(i) **Workforce.** The reliance on interagency contracts and their proliferation has been driven to a significant degree by reductions in the acquisition workforce accompanied by increased workloads and pressures to reduce procurement lead-times. In its testimony on the High Risk Update in February 2005,⁵⁵ GAO stated: "These types of contracts have allowed customer agencies to meet the demands for goods and services at a time when they face growing workloads, declines in the acquisition workforce, and the need for new skill sets." Interagency contracts allow requiring agencies to meet mission needs while focusing human capital resources on core mission rather than procurement. For instance, the chart below shows the interrelationship of the DoD workforce reductions mapped against overall growth in GSA's Federal Supply Schedules program. Although DoD and NASA have recently issued guidance or procedures for activities to follow for using interagency vehicles, agencies have not issued general guidance or procedures for reviewing and determining the best vehicles for meeting agencies' mission needs.

⁵⁵ U.S. GAO, *GAO's 2005 High-Risk Update*, GAO-05-350T, at 18 (Feb. 2005).

Federal Schedules Use–DOD Workforce Comparison*



(ii) **Funding Constraints.** Workforce pressures alone have not fueled the increased use of interagency contracts. The Panel heard testimony from government witnesses that the funding profiles have placed significant pressures on requiring agencies that can lead them to want to “park” one-year money with holders of vehicles that can offer the benefit of extending the use of customer funds into a subsequent fiscal year.⁵⁶ Franchise funds, in particular, offer the ability to retain funds beyond an appropriations period to customers if they are able to demonstrate a bona fide need for the acquisition during the period in which the funds are available. In fact, the Department of Interior (“DOI”) GovWorks franchise fund website (<http://www.govworks.gov>) until recently contained a slide presentation via a link called “The Right Choice” that emphasized this benefit in its marketing material.⁵⁷

DoD, the largest user of interagency contract vehicles, has taken a series of actions to control the use of DoD funds under interagency agreements not governed by the Economy Act. The most recent guidance from the Under Secretary of Defense (Comptroller), dated October 16, 2006, requires that all non-Economy Act orders greater than \$500,000 be reviewed by a DoD contracting officer prior to sending the order to the non-DoD activity.⁵⁸ A memo issued on March 27 from the same source requires deobligation of expired funds and establishes an availability limit of one year from the date of obligation for funding for severable services. Funding for the acquisition of goods

⁵⁶ Test. of Lisa Akers, GSA, AAP Pub. Meeting (June 14, 2005) Tr. at 129; Test. of Timothy Tweed, DoD, AAP Pub. Meeting (June 14, 2005) Tr. at 253.

⁵⁷ GovWorks website now contains an explicit statement (answer #13 under Client Questions at <http://www.govworks.gov/home/faqs.asp>) opposing the use of GovWorks to park funds.

⁵⁸ Memorandum from the Under Secretary of Defense (Comptroller) to Secretaries of the Military Departments, et al., *Non-Economy Act Orders* (Oct. 16, 2006); (<http://www.acq.osd.mil/dpap/specificpolicy>).

requires a certification that the acquisition represents a specific, bona fide need of the fiscal year in which the funds are obligated.⁵⁹

(iii) Perceived Flexibilities. Agencies have also used interagency vehicles to avoid and waive competition in order to retain the services of incumbent contractors.⁶⁰ This is most likely due to the fact that public synopsis is not required on these vehicles. Also, multiple award contracts are viewed as desirable because they are perceived by some to provide for a reduced basis for oversight through the protest process. Current management and oversight systems enforce laws, regulations, and policies that clarify requirements regarding proper use of the flexibilities associated with these vehicles, but agencies have recognized the need for improvements in such systems.

According to a report by GAO, holders of the vehicles also added value to their offerings, attracting both contractors and consumers.

In August 1997, GSA revised its acquisition regulations to expand access to commercial products and services and to implement greater use of commercial buying practices and streamline purchasing for customers. GSA believed that these changes would lead to more participation in the MAS [multiple award schedules] program by both large and small businesses—procedures more consistent with commercial practice would increase competition and thereby provide federal agencies a wider range of goods and services at competitive prices. Beginning in the late 1990s, MAS program sales increased significantly.⁶¹

b. Incentives to Create Interagency Contract Vehicles

Interagency contracts also provide significant benefits to those agencies that create and manage the vehicles. These contracts allow the holders of the vehicles to collect fees for both assisted and unassisted buying. The GAO found that most of the interagency contracts they reviewed reported excess revenues over costs for at least one year between 1999 and 2001.⁶² The agencies collecting the fees not only use these revenues to support the operational costs of the interagency contract, but excess revenue from these vehicles has funded other agency programs. For instance, GAO found that those agencies operating GWACs under revolving funds used excess revenue to maintain fund operations or support other programs under the revolving fund. GSA's Federal Supply Schedules Program, also a revolving fund, realized revenue in excess of costs in the amount of \$210.8 million from 1997 to 2001.⁶³ GAO noted in 2005 that this "...fee-for-service arrangement creates an incentive to increase sales volume in order to support other programs of the agency that awards and

⁵⁹ Memorandum from the Under Secretary of Defense (Comptroller) to Secretaries of the Military Departments, et al., *Proper Use of Interagency Agreements with Non-Department of Defense Entities Under Authorities Other Than the Economy Act* (Mar. 27, 2006) (<http://www.acq.osd.mil/dpap/specificpolicy>).

⁶⁰ GAO-05-207 at 27.

⁶¹ U.S. GAO, *Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts*, GAO-05-229, at 5 (Feb. 2005).

⁶² U.S. GAO, *Contract Management: Interagency Contract Program Fees Need More Oversight*, GAO-02-734, 2 (July 2002).

⁶³ GSA subsequently lowered the Industrial Funding Fee from 1 percent to 0.75 percent.

administers an interagency contract. This may lead to an inordinate focus on meeting customer demands at the expense of complying with required ordering procedures.”⁶⁴

c. Oversight Concerns

The lack of transparency and internal controls over the use and management of interagency contracts has been at the core of the recent GAO and IG findings on the misuse of these contracts in particular, and services contracts in general. Recent reports have been particularly critical of Interagency Assisting Entities, such as the DOI’s GovWorks Franchise Funds, GSA’s Federal Technology Service’s Customer Support Centers and Department of Treasury FedSource.⁶⁵ In its High Risk Update Testimony in February 2005, GAO asserted that it is not always clear where the responsibility for oversight lies.⁶⁶ GAO’s High Risk Series Update notes that interagency contracts are increasingly being used for the purchase of services.⁶⁷ Internal control weaknesses continued to be of concern in fiscal year 2007 with the DoD IG finding internal control weaknesses with assisting entity purchasing for DoD.⁶⁸ GAO has made similar findings with respect to the use of interagency contract vehicles by DHS.⁶⁹

4. Transparency

a. Data on Use

In 2003, the FAR Council implemented a long-standing OFPP request to identify the universe of interagency contracts, through a tool known as the Interagency Contract Directory (“ICD”). The Federal Register notice on the proposed rule identified the purpose for the directory as twofold: first, to provide a source for market research for government program managers and contracting officers; and second, to provide OFPP with visibility into the government-wide coverage of requirements provided by the vehicles. The ICD was implemented through the Federal Acquisition Regulation (“FAR”) under Federal Acquisition Circular 2001-15. However, within a year’s time of its launch, the Acquisition Committee for E-Gov (“ACE”) cut the project’s funding due to funding constraints of the Integrated Acquisition Environment (“IAE”) under the E-Gov initiatives.

The next attempt to collect data on interagency contracts came in fiscal year 2004. While not designed to accomplish the same purpose as the ICD, FPDS-NG began collecting data on the award and use of interagency contract vehicles. Beginning with FY 2004, FPDS-NG required identification of these contracts and assigned delivery and task order obligations to the contracts by type (*e.g.*, GWACs, GSA Federal Supply Schedules, BPAs, Basic Ordering Agreements (“BOAs”), and IDIQs that do not fall under any other category). However, the FPDS-NG data element was not implemented to specifically assign order obligations by type of interagency contract if the contract was awarded prior to FY 2004 but rather can assign such obligations as “Other.” Along with this limitation, there is significant

⁶⁴ GAO-05-229.

⁶⁵ GAO-07-044, GAO-07-032, GAO-07-007.

⁶⁶ GAO-05-350T at 19.

⁶⁷ GAO-05-207 at 26.

⁶⁸ D-2007-044 at 3; D-2007-032 at 4; D-2007-007 at 4.

⁶⁹ U.S. GAO, *Interagency Contracting: Improved Guidance, Planning, and Oversight Would Enable the Department of Homeland Security to Address Risks*, GAO-06-996, at 3 (Sept. 2006).

evidence that orders reported by agencies in FPDS-NG may be incorrectly reported. This is most likely caused by the improper coding of orders that results from a lack of understanding of the differences between various types of interagency contracts. The Panel bases this conclusion on OFPP's and IAE's discovery of obvious errors in agency classification of contracts during development of the now defunct ICD. For example, many non-GWAC contracts were improperly classified as GWACs and there was a misunderstanding of when the Economy Act applied to multi-agency contracts. Additionally, traditional problems with incorrect coding will impact the accuracy of the information in FPDS-NG. For instance, data obtained from DoD indicates that from 2001 to 2005 nearly \$185 million had been spent by the Department on soybean farming or establishments that produce soybean seeds. A DoD representative stated that they believe this large dollar value is attributable to those inputting the award data simply selecting the first NAICS code in the list, 111110 for soybean farming, rather than selecting the correct code. While inaccurate contract reporting is not unique to interagency contracts, the absence of reliable and timely data contributes to the problem of linking use and accountability. The Panel has adopted a number of recommendations to improve the reliability of FPDS-NG data as discussed in Chapter 7 of this Report.

b. Data on Management

Agencies that hold interagency contract vehicles also maintain differing levels and types of post-award data. For instance, while GWAC holders report yearly to OMB using uniform reporting elements on performance and financial management and Franchise Funds report to the Chief Financial Officer's Council ("CFOC"), there is no consistent approach across the government for collecting and reporting performance data on interagency contracts. Additionally, the data that has been collected and reported has been identified by GAO as lacking or inaccurate. In 2002, GAO found that agencies were not accurately identifying or reporting the full cost of the GWAC programs they were managing. This precluded GAO from discerning if the fees collected were a reflection of costs incurred by the vehicle holder.⁷⁰ In its High Risk Series Update testimony, GAO stated that the fee-for-service feature of these interagency contracts creates an incentive to increase volume to support other programs and leads to focusing "on meeting customer demands at the expense of complying with required ordering procedures."⁷¹ In a report on DoD's use of franchise funds, GAO stated that while the franchise funds business-operating principles require that they "maintain and evaluate cost and performance benchmarks against their competitors,"

... the funds did not perform analyses that DoD could use to assess whether the funds deliver good value. Their performance measures generally focus on customer satisfaction and generating revenues, rather than compliance with contracting regulations. The fee-for-service arrangement provides incentives to emphasize customer service to ensure sustainability of the contracting operation at the expense of proper use of contracts and good value.⁷²

⁷⁰ GAO-02-734 at 14.

⁷¹ GAO-05-350T at 19.

⁷² U.S. GAO, *Interagency Contracting: Franchise Funds Provide Convenience, but Value to DOD is Not Demonstrated*, GAO-05-456, at 3 (July 2005).

c. Data and Transparency

As we begin to think in more strategic terms, we also note that procurement data reporting through FPDS-NG and its predecessor dating back to the 1970s, has been exclusively transaction-based. But the system is capable, with enhancement, of providing data that can inform strategic decision-making both during the creation and continuation phase as well as at the point of use. OMB's Memorandum "Implementing Strategic Sourcing," dated May 20, 2005, states that strategic sourcing is a

... *collaborative* and *structured* process of critically analyzing an organization's spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently. This process helps agencies optimize performance, minimize price, increase achievement of socio-economic acquisition goals, evaluate total life cycle management costs, improve vendor access to business opportunities, and otherwise increase the value of each dollar spent.

Before an agency creates or continues an interagency or enterprise-wide vehicle and applies the resources necessary to manage such a vehicle, data on similar vehicles would provide essential market research for informing a cost-benefit analysis. Data on the costs and performance measures of such vehicles would also inform rational decisions on their use, driving the market to more efficiently "cull" the numbers of such vehicles to only the highest performing most cost-effective ones.

II. Issues and Findings—Creation and Continuation

Given the increased amount of taxpayer dollars flowing through these vehicles for the fulfillment of mission-critical requirements, the lack of a consistent government-wide policy on the creation and continuation of interagency contracts is notable. There are no uniform standards for their creation and no government-wide measures to support their continuation based on desired performance. Certainly, industry witnesses have told the Panel repeatedly that aligning incentives is essential for success.⁷³

There is little doubt that interagency contracts can and do provide significant benefits and efficiencies, but these efficiencies have been narrowly viewed primarily as transaction efficiencies such as reduced pre-award lead time and protest risk. Interagency contracts broadly defined are important to the operation of the federal acquisition process. Witnesses speaking on the subject before the Panel identified the benefits of interagency contracts and several remarked that they viewed them as essential for meeting mission needs.⁷⁴ However, the focus on transaction-based value hides the even greater efficiencies to be gained if interagency contracts are employed toward the goal of creating strategic government-wide efficiencies. Unfortunately, the lack of readily available, reliable and timely data

⁷³ Test. of Todd Furniss, Everest Group, AAP Pub. Meeting (Mar. 30, 2005); Test. of Peter Allen, TPI, AAP Pub. Meeting (Apr. 19, 2005) Tr. at 155-56; Test. of Daniel Masur, Outsourcing Attorney, AAP Pub. Meeting (Sept. 27, 2005) Tr. at 88-9.

⁷⁴ Test. of Scott Amey, Project on Government Oversight ("POGO"), AAP Pub. Meeting (May 17, 2005) Tr. at 341; Test. of Ashley Lewis, Department of Homeland Security ("DHS"), AAP Pub. Meeting (Jun. 14, 2005); Test. of David Sutfin, Department of the Interior, AAP Pub. Meeting (Jun. 14, 2005) Tr. at 336; Testimony of Tim Tweed at 229.

on the use and management of interagency contracts has hampered the government's ability to realize the more strategic value of these contracts. This lack of data is a barrier to strategic planning as well as oversight, on both an enterprise-wide and government-wide basis.

The Panel believes that meaningful improvements to interagency contracting practices can be achieved by agencies focusing their efforts on a sound and consistent process that provides oversight during the creation and the continuation (or reauthorization) of these contracts. Many of the issues identified by GAO and agency IGs dealing with the misuse of these vehicles are related to the internal controls, management and oversight, and division of roles and responsibilities between the vehicle holder and ordering agency. These issues can best be addressed with a government-wide policy that requires agencies to specifically and deliberately address these matters at the point of creation and continuation rather than attempting to remedy these problems at the point of use. The current lack of an established process and limited transparency allows for the proliferation of these vehicles in a largely uncoordinated, bottom-up fashion, focusing attention on the short term, transaction-based benefits of reduced procurement lead time. The Panel and the Working Group received testimony from government witnesses who stated that interagency vehicles are often utilized when an agency does not have ample time to fully define its acquisition requirements. Establishing guidelines for the creation and continuation of these vehicles will help to ensure they are used as an effective tool for enterprise-wide and government-wide strategic sourcing.

A. Proliferation

The pressures and incentives to create and use these vehicles, coupled with inconsistent or lacking oversight and little transparency has created an environment biased towards the uncoordinated proliferation of interagency contracts. GAO has noted that they are attracting rapid growth of taxpayer dollars⁷⁵ with Fiscal Year 2004 FPDS-NG data showing total obligations of \$142 Billion or 40 percent of the total government-wide spend for the year.⁷⁶ In addition, the Panel is concerned about the impact of using IDIQ contracts for enterprise-wide programs, such as the Navy's Seaport-e and the Department of Homeland Security's (DHS) Enterprise Acquisition Gateway for Leading Edge (Eagle) for IT Services and First Source for IT commodities, replicating vehicles within the confines of a single agency similar in purpose to interagency vehicles.

An uncoordinated proliferation of these contracts has consequences on the stakeholders, which include requiring agencies, holders of the vehicles, industry, and those agencies responsible for oversight. That is why the Panel has determined it necessary to include both interagency and enterprise-wide contracts within the scope of its recommendations. Failing to do so could lead to the unintended consequence of fostering even greater uncoordinated enterprise-wide contract creation, exacerbating negative consequences for stakeholders.

In addition, holders of interagency contracts and their customer agencies must have the necessary expertise to award and manage orders under these interagency contracts. GAO and agency IGs have noted that curtailed investments in human capital have

⁷⁵ GAO-05-207 at 25.

⁷⁶ Data was reported as of Aug. 2006 in reports prepared by the Federal Procurement Data Center ("FPDC") in response to a Panel request.

produced an acquisition workforce that often lacks the training and resources to function effectively⁷⁷ in an environment of more complex contracting vehicles and service requirements. GAO testimony stated that contracting personnel are expected to have greater knowledge of market conditions, industry trends, and technical details of the commodities and services they procure.⁷⁸ They also note that the use of interagency contracts requires a higher degree of business acumen and flexibility. One of the risks GAO cited with respect to interagency contracts is that they are being administered and used by some agencies that have limited expertise with the contracting method.⁷⁹ Another concern that has been raised is that agencies, because of competing demands on acquisition organizations, have insufficient resources in existence or planned to systematically monitor and oversee the use and the outcomes associated with interagency contracts.⁸⁰ GAO noted that some of DoD's problems with the use of interagency contracts stems from increasing pressures on the acquisition workforce and insufficient and inadequate training.⁸¹ Insofar as holders of the vehicles are concerned, GAO noted that while the number of GSA's Federal Supply Schedule contracts increased, the contract specialist workforce remained relatively stable in terms of numbers.⁸²

Certainly, uncoordinated proliferation without adequate transparency into the establishment or use of these vehicles creates serious challenges for those organizations responsible for oversight. While GWACs, franchise funds, and schedules are readily identifiable, the significant number of other interagency vehicles such as non-GWAC multi-agency contracts and the emerging trend in the proliferation of enterprise-wide contracts presents an obstacle for oversight both in terms of sheer numbers and difficulty in identification. Lack of transparency in both the use and management of these vehicles severely hampers the government's ability to maximize their effectiveness.

Finally, the burden on both large and small business has been clearly documented with respect to the increasing number of interagency vehicles. These burdens include increased bid and proposal costs in order to obtain contracts for similar work under numerous interagency and now, enterprise-wide contracts. This proliferation is especially burdensome to small business. In reaction to the preference for multiple award IDIQ contracts (the primary form of interagency contracts) and GSA's Federal Supply Schedule program, one observer remarked, "The problem is you invest heavily in the right to hunt, only to find there isn't enough game for everyone to bring home."⁸³ Proliferation of interagency contracts and enterprise-wide contracts exacerbates this problem by increasing the number of "hunting reservations" that industry must seek out while the amount of potential business

⁷⁷ GAO-05-350T at 18; U.S. GAO, *Contract Management: Improving Services Acquisition*, GAO-02-179T, 1 (Nov. 2001); U.S. GAO, *Surveillance of DOD Service Contracts*, GAO-05-274, 3 (Mar. 2005); U.S. GAO, *Continuing Progress in Implementing the Initiatives in the President's Management Agenda*, GAO-03-556T, 4 (Mar. 2003); GAO-05-207, January 2005; Test. of Eugene Waszily, GSA Office of Inspector General, AAP Pub. Meeting (May 17, 2005) Tr. at 222; Test. of Terry McKinney, DoD Office of Inspector General, AAP Pub. Meeting (May 17, 2005) Tr. at 177.

⁷⁸ GAO-02-499T at 6.

⁷⁹ GAO-05-207 at 25.

⁸⁰ GAO-06-996 at 16-18.

⁸¹ GAO-05-350T at 19.

⁸² GAO-05-229 at 8.

⁸³ Washington Technology, "Multiple Awards: A Protest-Proof Process," James Fontana, 12/10/98.

across the government remains unaffected. Vic Avetissian, Chairman of the Public Policy Council for the Contract Services Association of America (“CSA”), in his testimony before the House Government Reform Committee on March 16, 2005, cited an inefficient overlapping of contracts for similar products and services as responsible for increased costs to industry to prepare separate proposals.

B. Inconsistent Oversight

1. Lack of Transparency

Increased visibility into this creation and continuation process, on a government-wide basis, is an essential element in properly implementing interagency vehicles. It will provide for the eventual rationalization of the numbers of interagency and enterprise-wide contracts with the outcome of ensuring these vehicles are meeting the goals of reduced administrative costs and efficient competition. This will benefit all stakeholders. Therefore, the Panel believes that a sound process for creation and continuation requires equally sound and transparent data. Such data would support effective decision-making for users and holders of the vehicles, effective oversight, and the eventual use of these vehicles for more strategic sourcing.

As discussed earlier in the *Data on Use* section of this chapter, FPDS-NG required the separate identification of indefinite delivery vehicles beginning in Fiscal Year 2004. The system was designed to accumulate cost by contract and is capable of identifying GWAC’s, Federal Supply Schedules, Blanket Purchase Agreements (“BPAs”), Basic Ordering Agreements, and non-GWAC multi-agency contracts. The system is also able to separately identify contracts available for multi-agency use from those available for use by a single agency. The Panel has been unable to verify the data provided, but proposes that individual agencies verify their data once received from FPDS-NG. However, this data is contract-specific and, therefore, transaction-based; there is no transparency into the creation of interagency or enterprise-wide contracts nor information available to users sufficient to assist them in making well-informed decisions about which vehicles are most appropriate to their needs. Nor does this transaction-based collection system provide sufficient transparency to support a rational government-wide decision process for the creation of these contracts or for monitoring their performance and relevance.

2. Little Systematic Coordination among Vehicles

The Panel has found that, aside from the processes internal to a particular type of interagency vehicle such as the OMB Executive Agent designation process for GWACs, there is little or no coordination among the various types of products and services offered under different vehicles. The inefficiencies created by such a lack of coordination were, in part, the impetus for the recent GSA Federal Supply Service and Federal Technology Service restructuring. In GAO’s testimony on the subject of GSA’s restructuring, the impact of inefficient overlap of similar IT products and services is cited as increasing the costs to GSA to administer the programs as well as the marketing and bid and proposal costs to industry to compete.⁸⁴ In an effort to harmonize various contract vehicles it offers, GSA created a Contract Vehicle Review Board with representatives from FSS, FTS, GSA’s Office of Governmentwide

⁸⁴ *Contract Management: Restructuring GSA’s Federal Supply Service and Federal Technology Service*, GAO-04-132T, 1-4 (Oct. 2003).

Policy, and its regional offices to ensure its existing contracts are rationalized and to evaluate the need for new contracts. As a result of this review, GSA decided not to recompute the eight specialty GWAC vehicles because they overlap with other GWACs or schedule contracts.⁸⁵ In addition, the Board recommended that its three largest GWACs - Millennia, Millennia Lite and Applications 'N Support for Widely Diverse End-User Requirements (ANSWER)-be merged into a single GWAC.

3. No Consistent Standards for Creation and Continuation

There are no consistent government-wide standards applicable to the creation of inter-agency and enterprise-wide vehicles and no performance standards to justify their continuation or relevance. As discussed earlier, the GWACs, schedules, and franchise funds have specific processes in place, but each focuses on different elements of a business case. There is no standard process at all for the creation and continuation of non-GWAC multi-agency IDIQ contracts and enterprise-wide programs. The treatment of various types of funding within agencies may preclude the objective measurement of tradeoffs of costs versus the benefits associated with the creation of such vehicles. As noted above, some of the justifications advanced for the creation of the Navy's SeaPort-e program included the savings associated with fees that would no longer have to be paid to GSA and the fact that no additional contracting personnel would be required in the Navy to administer the vehicle. While this approach reflects well the financial incentives from an internal NAVSEA perspective, it is not clear that that this calculation accurately captures the overall costs to the government associated with the creation and operation of this or similar programs. Given the amount of taxpayer dollars spent on interagency contracting, it is notable that there is no government-wide policy focusing on rational business cases for creation and performance measures that align incentives with desired behaviors and key management agenda initiatives. For instance, business cases should require the identification of the mission need to be fulfilled, and the management and governance structure, including the resources and tools that will be applied by a servicing agency to manage an interagency contract. Proper business planning requires management deliberation and accountability and identification of the roles and responsibilities of the requiring and servicing agency and the means by which this is communicated. Currently, there are no consistent procedures or policies for allocating roles and responsibilities among the stakeholders in transactions using these vehicles. Measures that focus on competition, performance-based contracting and small business goals would drive desired behaviors. Clearly identifying those responsible for these measures would drive agencies to allocate responsibility. But key to having such standards and measures is a system for the government-wide monitoring of vehicle performance and relevance. Again, while individual programs such as GWACs have such a system, interagency and enterprise-wide contracts, on a government-wide basis, have no such process.

⁸⁵ The eight specialty GWACs are: the Access Certificates for Electronic Services, Disaster Recovery, Outsourcing Desktop Initiative for NASA, Reverse Auctions, Safeguard, Seat Management, Smart Card and Virtual Data Centers.

4. No Procedures for Aligning Vehicles to Leverage Government Purchasing Power

The lack of oversight and government-wide attention to these contracts precludes the ability to manage them to leverage the government's purchasing power. There is no process or procedure in place and no systematic data report on the vehicles and their use to allow for this to occur. The result is the dilution of buying power across the federal government. Even within agencies, this dilution of buying power has been noted. For instance, GSA's Federal Supply and Federal Technology Services were competing for the same work from the same customers and have only recently begun to address these inefficiencies through their restructuring. With the emergence of enterprise-wide programs, such as SeaPort-e with 935 vendors, the impact goes even further. In addition to the increased costs to industry and taxpayers, proliferation and lack of vehicle alignment also ignores one of the fundamental purposes of interagency contracts, namely, to drive down the administrative and operational costs of procurement on a government-wide basis. The Panel believes that the costs from not aligning the interagency contract vehicles must be more clearly identified and weighed to allow for responsible and efficient management of interagency contracts.

5. No Central Database or Consistent Methodology to Help Agencies Select Appropriate Contract Vehicles

Too many choices without transparency into the performance and management of these contracts make the cost-benefit analysis and market research needed to select an appropriate acquisition vehicle impossible. None of the witnesses to the Panel were able to clearly articulate an answer to Panel questions about how agencies select a particular vehicle over another for a given acquisition. In fact, there is no guidance or methodology for selection. Certainly, the GAO and IG reports as well as recent testimony to the House Government Reform Committee have asserted that the decisions are not well-reasoned and seem to be based largely on ease and convenience, with little thought into whether the vehicle is actually appropriate for requiring agency needs.⁸⁶ The proliferation of these vehicles with little data available to help requiring agencies make well-informed decisions on use clearly impacts the quality and value of the acquisition outcomes.

C. Incentives for Creation Don't Always Translate Into Benefits for the Taxpayer

GAO noted in 2005 that the fee-for-service arrangement of interagency contracts "creates an incentive to increase sales volume in order to support other programs of the agency that awards and administers an interagency contract. This may lead to an inordinate focus on meeting customer demands at the expense of complying with required ordering procedures."⁸⁷ With the trend toward greater agency reliance on internal contracts such as enterprise-wide contracts, the competition for customers may put greater pressure on holders of

⁸⁶ U. S. DoD IG, *Multiple Award Contracts for Services*, D-2001-189, 1-12 (Sept. 2001); U.S. GAO, *Improved Guidance, Planning, and Oversight Would Enable the Department of Homeland Security to Address Risks*, GAO-06-996, 3 (Sept. 2006); Test. of Vic Avetissian, Northrop Grumman Corporation, Chairman of Public Policy Council for the Contract Services Association of America (CSA), testimony before the House Committee on Government Reform, Hearing on General Services Administration Operations, March 16, 2005.

⁸⁷ GAO-05-207 at 27.

new and existing interagency contracts and the Interagency Assisting Entities to focus on meeting demands that are counter to the interests of taxpayers, such as waiving competition to retain incumbent contractors.

D. Some Diversity is Desirable

While the Panel believes that proliferation dampens the potential benefits of interagency contracts, it does not find that administrative monopolies are beneficial either. Some competition among vehicles is seen as desirable and even fundamental to maintaining the health of government contracting. Armed with the necessary information on how many interagency and enterprise-wide vehicles exist, and institutionalizing standards for their creation and continuation, the government can make informed decisions on how many and what type of vehicles provide for appropriate leveraging and which vehicles are best and most responsibly managed to obtain maximum taxpayer value. Agency contracting officials should have reasonable alternative contracting vehicles available for meeting agency mission needs coupled with meaningful data and information about the different options for contracting within their own agencies and through other entities.

E. Focus on Process of Creation and Continuation will Improve Use of the Vehicles

The Panel believes that maximum leverage for improving interagency contracting can be gained by focusing its efforts on a sound and consistent process for the creation of these vehicles along with a monitoring process for the continuation (or reauthorization) of them. Many of the issues related to the misuse of these vehicles identified by the GAO and IG reports relate to roles and responsibilities, internal controls, and management and oversight. These issues can best be addressed with a government-wide policy that requires agencies to specifically and deliberately address these matters at the point of creation and continuation rather than attempting to fix these problems at the point of use. The current lack of process and visibility allows for the proliferation of these vehicles in a largely uncoordinated, bottom-up fashion, focusing attention on the short term, transaction-based benefits of reduced procurement lead time instead of on their ultimate benefit as a tool for effective enterprise-wide and government-wide strategic sourcing at reduced administrative costs.

III. Recommendations

1. 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.

The Panel believes that the most important near-term task in the interagency contracting creation and continuation area is establishing a database identifying existing vehicles and assisting entities as well as their characteristics. It is the view of the Panel the most expeditious means

of assembling such information is in the form of a survey as currently drafted by OFPP in support of the OMB task force examining Interagency and Agency-Wide Contracting.

The OFPP survey is intended to gain a clearer understanding of the following:

- The number of interagency contracts that are currently in operation; the scope of these vehicles; the primary users; and the main rationale for their establishment;
- The level of acquisition activity conducted by Intragovernmental Revolving Funds (including the Franchise Funds) on behalf of other agencies;
- The number of enterprise-wide contracts currently in operation to address common needs that could be (or have been) satisfied through an existing interagency program, the scope of these vehicles, and the main rationale for their establishment.

The Panel recognizes that such a survey provides no more than a snapshot of agency activities associated with interagency contracting. Such a survey will provide an immensely greater degree of transparency for the stakeholders. The results of such a survey should serve as a bridge to the more institutionalized database recommended in #3 below. In order to better serve that end, the Panel also recommends that OFPP and the interagency task force consider expanding the requirements of the draft survey to include vehicles currently in the planning stages.

2. Make available the vehicle and assisting entity data for three distinct purposes.

- a. Identification of vehicles and the features they offer to agencies in meeting their acquisition requirements (yellow pages).
- b. Use by public and oversight organizations to monitor trends in use.
 - i. Improved granularity in fee calculations
 - ii. Standard FPDS-NG reports
- c. Use by agencies in business case justification analysis for creation and continuation/reauthorization of vehicles.

The Panel believes that the data gathered in the initial baseline survey should be structured in such a way as to allow for agency and public use. As noted above, the information should be viewed as a bridge to an institutionalized collection process. The Panel believes that three major purposes should guide the structuring of information consistent with the findings.

First, the data should provide a detailed overview of vehicles and services available from assisting entities to allow agency procurement officials and managers to weigh the best acquisition strategy for meeting agency mission needs. The information should be structured in such a manner to allow “apples to apples” comparisons among the benefits of using different vehicles and entities as well as the fees associated with their use. The data should allow agency officials to make accurate comparisons between the cost to the agency of the fees involved with using another agency vehicle and the internal costs of replicating the capability within the agency.

Second, the data should be organized to allow oversight organizations, such as GAO and the agency IGs, greater visibility into the existing and planned vehicles and entities, trends in their use, and the degree and nature of any overlap among them. In particular, the initial survey should provide the groundwork for a meaningful comparison of the manner in which

fees are calculated among different vehicles and entities to indicate whether a more systematic approach to fee establishment would be feasible or desirable.

Third, consideration of the information from the survey should be standard practice for any agency considering creating a new interagency or enterprise-wide vehicle or continuing an existing one. The Panel believes that a major component of a proper business case justification must be a reasonable and detailed understanding of other alternative acquisition approaches that are available in the federal government or to specific requirement holders in a prospective customer agency.

3. OMB institutionalize collection and public accessibility of the information, for example through a standalone database or module within transactions-based FPDS-NG.

The Panel believes that the initial OFPP survey should serve as the foundation for an institutional base of data and information on vehicles and entities. An institutional database with timely updates will be critical for the agencies' success in managing the vehicles and entities under their jurisdiction. Such a database will also be critical for agency managers to develop sound acquisition strategies involving interagency contracting capabilities to meet their agency's mission needs. The Panel believes that such benefits will offset the costs of collecting and maintaining this information.

OMB should explore various approaches to establishing such a database, whether as an additional module in the transactions-based FPDS-NG or as a standalone system. The Panel believes that the different approaches have merits and costs, and careful analysis of the alternatives must be conducted before deciding on a single approach.

4. 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.

The Panel recognizes there is statutory authority for the creation and continuation of GWACs, Franchise Funds, and the Federal Supply Schedules. The Panel recommends that these statutory authorities should not be altered in any way. With respect to the GWACs, the Panel further recommends that OMB reconsider the current requirement for annual review and reauthorization of these vehicles. The Panel believes that this period is too short given the complex nature and long-term nature of the work being undertaken under the GWACs.

The Panel does believe that the cognizant agency should review the procedures under which these vehicles and entities are created and continued and revise them in ways they deem appropriate to ensure that emphasis is placed on meeting specific agency needs and the overall effectiveness of government-wide contracting. The availability of more comprehensive data on other existing vehicles and entities should allow for more effective procedures for avoiding duplication that does not serve such overarching goals.

5. For other than the vehicles and entities described in #4 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

Although the Panel recommends review and revision of the current procedures for the creation and continuation/reauthorization of GWACs, Franchise Funds, and Federal Supply Schedules, it believes these procedures are fundamentally sound. However, there are no comparable common procedures for other interagency vehicles and assisting entities. The Panel considered different approaches to address the problems associated with the proliferation of these interagency vehicles and entities. One approach that was considered would be to allow agencies full discretion to establish vehicles or assisting entities involved in interagency contracting. This “market approach” would rely on the extent of agency utilization over time to determine the viability of a given vehicle or assisting entity. Unfortunately, it does not appear that reliance on this approach alone would be effective in addressing the negative impacts caused by the uncontrolled proliferation of vehicles.

The approach at the other end of the spectrum that the Panel considered would be to establish a process whereby OMB would formally authorize or reauthorize these vehicles and assisting entities. Based on previous experience with centralized approval processes (e.g., Brooks Act authorizations for automated data processing equipment and services), the Panel believes this approach risks being too cumbersome and would be beyond the scope of existing or likely OMB resources. The Panel also believes that this approach may inhibit the establishment or creation of a diverse set of interagency vehicles.

Rather than serving as a central approval authority, the Panel believes that the proper role for OMB is to issue guidance and procedures to structure the agency decisions with respect to the creation and continuation of individual vehicles or entities. The individual agencies should retain the responsibility for making decisions regarding the creation and continuation of these vehicles and assisting entities. The agencies have the personnel, resources, and requirements to establish or expand vehicles or assisting entities within the context of the agency mission. While recognizing this agency responsibility, the Panel believes that achieving improvements in interagency contracting is best assured through the establishment of a more formal process within these agencies for the creation and reauthorization of these vehicles and entities. The heads of agencies should be accountable for the implementation of this process. All these vehicles and entities, along with those currently authorized by OMB and GSA, form the landscape of interagency contracting and should be covered by more formal procedures where they do not currently exist.

The Panel notes that defining “expansion” precisely for the purposes of these recommendations is challenging. The term is intended to apply not only to cases where an existing vehicle or an assisting entity is opening up a new business line but also to cases where there is a significant increase in scope or size of contracts under an interagency or enterprise-wide vehicle.

6. Institute a requirement that the cognizant agency, under guidance issued by OMB, formally authorize the continuation/reauthorization of the vehicles and entities addressed in #5 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.

As noted above, certain of the interagency vehicles and assisting entities, such as the GWACs, Federal Supply Schedules, and Franchise Funds, are subject to periodic review and continuation/reauthorization. The Panel believes that the other interagency vehicles and assisting entities should be subject at the agency level to periodic review and disestablishment if they do not continue to meet specific agency needs and support the effectiveness of government-wide contracting. The result of such periodic reviews should be the elimination of vehicles and assisting entities that represent unproductive duplication or for which there is no longer a valid business case.

The Panel believes that this process must “have teeth” rather than be a pro forma review. The standard for the review should be the degree to which the vehicle or assisting entity is tracking to (or meeting) the performance measurements established at its inception. The OMB guidance on continuation should provide sufficient clarity to allow agency decisions on continuation/reauthorization to be subject to meaningful review and audit by oversight organizations.

With respect to the appropriate review timeframes, the Panel believes that there is no “one size fits all” approach. The Panel recognizes that each type of vehicle or class of assisting entity will justify OMB establishing different continuation/reauthorization review periods. A major consideration in establishing such review periods should be the nature and length of contracts and options under the vehicles or being managed by the assisting entities. A continuation/reauthorization review period for a given vehicle that is significantly shorter than the contract periods under the vehicle could present an agency with a serious obstacle to appropriate action if a continuation/reauthorization review indicates that the vehicle should be terminated rather than continued.

7. Have the OMB interagency task force define the process and the mechanisms anticipated by recommendations #5 and #6.

The Panel believes that OMB should be the responsible agency for preparing and issuing the guidance to implement recommendations #5 and #6. The process should be the result of collaboration with the chief acquisition officers and senior procurement executives of the individual agencies having jurisdiction over interagency, enterprise-wide, or assisting entities. The current OMB Task Force on Interagency Contracting, formed to address the management concerns raised by GAO, has the breadth of participation to allow a balance between the need for explicit guidance with clear performance measures and the need for a reasonable degree of flexibility in implementation. The Panel believes that the OMB Task Force should remain in existence until the task of promulgating procedures and mechanisms for these vehicles and entities has been completed.

8. 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 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.
- 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.
- k. Procedures to preserve the integrity of the appropriation process, including guidelines for establishing bona fide need and obligating funds within the authorized period.
- l. Require training for ordering agencies' personnel before access to the vehicle is granted.
- m. Use of interagency vehicles for contracting during emergency response situations (*e.g.*, natural disasters).
- n. Competition process and requirements.
- o. Agency performance standards and metrics.
- p. Performance monitoring system.
- q. Process for ensuring transparency of vehicle features and use.
 - Defined point of contact for public – Ombudsman.
- 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)

9. 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.

In order to achieve the greatest impact in performing its analysis, OMB should publish a timeline for carrying out the analysis, including an identification of agencies' responsibilities, as soon as practicable. In conducting its analysis, OMB should evaluate the degree of compliance of a representative sample of vehicles with business case guidance stipulated by OMB as well as an analysis of the degree to which the vehicles in the sample represent unwarranted duplication or overlap with other interagency and enterprise-wide vehicles. The evaluation should incorporate recommendations for consolidating or terminating vehicles where unwarranted duplication or overlap has been identified. The analysis should also include identification of any cost savings associated with the implementation of the recommendations and proposed measures to address the unintended negative consequences of such recommendations. Finally, OMB should include in each analysis formal consideration of whether to require OMB-level approval on a case-by-case basis of agency decisions to create or continue vehicles or assisting entities that are not otherwise covered under a statutorily mandated process.

CHAPTER 3–APPENDICES

Appendix A

Business Case to Support Executive Agent Redesignation

Agencies currently serving as executive agents for one or more government-wide acquisition contracts (GWACs) who seek to continue such designation should prepare a business case to support redesignation. The business case should address the three considerations set forth below: (1) the continued need that the GWAC would meet, (2) the value that the GWAC would provide in meeting this need, and (3) the suitability of the servicing agency to continue as the executive agent for the GWAC. In preparing responses, agencies are strongly encouraged to provide specific examples, whenever possible, to illustrate concrete accomplishments. Accomplishments may include, among others: management and customer successes in using competition to obtain value on identified acquisitions, especially on larger dollar orders; and agency guidance to customers on key contracting practices and responsibilities.

If the servicing agency's proposed redesignation involves more than one GWAC, the response should be sufficiently detailed for OMB to determine if each covered vehicle is structured and operated in a manner to take advantage of the opportunities GWACs offer to make effective acquisitions.

Part I. Anticipated Need.

The business case should explain the continued need that the GWAC would meet.

1. Purpose.

- a. How, if at all, has the purpose of the GWAC changed from when the executive agent designation was previously granted by OMB?
 - In what ways has either the customer base or the marketplace changed since a designation was last granted? How has this affected the GWAC and what steps are being taken to reflect the changed conditions?
- b. What factors were considered by the servicing agency's management in reaching the conclusion that continued operation of the GWAC is consistent with and beneficial to its mission?

2. Scope.

What is the GWAC's current scope of work? How does this compare to the scope of the contract when the designation request was previously granted? What factors led to a decision to modify the scope of the contract?

3. Period of performance.

What is the length of the contract that the servicing agency would be managing?

4. Amount and source of demand.

- a. What was the amount of activity under the GWAC during the period of the current designation (to a date as recent as is practicable)?
 - **Note:** For each customer agency, identify the cumulative number and total dollar value of task orders awarded (whether by the servicing agency or by the customer agency through delegation), sorted by functional contract area and type of contract.
- b. What is the amount (in dollars) of overall expected activity during the remainder of the contract?
- c. What portion of expected activity reflects the anticipated needs of external customers?
- d. What agencies have recently expressed an interest in the current GWAC and for what types of needs?

Part II. Value to Government.

The business case should discuss the value that the GWAC is currently providing and would continue to provide to customers both internal and external to the agency.

1. Benefit.

How has the executive agent designation contributed to the success of the acquisition – what benefits will be lost absent renewal of the designation?

2. Metrics.

How did the servicing agency measure its performance (including customer satisfaction) during the period of the current designation? What were the results? What measures would be used to evaluate activity under a renewed designation?

Part III. Suitability for Designation.

The business case should address the servicing agency's overall suitability to continue serving as an executive agent.

1. Contracting practices.

Identify the specific steps the servicing agency has taken during the period of the current designation with respect to furthering the following policies (where reference is made to agency guidance – e.g., customer handbooks – please provide specific citations):

- a. Use of performance-based statements of work, fixed-price tasks orders, and modular contracting.
 - In addressing this issue, identify the total number and cumulative value of task orders awarded during the period of the executive agent designation which were performance-based, as envisioned in FAR 37.6, and those that were not.
- b. Full application of the fair opportunity process as contemplated in FAR 16.505.
 - In addressing this issue, identify the total number and dollar value of task order awards during the period of the executive agent designation:
 - (i) subject to fair opportunity; and
 - (ii) not subject to fair opportunity (see FAR 16.505(b)(2)), including the exception cited.
- c. Consideration of contractor performance in the placement of tasks.
- d. Assessment of contractor performance on awarded tasks.
- e. Effective participation of small businesses.
- f. Taking appropriate advantage of increased contract demand.

2. Division of responsibilities between the servicing agency and customer agency.

For each of the activities below, during the period of the current executive agent designation, describe –

- (i) the division of responsibilities between the servicing agency and the customer agency (i.e., what functions the servicing agency performed and what functions the customer performed),
- (ii) how the servicing agency ensured a clear understanding of this division by its customers,
- (iii) any confusion in the execution of responsibilities between the servicing agency and customer agency, and
- (iv) what, if any, changes are anticipated in the division of responsibilities.

Activities:

- a. Task Issuance.
 - i. Needs determination.
 - ii. Development of SOW for task or delivery order.
 - iii. Review of SOW for task or delivery order.
 - iv. Conduct of fair opportunity process.
 - v. Review of fair opportunity process, including application of exceptions.
 - b. Contract Administration
 - i. Assessment of contractor performance.
 - ii. Quality assurance surveillance.
- 3. Management structure.**
- a. What is the current management structure?
 - **Note:** In addressing this issue, identify the projected and actual total revenue and costs (both direct and indirect) for managing and administering the GWAC, to include (1) the number of FTE administering the GWAC and (2) an explanation if the number of FTE is expected to increase beyond current personnel levels during the life of the contract and, if so, whether the FTE would be diverted from other existing activities.
 - b. Have any changes in management structure been made since an executive agent designation was last granted? If so, please explain.
 - c. Has the servicing agency identified any customer misapplications of its vehicles during the current executive agent designation? If so, what were they and how were they handled?

- d. What, if any, fund is the agency using to support transactions through the GWAC?
- e. Does the servicing agency plan to request any funding from OMB to support continued operation of the GWAC? If so, what is the estimated amount of the request and for what purposes would the funding be used?
- f. How was the effectiveness of management structures measured?

4. Servicing agency performance.

During the period of the executive agent designation, were any management or operational strengths or weaknesses identified by the program, the agency IG or the GAO? If so, what was identified? For any identified weaknesses, what specific remedial steps have been taken or are planned?

Appendix B



DEPUTY DIRECTOR
FOR MANAGEMENT

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

FEB 6 1995

MEMORANDUM FOR AGENCY CHIEF FINANCIAL OFFICERS AND
CHAIRMAN OF THE SMALL AGENCY COUNCIL

FROM: John A. Koskinen *JAK*
SUBJECT: Agency Application For Franchise Fund Pilot
Program

The Government Management and Reform Act (GMRA) authorizes the establishment of a franchise fund pilot program in six Executive branch agencies (Sec. 403, P.L. 103-356). The pilots are licensed to provide common administrative support services such as accounting, personnel, information management, security etc. on a full cost reimbursable basis both internally and to other Federal agencies. The approach is based on ideas developed by the National Performance Review with the intention to inject competition and market forces into the delivery of administrative services to lower costs and better serve customers.

Attached is an application form for those agencies that wish to operate a franchise fund and have it considered for selection by the Director of the Office of Management and Budget (OMB) as a Pilot Franchise Fund Program. The application was developed by a Franchise Fund Working Group from the National Performance Review and the Chief Financial Officers Council (CFO). It was endorsed by the CFO Council. The application addresses selection criteria, timeframes and the review process for designation as a pilot. Please ensure that the application is forwarded to all interested parties.

The deadline for applying for a Franchise Fund Pilot Program is March 28, 1995 but applicant agencies are encouraged to forward their proposal as soon as practicable. Detailed information is included in the application package.

As you develop your franchise fund proposals, please consult with your OMB Resource Management Office. Should you have any questions regarding the application, you may contact the Franchise Fund Working Group Chairman Clyde McShan, Commerce's Deputy Chief Financial Officer at (202) 482-1207 or Michael Wenk, OMB at (202) 395-5643.

Attachment



***FRANCHISE
FUND
PILOT
PROGRAM***

Agency Application

**Response to this application shall
be submitted by
March 28, 1995**





AGENCY CONTACT

Please provide the information below to expedite processing.

Date		Agency	
Address			
Agency Contact			
Title			
Phone Number		Fax	

TO BE SUBMITTED WITH THE AGENCY APPLICATION

I. Introduction

With the passage of the Government Management Reform Act of 1994 (Public Law 103-356), the Congress has helped ensure that the Federal Government's managers will have the financial information and flexibility they need to make sound policy decisions and manage resources. The Act authorizes agencies to provide certain common administrative support services such as personnel, travel processing, procurement, information technology, facilities management, and accounting on a reimbursable basis both internally and to other federal agencies. This approach, based on ideas developed by the National Performance Review, will inject competition and market forces into the delivery of these services to lower overhead costs, improve the quality of services, and better serve the American people. The Act authorized the establishment of six Franchise Funds on a pilot basis. Although there are a number of fee-for-service organizations operating today under various statutory authorities, including the Economy Act (31 US code, section 1535, 1932), the Government Employees Training Act (Public Law 85-07, Title 5, Chapter 41, U.S. Code), and various statutorily authorized industrial, working capital, or revolving funds, this new Act expands the base of existing competitive services.

II. Definitions

Common Administrative Services:

Support services that most agencies need in order to operate efficiently and effectively. Examples (not all inclusive) include accounting, financial management, information resources management, personnel, contracting, pay, security, and training. The customers for these services are typically government employees or other government programs. Services that are primarily intended for the American citizen are not normally considered a common administrative service.

Franchise Fund Pilot Programs:

Generally use revolving funds to carry out authorized common administrative services to be provided competitively within or between agencies. Executive agencies receiving such authorization may operate one or more franchises within a fund as approved by the head of the agency.

Franchise:

An entrepreneurial activity within a government organization that provides common administrative support services to other agencies or other components within the same agency. A franchise may offer one or more common administrative services and generally conducts its business:

- ✓ on a reimbursable basis offering its' services to other agencies and/or components of its own agency,
- ✓ in a manner that fosters competition, and
- ✓ within appropriate standards and legal authorities for both the service rendered and the method for accounting for franchise expenditures and charges.

Like the concept in private industry, franchises must meet customer needs by providing quality services in order to be financially self-sustaining; and, provide customers the right to choose sources that will best meet their needs.

Agency Application

III. The Process

- > Each agency component determines the interest of its agency head in establishing a franchise fund.
- > The agency head determines what will be proposed as franchises within the proposed pilot fund, how the fund will be structured, capitalized, and operate.
- > The agency completes the application and submits for consideration.
- > The Chief Financial Officers' Council, using the Franchise Fund Steering Committee to conduct the evaluation based on the criteria identified in Section IV, will provide its' opinion to the Deputy Director for Management of OMB on which pilots would qualify, in priority order.
- > The Deputy Director for Management, OMB, after reviewing CFO Council suggestions and consulting with the appropriate committees of Congress, will recommend to the Director of OMB pilot franchise funds for selection.
- > The Director will designate the pilots and OMB will notify the selected agencies.

IV. Application Criteria

The Head of the Agency shall request designation as a pilot Franchise Fund Program from the Director of OMB. The criteria by which the applicant will be judged will be as follows:

Criteria	Weight
1. Ability and Capacity to Meet The Intent of Franchising	10%
2. Degree of Agency Support	20%
3. Impediments	10%
4. The Soundness of the Proposed Organization and Operating Procedures	20%
5. The Ability to Attain Resources	15%
6. The Ability to Manage Resources and to Meet Customer Service Quality Standards	15%
7. The Ability to Cease Operations in an Efficient Manner, if Necessary	10%

V. How to Apply

1. A free, one-day conference for potential applicants will be held beginning at 9:00 a.m. on Friday, February 17, 1995, in the Auditorium of the Resolution Trust Corporation (RTC), 801 17th Street, N.W. Washington, D.C. Those desiring to attend should FAX their name, organization, and telephone number to Mary Tanner, National Performance Review, at (202) 632-0390. Questions about this package will be addressed at the conference.
2. Interested Agencies shall submit their applications no later than March 28, 1995.
3. The **Agency Contact Sheet** included with the package must be completed and forwarded along with the application.

Franchise Fund Pilot Program:

Agency Application

4. Five copies of the completed application shall be submitted to John Koskinen, Deputy Director for Management, Office of Management & Budget, and one copy to the Co-Chair of the CFO Council Franchise Fund Steering Committee, Clyde G. McShan, II, Deputy CFO and Director for Financial Management, Department of Commerce. (See addresses, page 5)
5. All applications must include, at a minimum, the following:
 - > A narrative description of the pilot's capacity to create or foster competition, produce cost savings, and enhance productivity and the capacity of the franchise(s) to be implemented in other Federal Agencies, or potentially meet larger, governmentwide common administrative requirements.
 - > A document signed by the Agency Head to demonstrate agency support, and a description of the support that could be expected from the relevant Congressional Committees, including the Appropriations Committees.
 - > A summary of the existing obstacles to establishing and operating a successful pilot program including their relevant severity.
 - > A description of the structure of the fund including its organization, management staff and Advisory Board.
 - > An organization chart.
 - > A description of the financial management and management control policies under which the pilot will operate including:
 - The current status of the accounting systems under which the franchise(s) will operate, the pilots' conformance with OMB relevant guidance and its ability to account for all costs of each franchise using cost accounting procedures and financial management reporting that meet OMB and the Federal Accounting Standards Advisory Board (FASAB) guidelines and
 - The size and composition of the workforce (FTE) including the size and composition of the FTE of each franchise (s) within the pilot.
 - > The framework describing resource attainment and management, including:
 - The initial capital investment, by type and amount, and operating reserves as well as the outlays and the source(s) of this funding for three years.
 - Any required changes to appropriations language, e.g., in case direct appropriations are required to capitalize the fund or if an agency applies for the special authority to operate the fund effectively. (Format and requirements of Circular A-11 on Appropriations language prepared for the Transmittal to Congress should be followed.)
 - A summary of the stage of development, the current or probable customers, and the physical location of the proposed or currently operating franchise(s).
 - The type of business plan the pilot will use and a copy of the prototype plan if it is available. If the pilot enhances an existing franchising type of operation, provide a copy of the latest business plan now supporting that operation if it is reasonably representative of the type of business plan intended for the pilot.
 - Performance measures and other evaluation criteria for each franchise(s) which will be used to measure success. The measures should include baselines against which progress can be measured. If an audited financial statement of the franchise(s) has been completed, a summary of its' major results should be included.

Franchise Fund Pilot Program:

Agency Application

- > A contingency plan for discontinuing a franchise(s) or the possible transition to an alternative service provider resulting from a decrease in customer base or the lack of resources to sustain the franchise(s) shall be included.
- > The agency may include any other information it deems pertinent to its application.

VI. Scheduled Milestones

February 17, 1995	Application conference for all interested Agencies. The free, one day conference for potential applicants will be held in the auditorium of the Resolution Trust Corporation (RTC), 801 17th Street, N.W., Washington, D.C., on Friday, February 17, 1995 beginning at 9:00 a.m. The capacity of the RTC auditorium, which is located in the lower level, is approximately 230.
March 28, 1995	Agency applications are due. Five copies of the application submitted to the Deputy Director for Management, OMB, and one copy to the Co-Chair of the CFO Council Franchise Fund Steering Committee. Representatives from the CFO Council Steering Committee and the Franchise Fund Working Group review agency applications and make suggestions in priority order through Clyde McShan to the CFO Council. (Applications may be submitted as soon as they are completed.)
April 18, 1995	At the CFO Council Meeting, council agrees to forward its opinion on which pilots would qualify, in priority order.
April 24, 1995	Begin vetting the recommended pilots with the Appropriations Committees and Senate, Gov. Affairs and House, Committee on Government Reform and Oversight (Chair and Ranking Minority Members).
May 15, 1995	OMB Director designates pilot agencies and OMB notifies agencies and Congress, and submits appropriate materials.

Please submit appropriate copies to:

John Koskinen
Deputy Director for Management
Office of Management & Budget
Attention: Mike Wenk
Room 6025
New Executive Office Building
Washington, D. C. 20503

Clyde G. McShan, II
Deputy CFO and Director for Financial
Management
Room 6827
Department of Commerce
14th & Constitution Avenue N.W.
Washington, D.C. 20230

