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November 2013

# SMALL BUSINESS CONTRACTING

## Updated Guidance and Reporting Needed for Consolidated Contracts

# GAO Highlights

Highlights of [GAO-14-36](#), a report to congressional committees

## Why GAO Did This Study

Federal agencies sometimes can achieve savings by consolidating requirements from separate, smaller contracts into fewer, larger contracts. However, consolidation may negatively impact small businesses. Generally, when consolidation makes a contract unsuitable for small businesses, the contract is considered bundled, which is a subset of consolidation. Agencies must justify their actions for both consolidated and bundled requirements.

Recent National Defense Authorization Acts and a related committee report mandated that GAO review federal agency use of consolidated contracts. According to federal procurement data, DOD and GSA accounted for the vast majority of all contracts reported as consolidated in fiscal years 2011 and 2012. This report examines the extent to which (1) DOD and GSA have consolidated contracts; (2) DOD and GSA justifications complied with relevant laws and regulations; (3) DOD, GSA, and SBA addressed small business impacts as required; and (4) SBA collected and reported information on bundled contracts. GAO identified relevant laws and regulations; analyzed federal procurement data from fiscal years 2011 and 2012; reviewed consolidated, bundled, and other contracts; and interviewed DOD, GSA, and SBA officials.

## What GAO Recommends

GAO recommends that DOD update and GSA establish guidance after SBA rulemaking is complete to reflect changes in the law and that SBA comply with congressional reporting requirements for bundled contracts. DOD, GSA, and SBA concurred with the recommendations.

View [GAO-14-36](#). For more information, contact William Woods at (202) 512-4841 or [woodsw@gao.gov](mailto:woodsw@gao.gov).

November 2013

## SMALL BUSINESS CONTRACTING

### Updated Guidance and Reporting Needed for Consolidated Contracts

## What GAO Found

The Department of Defense (DOD) and the General Services Administration (GSA)—which accounted for more than 80 percent of the consolidated contracts reported by all federal agencies in fiscal years 2011 and 2012—do not know the full extent to which they are awarding consolidated contracts. This is the result of contracts being misreported in the federal procurement data system. GAO reviewed 157 contracts—more than half of all DOD and GSA contracts that were reported as consolidated—and found that 34 percent of the DOD contracts and all of the GSA contracts in fact were not consolidated. GAO also identified four DOD contracts with consolidated requirements that were not reported as such.

DOD generally justified contracts with consolidated requirements in accordance with existing regulations, but DOD and GSA have not yet implemented 2010 changes in the law. GAO found that 82 percent of the 100 DOD contracts confirmed as consolidated followed existing regulations pertaining to conducting market research, identifying alternatives, and justifying decisions. Most of the contracts that did not comply were justified, but the determinations were not made by an official at a level senior enough to meet defense regulation requirements. However, DOD regulations and guidance did not reflect the reduction in the value at which consolidated contracts must be justified—from over \$6 million to over \$2 million—as called for in the law. In October 2013, DOD lowered the dollar threshold. DOD and GSA are waiting for the Small Business Administration (SBA) to issue a final rule to implement all of the statutory changes before updating regulations. SBA issued a final rule on October 2, 2013, which takes effect no later than December 31, 2013.

DOD and SBA officials took a range of actions to address the impact of consolidation on small business. Federal law requires contracting agencies to facilitate the participation of small businesses on consolidated contracts. GAO found that half of the 100 DOD consolidated contracts reviewed were awarded to small businesses, most of which were awarded through small business set asides. Additionally, many of the consolidated contracts awarded to large businesses included measures, such as small business subcontracting plans, to address small businesses that were potentially affected by the consolidation. For the consolidated contracts considered to be bundled—for which agencies and SBA officials are specifically required to maximize small business contracting opportunities—DOD required subcontracting plans as well.

SBA does not collect complete information on bundled contracts and has not reported to congressional committees as required. Federal law requires SBA to take several actions for bundled contracts, including annual reporting to the small business committees on the extent of bundling, maintaining a database to track small business impacts, and determining if benefits were achieved through bundling. SBA officials said they have not sent reports to the committees since 2010 due to an administrative oversight. Further, SBA has not collected all required information, such as the number of small businesses affected by bundled contracts. SBA officials explained that they cannot fulfill some requirements because of limitations in existing data sources, such as the federal procurement data system, which do not collect the information needed to meet reporting requirements.

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**Abbreviations**

AFARS	Army Federal Acquisition Regulation Supplement
DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense
FAR	Federal Acquisition Regulation
FedBizOpps	Federal Business Opportunities
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Services Administration
NDAA	National Defense Authorization Act
NAICS	North American Industry Classification System
OSDBU	Office of Small and Disadvantaged Business Utilization
PCR	Procurement Center Representative
SBA	Small Business Administration

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November 26, 2013

The Honorable Carl Levin  
Chairman  
The Honorable James M. Inhofe  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Howard P. “Buck” McKeon  
Chairman  
The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services  
House of Representatives

The United States federal government spends in excess of \$500 billion annually to procure goods and services ranging from information technology to construction and base support services. At times, a federal agency may consolidate its requirements into one large contract to save money and increase efficiency. However, the size and scope of the new contract can make it difficult for a small business to win the larger contract. When consolidation results in a contract likely to be unsuitable for small business award, the consolidated contract is also considered bundled. Agencies must justify their actions for both consolidated and bundled contracts above certain monetary thresholds and coordinate acquisition strategies with agency small business specialists for substantially bundled contracts. According to federal procurement data, the Department of Defense (DOD) and the General Services Administration (GSA) accounted for the vast majority of consolidated contracts in fiscal years 2011 and 2012.

The National Defense Authorization Act for Fiscal Year 2013 mandated that we review data and information regarding consolidated contracts awarded by federal agencies.<sup>1</sup> In addition, the conference report on the National Defense Authorization Act for Fiscal Year 2012 mandated that we determine the extent to which the DOD consolidated and bundled

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<sup>1</sup>Pub. L. No. 112-239, § 1671.

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contracts with regard to construction and base support services.<sup>2</sup> For this report, we assessed the extent to which (1) DOD and GSA have consolidated contracts; (2) DOD and GSA justifications for contract consolidation complied with relevant laws and regulations; (3) DOD, GSA, and the Small Business Administration (SBA) addressed small business impacts of consolidation, including bundling; and (4) SBA collected and reported information on bundled contracts.

To conduct this work, we reviewed data from the Federal Procurement Data System-Next Generation (FPDS-NG), the government's central repository for contracting information, to identify consolidated contracts and orders reported by federal agencies, including DOD and GSA, for fiscal years 2011 and 2012.<sup>3</sup> The Federal Acquisition Regulation (FAR) requires agencies to report contract information in FPDS-NG, which has data fields that separately identify contracts that are considered consolidated or bundled. We chose fiscal years 2011 and 2012 to capture the two most recent years of data available at the time of our review.

To determine the extent to which DOD and GSA consolidated contracts, we used FPDS-NG data and identified 290 contracts reported by the two agencies as consolidated from among the 358 contracts reported as consolidated government-wide. From the 290 DOD and GSA contracts, we reviewed contract documentation for a total of 157 contracts selected as follows: for DOD, we first used a systematic, random sample of all reported consolidated contracts for fiscal years 2011 and 2012 to select 133 contracts for review. We also reviewed all eight DOD contracts that were reported as bundled. For GSA, we reviewed all 16 contracts that were reported as consolidated over the same time period. We tested the FPDS-NG data for accuracy by comparing documentation from the contracting offices for the contracts reviewed with information reported in FPDS-NG to determine whether the contracts were correctly reported as consolidated or bundled. We determined that FPDS-NG data were not sufficiently reliable for purposes of identifying consolidated and bundled contracts due to errors in reporting information to FPDS-NG, but that supporting contract documentation could be used to determine whether contracts were consolidated or bundled. We also reviewed a sample of DOD contracts that were not identified as consolidated in FPDS-NG for

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<sup>2</sup>H.R. Rep. No. 112-329, at 675 (2011) (Conf. Rep.).

<sup>3</sup>An order refers to an individual delivery order for supplies or task order for services placed against an established indefinite delivery, indefinite quantity contract.

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any indication of potential consolidation or bundling. Through this approach, we identified one bundled and three consolidated contracts that were not reported as such in FPDS-NG. Overall, we confirmed 100 consolidated contracts, including two that were also bundled.

To determine the extent to which justifications for contract consolidation complied with relevant laws and regulations, we compared contract documents with the requirements established by federal statutes such as the Small Business Act, federal regulations such as SBA regulations, the FAR and agency FAR supplements, including the Defense Federal Acquisition Regulation Supplement (DFARS) and the Army Federal Acquisition Regulation Supplement (AFARS).

To assess the extent to which DOD, GSA, and SBA addressed potential small business impacts of consolidation and bundling, we reviewed FPDS-NG data and contract documentation to identify whether contracts were awarded to large or small businesses. We interviewed officials from DOD and GSA office of small business programs, DOD service-level contracting officials, and SBA officials to understand how small business impacts are addressed. We also reviewed consolidated contracts with requirements that were previously performed by small businesses and identified steps taken to address the potential impacts.

To assess the extent to which SBA collected and reported information on consolidated contracts that are considered bundled, we reviewed reports SBA submitted to Congress. We also interviewed SBA officials to understand how information is reported. See appendix I for a full description of our scope and methodology.

We conducted this performance audit from December 2012 to November 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Contract consolidation generally occurs when a federal agency combines in a solicitation two or more contract requirements that were previously provided to that agency under separate contracts. Agencies may achieve savings and other benefits through contract consolidation, but consolidation may limit small business opportunities to compete for

federal contracts. A specific type of contract consolidation, known as bundling, has a more significant effect on small businesses' ability to perform the consolidated contract. Bundling generally takes place when two or more requirements that were previously performed by small businesses are combined into a single solicitation and result in a contract that is likely to be unsuitable for small business award. Table 1 summarizes the definitions of consolidation and bundling.

**Table 1: Definitions of Consolidation and Bundling**

<b>Consolidation</b>	<b>Bundling</b>
Use of a solicitation to obtain offers for a single contract or multiple award contract to satisfy (1) two or more requirements of the federal agency for goods or services that previously have been provided to or performed for the federal agency under two or more separate contracts lower in costs than the total cost of the contract for which the offers are solicited; or (2) requirements of the federal agency for construction projects to be performed at two or more discrete sites.	Consolidating two or more requirements for goods or services previously provided or performed under separate smaller contracts <sup>a</sup> into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern due to: <ul style="list-style-type: none"> <li>• the diversity, size, or specialized nature of the elements of the performance specified;</li> <li>• the aggregate dollar value of the anticipated award;</li> <li>• the geographical dispersion of contract performance sites; or</li> <li>• any combination of these factors.</li> </ul>

Source: GAO analysis of Small Business Act provisions 15 U.S.C. §657q(a)(2) and 15 U.S.C. §632(o)(2).

<sup>a</sup>A separate smaller contract means a contract that has been performed by one or more small business concerns or that was suitable for award to a small business. See 15 U.S.C. §632(o)(3).

To foster small business participation in federal contracting, Congress has required agencies to take various actions to justify the use of consolidated and bundled contracts. The Small Business Act was amended in 1997 to restrict federal agencies from bundling contracts without first taking certain steps, including conducting market research and demonstrating specific cost savings.<sup>4</sup> Congress first enacted consolidation of contract requirements in the National Defense Authorization Act for Fiscal Year 2004, but only for DOD, which was required to conduct market research, identify any alternative approaches that would involve a lesser degree of consolidation of contract requirements, and determine that the consolidation of contracts valued

<sup>4</sup>Small Business Reauthorization Act of 1997, Pub. L. No. 105-135, § 413, amending section 15 of the Small Business Act.



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over \$5 million (later increased in 2010 to \$6 million), was necessary and justified.<sup>5</sup> DOD could determine that an acquisition strategy was necessary and justified if the benefits of consolidation substantially exceed the benefits of alternative approaches.

Congress enacted the Small Business Jobs Act of 2010 (Jobs Act), which amended the Small Business Act to require that all federal agencies justify their consolidation of contract requirements with expected values greater than \$2 million, thereby lowering the dollar threshold for DOD unless it met small business goals and requiring for the first time a justification for all federal civilian agencies.<sup>6</sup> The amendments also added new requirements for agencies to identify any negative impacts that consolidation could have on small businesses and certify that steps would be taken to include small businesses in the acquisition strategy. The 2010 amendments also included additional requirements for bundled contracts, such as requiring agencies to publicly post the rationales for each bundled contract on their websites. The National Defense Authorization Act for Fiscal Year 2013 later repealed a provision that tied the DOD dollar threshold to its achievement of small business goals, and required DOD to review consolidated contracts with expected values of over \$2 million.<sup>7</sup>

In addition to the requirements for agencies to justify their consolidated and bundled contracts, federal law and regulations outline specific responsibilities for agencies' small business officials and the SBA in addressing small business issues, particularly when bundling is involved. Table 2 below lists agency and SBA responsibilities for consolidated and bundled contracts.

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<sup>5</sup>National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, §801(a)(1) (2003).

<sup>6</sup>Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 1313. The Jobs Act required the over \$2 million threshold for DOD only until SBA determined that DOD complied with the Small Business Act's government-wide contracting goals; if it made this determination, then the previous statutory threshold of greater than \$6 million applied to DOD.

<sup>7</sup>Pub. L. No. 112-239, § 1671(c).

**Table 2: Agency Roles and Responsibilities for Consolidation and Bundling**

	<b>Consolidation</b>	<b>Bundling</b>
Agency Contracting Activity	<ul style="list-style-type: none"> <li>• Conduct market research.</li> <li>• Identify alternative contracting approaches with lesser degree of consolidation.</li> <li>• Make a written determination from the senior procurement executive that consolidation is necessary and justified.</li> <li>• Identify any negative impact of consolidation on contracting with small business concerns.</li> <li>• Certify that steps will be taken to include small business concerns.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct market research to determine if bundling is necessary and justified, which is indicated if the agency can derive measurably substantial benefits. Benefits must be equivalent to:               <ul style="list-style-type: none"> <li>• 10% of the estimated value if contract is \$94 million or less; or</li> <li>• The greater of \$9.4 million or 5% of the estimated value if contract is greater than \$94 million.</li> </ul> </li> <li>• For substantially bundled contracts—those \$8 million or more in value for DOD and \$6 million or more for GSA—ensure the acquisition strategy addresses additional elements including an assessment of the specific impediments to small business participation.</li> <li>• Provide agency small business offices and SBA procurement center representatives with a copy of the proposed bundled acquisition, among other things, 30 days prior to the solicitation’s issuance.</li> <li>• Identify incumbent contracts and contractors affected by the bundling.</li> <li>• Generally, 30 days before solicitation issuance, agencies must notify affected incumbent small businesses of the intent to bundle the requirements and should notify them on how they may contact the appropriate SBA representative.</li> <li>• Agencies are required to list on agency websites bundled contracts solicited and awarded and include the rationales.</li> </ul>
Agency Small Business Offices <sup>a</sup>	<ul style="list-style-type: none"> <li>• (For DOD only) The Office of Small Business Programs must conduct annual reviews to assess the extent of the contract requirements’ consolidation, including the impacts of those consolidations on the availability of small business concerns to participate as both contractors and subcontractors.</li> </ul>	<ul style="list-style-type: none"> <li>• The small business specialist must notify the agency OSDBU if the acquisition strategy involves bundling that is unnecessary, unjustified, or not identified by the agency as bundled.</li> <li>• For substantial bundling, agency coordinates acquisition strategy with small business specialist when the contract or order meets certain dollar thresholds (described above).</li> <li>• OSDBU must identify solicitations with significant bundling, and work with agency and SBA to revise procurement strategies for those solicitations to facilitate small business participation as prime contractors.</li> <li>• Report annually to the Agency Head and SBA Administrator on adequacy of agency bundling documentation and justification and adequacy of the steps taken to mitigate the effects of necessary and justified bundling on small businesses.</li> </ul>

	<b>Consolidation</b>	<b>Bundling</b>
Small Business Administration	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>SBA procurement center representatives (PCRs):               <ul style="list-style-type: none"> <li>Work with cognizant small business specialists and agency OSDBU early in the acquisition process to identify proposed solicitations that involve bundling, to revise the bundling, where appropriate, and to increase the probability of small business participation.</li> <li>If PCR believes agency's bundling decision will render small business participation unlikely, the PCR may propose alternative procurement methods to the agency; if SBA and the agency fail to agree, SBA may submit agencies' bundling determinations to the Secretary or head of the agency.</li> </ul> </li> <li>SBA responsibilities include:               <ul style="list-style-type: none"> <li>Maintaining a database on bundled contracts and small businesses that have been displaced as prime contractors due to the bundled contracts.</li> <li>Reviewing savings and benefits achieved under bundled contracts that are re-competed as bundled contracts and whether they will continue to be realized.</li> <li>Reporting annually on contract bundling information to Senate and House Committees on Small Business.</li> </ul> </li> </ul>

Sources: GAO analysis of Small Business Act, as amended, and Federal Acquisition Regulation.

<sup>a</sup>The Small Business Act established an Office of Small and Disadvantaged Business Utilization (OSDBU) in each federal agency with procurement powers. The office is referred to as the Office of Small Business Programs in DOD and its components and the Office of Small Business Utilization at GSA.

SBA has additional statutory responsibilities for bundled contracts, including maintaining a database on bundled contracts, reviewing savings and benefits of bundled contracts that are re-competed as bundled contracts, and reporting to the small business Congressional committees annually on contract bundling and its impact on small businesses. While various actors are engaged in the contracting process, ultimately, the contracting agencies make the final decisions to consolidate requirements.

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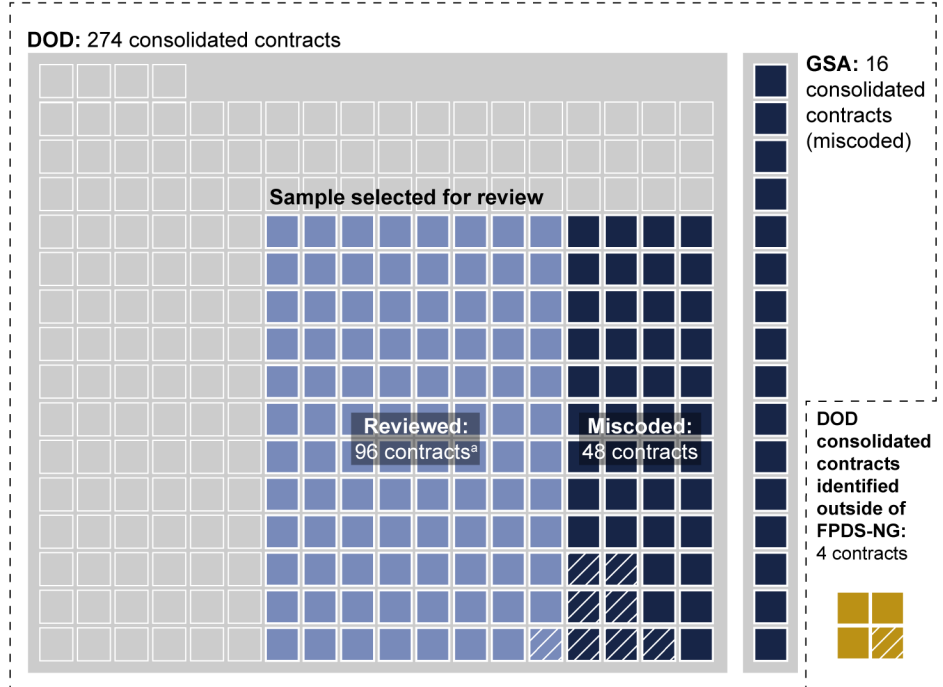
## DOD and GSA Do Not Know the Full Extent to Which They Are Reporting Consolidated Contracts

DOD and GSA accounted for more than 80 percent of the reported consolidated contracts in fiscal years 2011 and 2012, but DOD and GSA overstated their use of consolidated contracts in those two years. In turn, because these agencies account for such a high percentage of all contracts reported as consolidated, government-wide reporting on contract consolidation is not reliable. In our sample of 157 DOD and GSA contracts that were identified as consolidated in FPDS-NG, we found and agency officials confirmed that approximately 34 percent of the DOD contracts and all of the GSA contracts were miscoded and in fact were not consolidated. We also identified four consolidated DOD contracts, including one that was also bundled, that were not reported as such in FPDS-NG.

In fiscal years 2011 and 2012, federal agencies reported that they had awarded 358 consolidated contracts and orders under contracts government-wide, with total obligations of approximately \$3.58 billion for goods and services ranging from information technology to construction and base support services. We reviewed a sample of 157 contracts and orders from DOD and GSA and found that 48 DOD contracts and all 16 GSA contracts were miscoded as consolidated in FPDS-NG. Figure 1 shows the details of this analysis.

**Figure 1: Fiscal Year 2011 and 2012 Consolidated and Bundled Contracts Identified and Reviewed**

FPDS-NG reported: 290 consolidated contracts



Source: GAO analysis of FPDS-NG data.

<sup>a</sup>This includes 3 contracts that were miscoded as bundled in FPDS-NG but were later confirmed to be consolidated and were reviewed as such.

DOD and GSA officials generally attributed the data entry errors to miscoding that was discovered when we requested contract documentation related to consolidated contracts. In most cases, the contracts should not have been reported as either consolidated or bundled in FPDS-NG. After being made aware of the errors, most DOD and GSA officials submitted corrected data to FPDS-NG.

In addition to contracts that were over-reported in FPDS-NG, we identified four consolidated contracts, including one that was also bundled, that were not reported as such in FPDS-NG. The contracts were identified through various sources, including the Federal Business Opportunities

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(FedBizOpps) website and task orders associated with contracts identified as consolidated in FPDS-NG, and our review of eight DOD contracts that were not identified as consolidated in FPDS-NG.<sup>8</sup> DOD officials confirmed that four contracts were consolidated, but were generally unsure why they had been miscoded in FPDS-NG. In one contract, Army officials said the contract had been transferred from another contracting office and suggested it could have been a data migration issue in transferring the contract between systems.

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### **Most DOD Consolidated Contracts Complied with Existing Acquisition Regulations, but Regulations Do Not Reflect Changes in the Law**

Most of the 100 DOD contracts from fiscal years 2011 and 2012 that we identified as consolidated complied with existing acquisition regulations by justifying the need to consolidate contract requirements over \$6 million. Most of the contracts that did not comply were justified, but the determinations were not made by an official at a level senior enough to meet defense regulation requirements. In fiscal years 2011 and 2012, existing DOD regulations also did not fully reflect the 2010 changes in the law, including those that lowered the dollar amount at which DOD consolidations must be justified from over \$6 million to over \$2 million if DOD failed to meet small business goals and required the agencies to identify small business impacts. In addition, GSA had not amended its regulations for identifying and justifying consolidated contract requirements because it was waiting for SBA regulations implementing the consolidation provisions to be finalized. SBA issued the regulations in October 2013.

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### **Most DOD Consolidated Contracts and Orders Were Justified in Accordance with Defense Acquisition Regulations**

In our review of 100 DOD consolidated contracts from fiscal years 2011 and 2012, which include the 96 contracts reported in FPDS-NG and 4 contracts identified from other sources, we found that most—82 percent—complied with requirements in the DFARS for justifying the consolidation. These provisions require defense agencies to, among other things, conduct market research, identify alternative contracting approaches that involve less consolidation, and include a determination by the senior procurement executive that the consolidation is necessary and justified. In determining if consolidation is necessary and justified for estimated contract requirements above a certain threshold, the DFARS provides that market research may indicate that the benefits of consolidation

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<sup>8</sup>The Federal Business Opportunities website, [www.fedbizopps.gov](http://www.fedbizopps.gov), is the central website agencies use to communicate available procurement opportunities to the public.

substantially exceed the benefits of the alternatives. Table 3 summarizes these requirements and the consolidated contracts we reviewed.

**Table 3: DOD Compliance with DFARS Requirements for DOD Consolidated Contracts and Orders**

DFARS requirements for consolidated contracts	Not in Compliance (100 Contracts Reviewed)
Acquisition strategy includes the results of market research	0
Acquisition strategy identifies alternative contracting approaches that would involve a lesser degree of consolidation	3 <sup>a</sup>
Senior procurement executive provides written determination that the consolidation is necessary and justified	17 <sup>a</sup>

Source: GAO analysis of DFARS 207.170-3 and DOD contracts.

<sup>a</sup>DOD did not comply with multiple DFARS requirements for two of the contracts.

Almost all of the DOD consolidated contracts that we reviewed, including the four that had not been reported in FPDS–NG, were supported by a memorandum stating that the consolidation was necessary and justified. These memorandums included a statement that expected benefits, including savings or other benefits, exceeded the benefits of alternative approaches, and the determination that the consolidations were necessary and justified. In 17 of the contracts we reviewed, however, the consolidation decision was authorized by DOD officials, but not at the level specified in regulations.<sup>9</sup> DOD consolidated contracts also did not fully comply with DFARS consolidation requirements by not identifying alternative contracting approaches that involve less consolidation.

The consolidated contracts we reviewed largely addressed expected savings and benefits in quantitative terms. According to federal law and DFARS, consolidation may be necessary and justified if the benefits of consolidation substantially exceed the benefits of alternative approaches,

<sup>9</sup>This includes 12 Army contracts we reviewed that were approved by the Deputy Principal Assistant Responsible for Contracting (PARC) and had documentation delegating authority for the consolidation determination to this official. According to AFARS 5107.170-3(b), however, for contract actions in which the total value of the consolidated requirements do not exceed \$100 million, the Head of Contracting Activity may delegate the consolidation determination to the Principal Assistant Responsible for Contracting, without further delegation.

but the phrase “substantially exceed” is not further defined in statute or regulation.<sup>10</sup> DOD guidance provides that the benefit analysis must prove that the acquisition strategy’s benefits are much greater than the benefits of the alternative approaches. In more than half of the contracts we reviewed, officials quantified cost savings in either dollar amounts or as percentages; in other cases, justifications supported cost savings without metrics or data. For example, Air Force contracting officials justified consolidating requirements in a \$5.9 million contract for electronic parts repair by stating that consolidation would allow the federal government to receive more favorable unit prices and permit the contractor to address obsolescence issues more efficiently. Table 4 shows savings and benefits described in the contracts we reviewed.

**Table 4: Benefit and Cost Savings Described in DOD Consolidated Contracts and Orders Reviewed**

	Consolidated contracts reviewed		Total
	Cost savings described quantitatively	Cost savings or other benefits described qualitatively	
Air Force	19	5	<b>24</b>
Army	40	13	<b>53</b>
Navy	6	5	<b>11</b>
Other DOD agencies	7	5	<b>12</b>
<b>Total contracts</b>	<b>72</b>	<b>28</b>	<b>100</b>

Source: GAO analysis of DOD consolidated contracts.

Consolidated contracts that are also bundled must demonstrate specific cost savings<sup>11</sup> depending on the estimated value of the consolidated requirements, to justify the approach. Further, bundled contracts at DOD that are expected to exceed \$8 million must include additional analysis, such as assessing the specific impediments to small business

<sup>10</sup>See DFARS § 207.170-3 (a)(3)(i) and 15 U.S.C. § 657q(c)(2)(A).

<sup>11</sup>Bundled contracts with estimated values at or below \$94 million must demonstrate a 10 percent savings, including options, while contracts expected to exceed \$94 million in value must demonstrate a savings of either \$9.4 million or 5 percent of the estimated value of the contract, including options, whichever is greater.



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participation.<sup>12</sup> The two bundled contracts we reviewed—a \$288 million Navy contract identified as bundled in FPDS-NG and a \$23 million Army contract identified through the FedBizOpps website<sup>13</sup>—showed that the agencies both complied with these additional requirements. Specifically, Navy officials conducted a cost benefit analysis demonstrating savings of \$28 million—or 10 percent—over 5 years for an aircraft maintenance, modification, and support services contract. Army officials estimated savings of \$5.5 million—more than the 5 percent required—to justify a bundled construction contract.

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## DOD and GSA Are Waiting for SBA Final Rulemaking before Updating or Establishing Consolidation Guidance

While most DOD consolidated contracts were justified in accordance with existing DFARS, these regulations have not been fully updated to reflect new provisions on consolidating contract requirements in the 2010 Jobs Act.<sup>14</sup> These new provisions include requiring agencies to identify any negative impact by the consolidation strategy on contracting with small businesses and ensure that steps are taken to include small businesses in acquisition strategies. The act also included a provision for DOD to follow the \$2 million threshold for consolidating contract requirements if it failed to meet small business goals. Since DOD failed to meet these goals in 2011 and 2012, the act required that DOD demonstrate in its acquisition strategy that consolidation is necessary and justified for contracts with a total value of more than \$2 million.<sup>15</sup> However, during the

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<sup>12</sup>According to the FAR, bundled contracts or orders expected to exceed a specified dollar amount (\$8 million for DOD contracts) are considered substantially bundled and agencies must provide additional information and analyses to justify the bundling. FAR § 7.107(e). This information includes a determination that the anticipated benefits of bundling justify its use and specifying actions designed to maximize small business participation. These requirements preceded the 2010 amendments to the Small Business Act. FAR § 7.107(e)(3) and (5).

<sup>13</sup>Agencies are required to notify incumbent small businesses within 30 days of issuing a solicitation or placing an order of the intent to bundle the requirement and should notify them as to how they may contact the appropriate SBA representative. FAR §10.001(c)(2). Under DFARS § 205.205-70(a), when a proposed acquisition potentially involves bundling, DOD agencies are required to alert small businesses through a notice on FedBizOpps 30 days before a solicitation is issued or an order is placed of its intent to bundle.

<sup>14</sup>Small Business Jobs Act of 2010, Pub. L. No. 111-240 (codified at 15 U.S.C. §. 657q), amended the Small Business Act. The requirement in the Jobs Act for steps to be taken to include small businesses in acquisition strategies was further clarified in the National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 1671 (codified at 15 U.S.C. § 657q(c)(1)(E)).

<sup>15</sup>Pub. L. No. 111-240 §1313.

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time in which the contracts we reviewed were awarded, the DFARS threshold remained at the over \$6 million level, and DOD officials followed this guidance.<sup>16</sup> Since agency officials were relying on consolidation requirements in the DFARS and accompanying guidance that DOD provided them at that time, we determined the extent to which they complied with those requirements. For example, a \$5.9 million Navy contract that combined requirements did not have a justification because it had an estimated value below the \$6 million threshold specified in DFARS. In October 2013, DOD issued instructions to lower the consolidated threshold to \$2 million.<sup>17</sup> DOD officials also explained that they defer to SBA, the responsible regulatory agency, to issue final rules on other changes before updating their acquisition regulations. SBA's final rule implementing the 2010 Jobs Act was issued in October 2013 and will take effect no later than December 31, 2013.<sup>18</sup>

Like DOD, GSA officials noted that they were waiting for SBA to issue final regulations before implementing the consolidation requirements in the Small Business Act, as amended. However, unlike DOD, GSA was not required to justify its consolidated contracts before the Jobs Act, which enacted contract consolidation requirements for the first time for all federal agencies. Thus, GSA does not currently have any agency specific guidance providing details on its review process for identifying contracts that have consolidated requirements or a process to oversee and approve their consolidation. GSA officials explained that although GSA currently does not have its own consolidation guidance, when GSA processes consolidated contracts for DOD, a process called "interagency contracting," GSA complies with requirements in DFARS. In anticipation of SBA rulemaking, GSA officials said they are considering DOD consolidation guidance and other information to help prepare for creating their own consolidation procedures.

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<sup>16</sup>DFARS § 207.170-3(a).

<sup>17</sup>DOD Memorandum in reference to DARS Tracking Number: 2013-O0021, Class Deviation-Contract Consolidation, October 1, 2013.

<sup>18</sup>Small Business Administration, final rule, 78 Fed. Reg. 61114 (Oct 2, 2013).

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## DOD and SBA Officials Took Various Actions to Address the Impact of Contract Consolidation on Small Businesses

Our review of 100 consolidated and bundled contracts and orders issued by DOD found that slightly more than half—or 52—were awarded to small businesses. Of the 48 contracts and orders awarded to large businesses, DOD and SBA officials often addressed small business impacts through measures such as small business subcontracting plans.

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## Small Businesses Received More than Half of the Consolidated Contracts Reviewed

The Small Business Act, with regard to consolidation, requires the head of each federal agency to ensure that the agency's decisions on consolidating contract requirements are made with a view to providing small businesses with appropriate opportunities to participate as prime contractors and subcontractors in the procurements of the federal agency. Similarly, the Small Business Act, with regard to bundling, provides that to the maximum extent practicable, agencies' procurement strategies must facilitate the maximum participation of small businesses as prime contractors and subcontractors, and must provide opportunities for small business participation during acquisition planning and in acquisition plans. Officials told us that contracting offices work closely with agency small business representatives to address small business concerns. In our review of 100 DOD consolidated and bundled contracts, we found that 52 contracts and orders from fiscal years 2011 and 2012 were awarded to small businesses. We found that most of the contracts awarded to small businesses had been reserved for small business participation through initiatives for small business, such as small business set asides.<sup>19</sup>

For the 48 remaining consolidated contracts and orders that were awarded to large businesses, 30 contracts included requirements that

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<sup>19</sup>According to FAR § 19.501, a set aside for small business is the reserving of an acquisition exclusively for participation by small business concerns. In addition, small businesses can receive awards through the SBA 8(a) Business Development Program, which assists small and disadvantaged businesses. FAR Subpart 19.8. Other programs for small businesses include the Service-disabled Veteran-owned Small Business Procurement Program and the Historically Underutilized Business Zone Program. FAR Subparts 19.14 and 19.13, respectively.

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were previously performed by small businesses. Almost all of these 30 contracts included measures to address small business participation, either by including small business set asides for related orders or subcontracting to small businesses part of their requirements. For example, one Air Force contract for environmental remediation included two options for issuing orders under the contract. One option was to allow only small businesses to compete for orders considered suitable for small business performance. The other option was to open competition for orders to both large and small businesses. We also identified consolidated contracts that used other means to address small business impacts. For example, small business officials raised concerns that a consolidated Air Force contract might include requirements previously performed by small businesses. To address these concerns, the contract that was issued specifically excluded any requirements that small businesses previously had performed.

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### DOD and SBA Coordinated to Address Small Businesses Impacted in Bundled Contracts

Contracting agency small business specialists have responsibilities for maximizing small business participation in federal procurement. For example, no later than 30 days before issuing a solicitation or placing an order, agencies are required to coordinate with their small business specialists when an acquisition strategy contemplates substantial bundling, unless the contract or order is set aside for small businesses. Further, the small business specialist must notify DOD's Office of Small Business Programs if the strategy includes bundled requirements that the agency has not identified as bundled, or includes unnecessary bundling. If the strategy involves substantial bundling, the small business specialist must assist in identifying alternative strategies that would reduce or minimize the scope of bundling. In addition, DOD's Office of Small Business Programs encourages program staff to include small business specialists in the early stages of acquisition planning. In the two bundled contracts we reviewed, the DOD and SBA small business representatives were consulted and involved in the contracting agencies' efforts to identify small businesses capable of performing the requirements. Both contracts used subcontracting plans as the primary means to support small businesses affected by bundling. In one case, officials reported that small business participation through subcontracting was expected to be greater than it had been prior to bundling the requirements and the SBA representative said that appropriate steps were taken to protect small business interests.

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## SBA Collects Incomplete Information on Bundled Contracts and Has Not Reported to Congress as Required

The Small Business Act requires SBA to track information on bundled contracts and annually report to Congress on these contracts.<sup>20</sup>

Specifically, SBA is required to:

- Maintain a database containing data and information regarding each bundled contract awarded by a federal agency and each small business concern displaced as a prime contractor as a result of such bundling;
- For bundled contracts that are recompeted as a bundled contract, determine the amount of savings and benefits achieved through the bundling of contract requirements, whether they would continue to be realized if the contract remains bundled, and whether the savings would be greater if procurement requirements were divided into separate solicitations suitable for award to small business concerns; and
- Provide an annual report to the Congressional Committees on Small Business of the House and Senate each March on the number of small business concerns displaced as prime contractors as a result of bundled contracts awarded by federal agencies and provide information related to these contracts, such as the cost savings realized by bundling over the life of the contract and the extent to which they complied with the contracting agency's small business subcontracting plan.

SBA has not submitted an annual report to Congress on bundling since fiscal year 2010, which officials attribute to an oversight. Officials also said that SBA is in the process of preparing reports for fiscal years 2011 and 2012, but did not estimate a timeline for completion.

In the 2010 report, SBA provided data detailing the number of consolidated and bundled contracts awarded by federal agencies during the time period covered by the report. However, the report stated that SBA's ability to gather and analyze contract bundling data to the extent required in the Small Business Act was limited.<sup>21</sup> Officials explained that agencies and SBA primarily use FPDS-NG as their information database

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<sup>20</sup>15 U.S.C. §§.644(p)(2)(A) and (4).

<sup>21</sup>15 U.S.C. § 644(p)(2)(A).

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to identify bundled contracts, but the system does not collect the information needed to meet other statutory reporting requirements, such as the number of small businesses displaced by bundled contracts.

Similarly, SBA officials said that bundled contracts are rarely recompleted as bundled contracts. Further, SBA also noted that because the requirements of a bundled contract can change over the term of the contract, it is difficult to determine the level of savings achieved.

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## Conclusions

Consolidating contract requirements can help agencies achieve cost savings and other efficiencies, but these decisions must be weighed against the potential impact on small businesses. In recent years, Congress has enacted provisions of law to help address concerns that small businesses might be negatively affected by contract consolidations, including identifying small business impacts and reducing the threshold for consolidated contract justifications to \$2 million. Congress has enacted requirements for consolidated contracts that apply to all civilian agencies, including GSA, and it is important that agency officials have clear and complete guidance to help navigate what can be complex decisions about whether to consolidate requirements and how to report the resulting contracts. Although the full extent of agency miscoding of consolidated and bundled contracts is unknown, having such guidance could help improve agency reporting. DOD and GSA have been awaiting SBA's final rules on consolidated contracts to update or create corresponding guidance. Now that SBA has issued its final rule, these agencies can take the actions needed as soon as practicable. Also, by lowering the dollar threshold for consolidated contracts from \$6 million to \$2 million to reflect recent legislative changes, DOD ensures that its components review and justify consolidated contracts at the levels Congress has required.

SBA and agency small business officials play vital roles to help agencies take steps to determine and mitigate impacts on small business as required. But SBA has not fulfilled its responsibilities to track and report to Congress on the number of bundled contracts awarded or their impacts on small business. Until SBA carries out these reporting responsibilities, Congressional oversight intended to protect small businesses may not function as intended by lawmakers.

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## Recommendations for Executive Action

To ensure that DOD reviews and justifies consolidated contracts at the dollar thresholds established in law, we recommend that the Secretary of Defense:

- Update existing defense acquisition regulations and related guidance to reflect recent legislative changes that lower the dollar threshold for consolidated contracts from over \$6 million to over \$2 million.

To make guidance for contract consolidation consistent with current law, we recommend that the Secretary of Defense and the Administrator of General Services:

- Act expeditiously to update or establish agency guidance for consolidated contracts after the Small Business Administration rulemaking is completed.

To promote agencies' compliance with existing law, we recommend that the Administrator of the Small Business Administration:

- Submit required bundling reports to Congress.

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## Agency Comments and Our Evaluation

We provided a draft of this report to DOD, GSA, and SBA. In their written comments, the three agencies concurred with our recommendations and provided information on actions taken or underway to address them. DOD issued a Class Deviation to its acquisition regulation in October 2013 that implements our recommendation by lowering the dollar threshold for review and justification of consolidated contracts to \$2 million. DOD also plans to update its acquisition regulations for consolidated contracts after the FAR changes resulting from the SBA's final rulemaking are complete. DOD's letter is reprinted in appendix II. DOD also provided technical comments which we considered and incorporated into the report as appropriate.

GSA agreed with our recommendation that it act expeditiously to establish agency guidance for consolidated contracts after the SBA's rulemaking is complete. SBA recently published the applicable final rule, which takes effect no later than December 31, 2013. Through its role on the Federal Acquisition Regulatory Council, GSA is working to update the FAR to reflect the new regulation and will establish agency-specific guidance after the FAR rule takes effect, if necessary. GSA's letter is reprinted in appendix III.

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In response to our recommendation that SBA submit required bundling reports to Congress, SBA reported that it is preparing the required reports for fiscal years 2011 and 2012. SBA's letter is reprinted in appendix IV.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

Should you or your staff have questions about this report or need additional information, please contact me at (202) 512-4841 or [woodsw@gao.gov](mailto:woodsw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other staff making key contributions to the report are listed in appendix V.



William T. Woods  
Director  
Acquisition and Sourcing Management



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# Appendix I: Objectives, Scope, and Methodology

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The National Defense Authorization Act (NDAA) for Fiscal Year 2013 mandated that we review data and information regarding consolidated contracts awarded by federal agencies.<sup>1</sup> In addition, Conference Report 112–339 on the NDAA for Fiscal Year 2012 mandated us to review Department of Defense (DOD) compliance with laws and regulations addressing contract bundling and consolidation for construction and base support services.<sup>2</sup> According to the Federal Procurement Data System-Next Generation (FPDS-NG), DOD and the General Services Administration (GSA) accounted for more than 80 percent of the reported use of consolidated and bundled contracts and orders awarded in fiscal years 2011 and 2012. For this report, we assessed the extent to which (1) DOD and GSA have consolidated contracts; (2) DOD and GSA justifications for contract consolidation complied with relevant laws and regulations; (3) DOD, GSA, and the Small Business Administration (SBA) addressed small business impacts of consolidation, including bundling; and (4) SBA collected and reported information on consolidated contracts that are considered bundled.

To assess the extent to which DOD and GSA have consolidated contracts, we used FPDS-NG to compile data on contracts and orders awarded by federal agencies in fiscal years 2011 and 2012 that were identified as consolidated and bundled in the data system. We selected this timeframe to capture contracts with the two most recent years of data available in FPDS-NG at the time of our review. Using this data, we determined the specific number of contracts and orders awarded, including the total dollars obligated, and identified the two agencies with the greatest share of consolidated contracts. Of the 358 consolidated and bundled contracts awarded government-wide, we identified 290 contracts reported by DOD and GSA. DOD had the largest amount with 266 consolidated contracts and 8 contracts that were also bundled. GSA had 16 consolidated contracts with obligations, the second largest number reported.

From the 290 DOD and GSA consolidated contracts and orders identified, we selected 157 for review through two different processes. For DOD, we selected a systematic random sample of 133 of the consolidated contracts identified in FPDS-NG. For this sample, we ensured that we

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<sup>1</sup>National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, §1671.

<sup>2</sup>H. R. Rep. No. 112-329, at 674–675 (2011) (Conf. Rep.).

had a representative proportion of contracts for base support services and construction—the two categories specified in our mandate—by reviewing the North American Industry Classification System (NAICS) code for facilities operation support to identify base support service contracts and the product service code to identify construction contracts. We also selected all 8 DOD contracts identified as bundled for a total of 141 DOD contracts. For GSA, we selected all 16 contracts that FPDS-NG identified as consolidated for our review.

We contacted DOD and GSA contracting officials to confirm that the 157 selected contracts and orders identified as consolidated or bundled in FPDS-NG were correctly coded. For most of the contracts that were miscoded, contracting officials provided verification that they corrected the miscoding, such as by providing contract action reports showing updates to FPDS-NG. Of the 141 DOD contracts reviewed, DOD identified 48 as being incorrectly coded as consolidated in FPDS-NG. GSA officials reported that all 16 had been miscoded as consolidated. Overall, we confirmed 100 consolidated contracts, including two that were also bundled.

In addition, to supplement our random sample of consolidated contracts, we spot checked the accuracy of contract categorization in FPDS-NG for a nonprobability selection of contracts that were coded as some other category of contract. First, we selected five contracts that DOD and GSA stated were incorrectly coded as consolidated or bundled and reviewed contract documentation to confirm that there was no indication of potential consolidation or bundling. For DOD, we judgmentally sampled four contracts that were miscoded from the defense agencies that had a base and all options value above \$6 million, which is the threshold for consolidation in defense acquisition regulations. We also judgmentally selected and reviewed one of GSA's 16 miscoded contracts that met the dollar threshold of \$2 million, as set by the 2010 Small Business Jobs Act. Second, we drew a population size from the FPDS-NG using as criteria all non-consolidated and non-bundled DOD contracts awarded in fiscal years 2011 and 2012 that had the NAICS code for base support services. To draw a reasonable judgmental sample, we selected contracts awarded by the Air Force, Army, and Navy command units from which we had previously obtained consolidated contract documentation. We included contracts that met conditions that would affect whether they were considered consolidated or bundled, including contracts with a base and all options value of more than \$6 million to meet the consolidation threshold in DOD guidance and contracts that might be bundled because they were performed in the United States, foreign funds were not

included, and the contract was not awarded to a small business. Of the eight contracts we reviewed, one was a consolidated contract that had not been identified as such in FPDS-NG.

We also reviewed contracts identified as consolidated or bundled through sources outside of FPDS-NG data. We examined the Federal Business Opportunities (FedBizOpps) archives for records of bundled contracts posted between fiscal years 2010 and 2013. Through this review we identified one bundled contract that had not been identified as such in FPDS-NG. Additionally, DOD officials confirmed two other contracts as consolidated that were not identified in our initial FPDS-NG data.

Based upon finding substantial incorrect coding in FPDS-NG, we concluded that the systematic, random sample of 133 consolidated contracts could not be generalized to the universe of consolidated contracts identified via FPDS-NG in fiscal years 2011 and 2012. Therefore, we were only able to describe and attribute to those verified consolidated contracts that we reviewed.

To assess the extent to which federal agencies' justifications for consolidation comply with relevant laws and regulations, we compared contracts to the provisions of the Small Business Act, prior to the 2010 amendments, as reflected in the Defense Federal Acquisition Regulation Supplement to require agencies to demonstrate that consolidation and bundling are necessary and justified before issuing such contracts. We also reviewed regulations issued in the Federal Acquisition Regulation and guidance issued by the military departments related to consolidated and bundled contracts. In addition, we interviewed DOD and GSA contracting officials, including senior officials at DOD's Office of Small Business Programs and GSA's Office of Small Business Utilization, to request documents on additional guidance or training procedures to assist staff in processing consolidated and bundled contracts per the stipulations outlined in acquisition regulations.

We obtained documentation of the verified consolidated and bundled contracts to check for compliance. For both consolidated and bundled contracts, we reviewed the acquisition plan, market research, the SBA small business coordination record, the justification letter with the required signature, and subcontracting plans. For bundled contracts, we additionally assessed benefit analysis and announcements on the FedBizOpps website to confirm market research occurred 30 days prior to the solicitation date. For cases in which discrepancies existed between contract documentation from the agencies and what was required under

the provisions, we followed up by contacting contracting offices to request either further documentation or an explanation, or both. We also spoke with senior SBA officials and procurement center representatives (PCR) and officials from the agencies' small business programs to confirm whether contracts were considered consolidated or bundled.

We assessed the extent to which DOD and SBA address small business impacts from consolidated and bundled contracts by reviewing FPDS-NG data for the DOD contracts to determine whether they were awarded to a small business. We examined contract documentation, including acquisition strategies, consolidation memos, and coordination records, to identify consolidated contracts with requirements that were previously performed by small businesses and steps taken to address the impacts. We also interviewed responsible contracting officials, agency small business specialists, and SBA officials for selected contracts to discuss their coordination processes and actions to address small business participation.

We assessed the extent to which SBA collects and reports information on bundled contracts by interviewing senior SBA officials and PCRs to assess coordination efforts with contracting officials and agency small business specialists. We also collected and reviewed SBA documents, such as bundling alert forms, to track and report consolidated and bundled contracts within the agency.

We conducted this performance audit from December 2012 to November 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Comments from the Department of Defense



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

NOV 25 2013

Mr. William T. Woods  
Director  
Acquisition and Sourcing Management  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Mr. Woods:

This is the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report, GAO-14-36, "SMALL BUSINESS CONTRACTING: Updated Guidance and Reporting Needed for Consolidated Contracts," dated October 30, 2013 (GAO Code 121105). Detailed comments on the report recommendations are enclosed.

Sincerely,

A handwritten signature in blue ink that reads "Richard Ginman".

Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy

Enclosure:  
As stated

**GAO Draft Report Dated October 30, 2013  
GAO-14-36 (GAO CODE 121105)**

**“SMALL BUSINESS CONTRACTING: UPDATED GUIDANCE AND REPORTING  
NEEDED FOR CONSOLIDATED CONTRACTS”**

**DEPARTMENT OF DEFENSE COMMENTS  
TO THE GAO RECOMMENDATION**

**RECOMMENDATION 1:** To ensure that Department of Defense (DoD) reviews and justifies consolidated contracts at the thresholds established in law, the Government Accountability Office (GAO) recommends that the Secretary of Defense:

- Update existing defense acquisition regulations and related guidance to reflect recent legislative changes that lower the dollar threshold for consolidated contracts from over \$6 million to over \$2 million.

**DoD RESPONSE:** Concur. The Director of Defense Procurement and Acquisition Policy issued a Class Deviation 2013-O0021, on October 1, 2013, revising the dollar threshold set forth at DFARS 207.170-3(a) from \$6 million to \$2 million. The deviation will be in effect until the FAR and DFARS are amended.

**RECOMMENDATION 2:** To make guidance for contract consolidation consistent with current law, the GAO recommends that the Secretary of Defense and the Administrator of General Services:

- Act expeditiously to update or establish agency guidance for consolidated contracts after the Small Business Administration rulemaking is completed.

**DoD RESPONSE:** Concur. DoD will make changes to the DFARS that are consistent with changes being made to the FAR to implement the new provisions on consolidating contract requirements in the Small Business Jobs Act of 2010.

# Appendix III: Comments from the General Services Administration



The Administrator

November 18, 2013

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the Government Accountability Office (GAO) draft report, "Updated Guidance and Reporting Needed for Consolidated Contracts" (GAO-14-36).

GSA agrees with GAO's recommendation that it act expeditiously to establish agency guidance for consolidated contracts after the Small Business Administration's (SBA) rulemaking is complete. Last month, the SBA published the applicable final rule, to be effective on or before December 31, 2013. Immediately following issuance of the final rule, GSA, as part of the Federal Acquisition Regulatory Council, moved forward with the formal process to update the Federal Acquisition Regulation (FAR) to reflect the new SBA regulations. If deemed to be necessary, GSA will establish internal, agency-specific guidance after the FAR rule takes effect.

As GAO makes revisions to its draft report, GSA would appreciate the opportunity to update its response accordingly. If you have any questions or concerns, please do not hesitate to contact Ms. Lisa Austin, Acting Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501-0563.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Tangherlini".

Dan Tangherlini  
Administrator

U.S. General Services Administration  
1800 F Street, NW  
Washington, DC 20405  
Telephone: (202) 501-0800  
Fax: (202) 219-1243

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# Appendix IV: Comments from the Small Business Administration

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U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

November 8, 2013

Mr. William T. Woods  
Director, Acquisition and Sourcing Management  
United States Government Accountability Office  
Washington, DC 20548

Dear Mr. Woods:

Thank you for providing SBA with an opportunity to review and comment on your draft report entitled "Small Business Contracting, Updated Guidance and Reporting Needed for Consolidated Contracts" (GAO-14-36). I wish to commend you for your thorough review. Your observations will be extremely helpful as we seek ways to strengthen and improve our collection and reporting of data in reference to Consolidated Contracts going forward.

We would like to take this opportunity to comment on some of your observations and recommendations contained in the draft report. On page 5 of the report it is stated that as of the time of the Government Accountability Office (GAO) Audit, SBA issued proposed rules in May of 2010 to implement provisions of the Small Business Jobs Act of 2010, but had not yet issued final regulations. On October 2, 2013, SBA published its final regulation in the Federal Register (78 FR 61114), implementing sections of the Small Business Jobs Act of 2010 relating to contract consolidation and bundling. SBA's final rule also included a new definition of consolidation as set forth in section 1671 of the National Defense Authorization Act of 2013.

With respect to the required contract bundling database, Section 15(p)(5) of the Small Business Act provides that SBA shall have access to information collected in the Federal Procurement Data System-NG (FPDS-NG) and that the head of each contracting agency shall provide SBA with procurement information collected through *existing data sources*.

As we brought to your attention during our preliminary meetings, and as you pointed out in your report, FPDS-NG and agency data sources do not contain all of the information required for the bundling report. Existing data sources do not include sufficient information to quantify the extent to which bundling of contract requirements impacts the ability of small businesses to compete as Federal prime contractors or to compare the savings realized under an existing bundled contract with the potential savings that may occur if that bundled contract is re-competed in its current configuration. Without this information, SBA is unable to assess whether agencies actually achieved the estimated



savings they used to justify the original bundled contract. In addition, SBA is unable to assess if these savings will continue if the bundled contract is re-competed *exactly* as originally solicited since most contracts undergo modifications which may add or remove requirements, changing the contract value. This discrepancy in the statutory data requirements versus the actual (existing) data collection mediums has been discussed in SBA Bundling Reports to Congress over the years.

We would also like to point out that our FY 2011 and 2012 Bundling Reports to Congress have been prepared and are expected to be available for review and clearance by the Administrator shortly.

Once again, I wish to thank you for your report, which should prove to be invaluable as we seek ways to improve the effectiveness of our oversight of Bundled and Consolidated Contracts. I especially wish to commend the members of the GAO staff who worked on this assignment for their professionalism in conducting the audit.

Sincerely,



John A. Shoraka  
Associate Administrator  
for Government Contracting and  
Business Development

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# Appendix V: GAO Contacts and Staff Acknowledgments

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## GAO Contact

William T. Woods, (202) 512-4841 or [woodsw@gao.gov](mailto:woodsw@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, W. William Russell, Assistant Director; Jennifer Dougherty; Jenny Shinn; Cheryl M. Harris; Julia Kennon; Sylvia Schatz; William Shear; Paige Smith; Danielle Green; and Roxanna Sun made key contributions to this report.

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Katherine Siggerud, Managing Director, [siggerudk@gao.gov](mailto:siggerudk@gao.gov), (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

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