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## PROCUREMENT PREVIEW





# Knocking at the Door

Small businesses take aim at agency efforts to bundle federal contracts into mega-deals.

BY MATTHEW WEINSTOCK

It's not easy being green. At least that's what several small business owners would have you believe. They are complaining about a solicitation for office supplies working its way through the Environmental Protection Agency. The blanket purchase agreement would require vendors to guarantee two-day delivery of supplies to nearly 2,000 purchase card holders at 70 EPA offices nationwide. It emphasizes the use of environmentally friendly products—not a big surprise given EPA's mission.

The size of the contract is daunting to some small firms. They'd much prefer a series of regional contracts. There is also considerable concern about some of the finer details. For instance, the solicitation calls on the vendor to institute a toner cartridge and battery recycling program at every delivery location. The company would have to educate EPA employees about the recycling program as well.

Such requirements are beyond what most small office supply firms generally provide, according to several small business advocates. Jack Adgate, vice president of sales for Miller's Office Products in Springfield, Va., cited the contract during a re-

cent Capitol Hill press conference as an example of how agencies are locking small companies out of the federal marketplace. By bundling multiple requirements into one mega-package, agencies are limiting the contractor base to large firms, small businesses say. Adgate and his peers argue that some of the requirements are linked unnecessarily. For instance, they say, EPA could issue a separate contract for the recycling program. It would be easier for firms such as Miller's to make a competitive bid on a simple office supply deal.

EPA officials declined to comment on the details of the solicitation. However, an official says that the agency is looking at the requirements to try to figure out whether there is a way to address some of companies' concerns.

Small technology vendors also are unhappy with the current business climate, claiming that they too are being unfairly shunted from the lucrative federal marketplace. Jorge Lozano, CEO and president of Condortech Services, says his 18-person firm is often on the outside looking in. Specializing in facility security technology, the company offers an array of services and products, not the least of which is inte-

grating security systems—everything from card access keys to surveillance cameras and security alarms—into one network. Despite doing more than half of his business with government agencies, Lozano says doors are starting to close.

In particular, he notes a May 2000 contract from the General Services Administration for smart cards. Resembling credit cards, smart cards carry small chips that can hold personal identification data. They can be used to limit access to buildings and computers, or to store vital information. The GSA contract to develop smart cards for agencies went to five large vendors, including KPMG Consulting, Electronic Data Systems and Litton/PRC Inc. Agencies are now integrating smart card technology into their overall security efforts. Lozano argues that some of the behind-the-scenes technical work, such as networking various systems, could be handled by small firms with special expertise. Instead, the big companies won the work.

"As integrators, we could have provided the infrastructure," Lozano says from his cramped office in Northern Virginia. "We could have built the physical security component into the system. But we weren't





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chosen to do that. The contract bundled those requirements off to the large firms."

GSA officials declined to comment on the bundling issue.

The anecdotes and complaints are endless; the refrain is always the same—contract bundling is driving small businesses out of the federal marketplace. Firms can't be expected to compete to be prime contractors on mega-packages. Small firms don't like being relegated to subcontractor status when they are perfectly capable of performing the work agencies are putting out for bid.

But bundled contracts also have benefits for the government. Combining product purchases into one big contract helps leverage the buying power of an agency or group of agencies, which can lead to better prices. Merging multiple service awards into a single contract is also more efficient and easier for a shrinking acquisition workforce to manage.

Parties on both sides of the debate are armed with data to back up their positions. Small business advocates are quick to point out that the government continues to miss its mark of awarding 23 percent of prime contract dollars to small businesses—albeit by only a fraction of a percent in fiscal 2002. At the same time, they note that the number of bundled contracts is on the rise.

On the other hand, medium and large businesses, as well as some procurement of-

ficials at various agencies, say that the total dollar awards going to small businesses remained fairly stable during the past decade. Awards to small businesses increased by 12 percent from fiscal 2001 to fiscal 2002, points out Steven Schooner, a professor at The George Washington University Law School and a skeptic of the anti-bundling movement.

All of the players in the debate are using the same data—information agencies report to the Federal Procurement Data Center. The problem is, the data is inconsistent and incomplete. Trying to get a finger on exactly how big of a problem contract bundling poses is difficult, to say the least.

Yet even without reliable data, the Bush administration is pushing an agenda that will force greater scrutiny of contract bundling.

"You have to tread carefully with the use of statistics in this area," says Angela Styles, head of procurement policy for the Bush administration. "That is what we are trying to get a handle on.

"We know some things for sure," Styles continues. "We know that there is a fair amount of concern in the small business community. We know that we have pushed agencies to consolidate contracts. We know that we have cut our acquisition workforce. It's clear that there are larger contracts that are bundled and that small business can't bid on them."

## Crunching Numbers

The most comprehensive study on contract bundling to date was produced last October by Eagle Eye Publishing Inc., a Va.-based company that tracks procurement trends. Looking at government data from fiscal 1992 to 2001, Eagle Eye found that the total number of bundled contracts grew by nearly 20 percent. In fiscal 2001, bundled contracts accounted for 16.4 percent of prime contracts and 51 percent of dollars awarded.

"The number and size of bundled contracts issued by federal agencies has reached record levels, and small businesses are receiving disproportionately small shares of the work on bundled contracts," the report concludes.

During the nine-year period, Eagle Eye, which also produces the data for the contracting charts in this issue of *Government Executive*, found that small firms received 61 percent of all federal prime contracts, compared with 27 percent for large companies. But in the area of bundled contracts, the percentage won by small firms was only 47 percent, compared with 37 percent for large companies. And the bundled contracts won by small businesses typically are less lucrative. Small firms garnered 13 percent of total dollars awarded under bundled contracts, while large companies won 37 percent.

Eagle Eye performed the study under a contract with the Small Business Administration's Office of Advocacy, whose role is to advance the interests of small firms. Additionally, the analysis goes beyond the statutory definition of contract bundling. The 1997 Small Business Reauthorization Act defines bundling as consolidating two or more procurement requirements, previously provided under small contracts, into a single contract "that is likely to be unsuitable for award to a small business" due to:

- The diversity, size or specialized nature of the requirements.
- The aggregate dollar value of the award.
- The geographic dispersion of the contract sites.
- Any combination of the three.

Eagle Eye expanded the definition to include what Paul Murphy, president of the firm, calls "accretive bundling." It's the practice of adding dissimilar tasks to existing contracts and is largely seen in Governmentwide Acquisition Contracts (GWACs). But one procurement official, speaking on condition of anonymity, says some agencies



also allow deals with small businesses to expire and then add those requirements to existing contracts with larger firms.

Using Eagle Eye's definition, 54 percent of procurement dollars in fiscal 2002 were awarded on bundled contracts. Under the official classification, less than 1 percent of prime contracting dollars were bundled.

Most procurement experts agree that the report comes closer to capturing the current state of affairs than anything else in the field. The General Accounting Office has not taken a stab at synthesizing the data. And Styles acknowledges that the Office of Federal Procurement Policy lacks sufficient data to present an accurate picture.

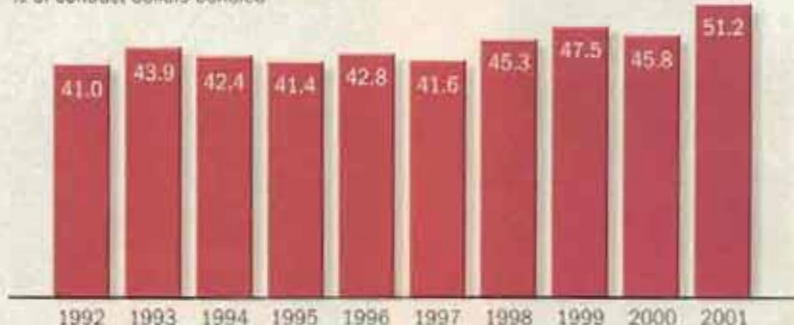
She says better information is on the way. Last October, the Bush administration issued a policy directive on contract bundling. Among other things, it requires agencies to file quarterly reports with OFPP on the number of bundled contracts reviewed and actions taken to ensure small businesses are getting their fair share of the business.

The first reports, submitted in January, were largely informational, discussing the types of policies and guidance agencies have issued, says Styles. OFPP is starting

## The Growing Bundle

Contract bundling has been on the rise for the past decade. As a result, a higher percentage of procurement spending is being lumped into mega-deals. In fiscal 1992, the government spent \$183 billion on goods and services, 41 percent of which was bundled. By 2001, acquisitions jumped to \$214 billion with 51 percent bundled.

% of contract dollars bundled



Source: Eagle Eye Publishing  
Editors note: The government defines contract bundling as two or more contracts that had previously gone to small businesses being combined into a larger award and is no longer suitable for a small company. Eagle Eye uses an expanded definition to include such things as task orders placed against governmentwide acquisition contracts.

to demand more quantitative analysis. She expects reports in the coming months to be more detailed and provide a comprehensive view of what agencies are doing in the contracting arena.

## What's the Problem?

Bundling is not a new phenomenon. It's been occurring across federal agencies for years. The issue has percolated to high levels of public policy due to successful lobbying by small business groups. It's also been on President Bush's radar screen for some time. As a candidate in 2000, Bush made reference to contract bundling and said his administration would seek to limit the practice.

For now, agencies are getting a mixed message on bundling. During the last round of acquisition reform in the 1990s, agencies were encouraged to consolidate contracts and were told to use government-wide contracts. At the same time, the size of the federal acquisition workforce was cut by 5 percent from 1997 to 2001, according to GAO. Managing numerous small contracts is more labor-intensive than dealing with a few bundled ones.

Not surprisingly, the Defense Department is the biggest bundler. According to the Eagle Eye data, Defense accounted for 65 percent of all bundling during the nine-year period studied. That's about 80 percent of all bundled dollars.

Defense officials admit that they are combining more contracts, but they don't think their actions have been as detrimental to small business as has been reported. In fact, the number of small businesses contracting with the department has grown more rapidly than the number of large firms during the



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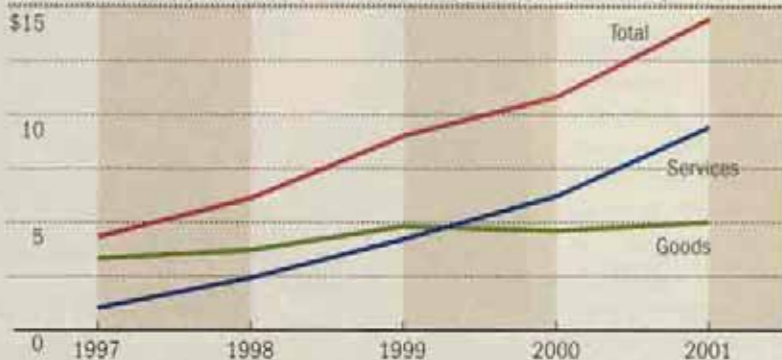
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## Soaring Schedule

Small business advocates argue that growing reliance on the Federal Supply Schedules allows agencies to quietly consolidate purchases. That's because orders under governmentwide contracts are not subject to reviews for contract bundling. The Bush administration plans to close that loophole.

Use of Federal Supply Schedules (in millions of constant fiscal 2001 dollars)



Source: General Accounting Office

past decade, according to Tim Foreman, assistant director for small business prime contracting policy at Defense.

In 1991, 20,781 small companies worked as Defense contractors. By 2002, the number had grown to almost 34,000—an in-

crease of 63 percent. During the same period, the number of large companies working with the department went from 4,899 to 7,137—a jump of 46 percent. Dollar awards to small firms have also climbed during the past 10 years, from \$25 billion in fis-

cal 1991 to \$33 billion in fiscal 2002. Of course, overall spending at the department increased during that same period. Defense has consistently awarded about 21 percent of prime contract dollars to small companies during the past decade.

"Have we done a perfect job? No," says Foreman. "Do we have a problem? Yes. Is it as bad as everyone is saying it is? No."

Foreman acknowledges that Defense does not track orders placed against GWACs or multiagency contracts. The administration is now keenly interested in that data.

Last January, the SBA proposed rules to increase the review of contract bundling. It essentially adopts many of the principles spelled out in the president's October 2002 initiative. Included in that is a requirement that orders on GWACs and other multiple award contracts be reviewed for bundling. Currently, they are not subject to such reviews. It's a loophole that needs to be addressed because of the continued growth of such acquisition vehicles, says SBA Associate Administrator Linda Williams. In 1990, agency orders against governmentwide contracts totaled roughly \$21 billion. By fiscal 2001, they had jumped to \$72 billion.

"We believe bundling is occurring

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## Digital Document Security and the Government: Everything you need to know.

**Q:** What are the most significant digital copier security issues?

**A:** Various copier print controllers are actually servers that queue and permanently store multiple document files, providing administrator access to the documents. At a minimum, most digital copiers retain the last document processed; some even retain multiple documents totaling hundreds of pages. Others redirect print jobs when the printer is busy or jammed, making "denial of service" attacks possible.

**Q:** How does Sharp protect the network interface?

**A:** The Sharp Ethernet card allows administrators to restrict access and disable unnecessary protocols. With this network card, the Sharp digital copier is essentially protected by its own firewall.

**Q:** What unique security solutions can Sharp provide for government users?

**A:** Today, only Sharp offers a U.S. Common Criteria validated solution for print, scan, copy and fax functions. For users who must comply with NSTISSP No. 11 Acquisition Policy and D.O.D. 8500 Policy, Sharp provides access to additional Common Criteria validated components enabling them to build an even more secure government system.

**Q:** What is unique about Sharp's Multifunctional Product Data Security Kit?

**A:** All document data in the Sharp MFP is encrypted when temporarily buffered to memory, and is then overwritten up to seven times with random data, effectively sanitizing the memory. Unlike competing systems, Sharp's Data Security Kit overwrites hard disk, RAM and flash memory data as well as providing an encryption layer that protects your information even when power interruptions or jams stop execution of overwrite routines.

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there," Williams says. "There are a lot of tasks being placed under one order. We don't have large amounts of data on it yet. But what we do see is a significant decline in the number of new contracts coming out and a rise in GWAC orders."

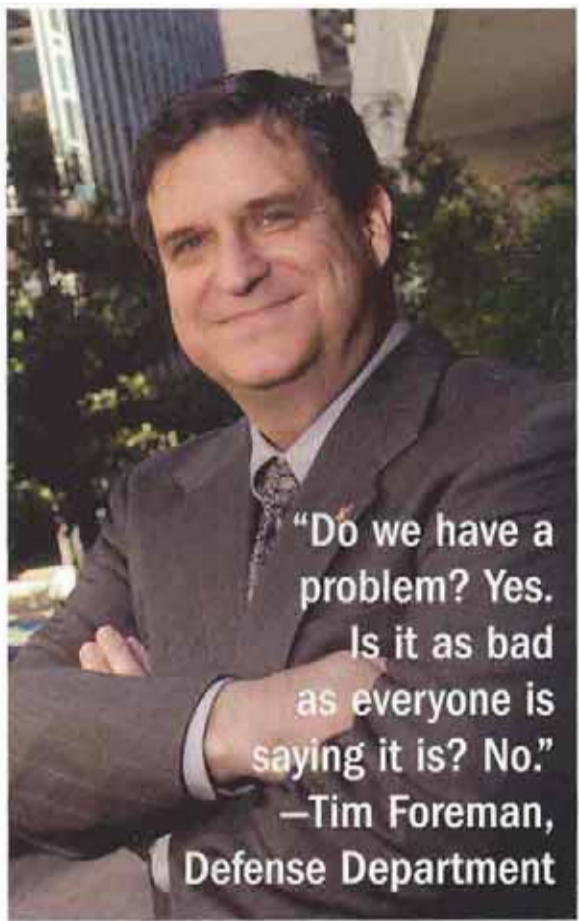
The other problem with governmentwide contracts is that they allow large firms to masquerade as small businesses. A company's size is set once it makes an initial offer, but many of the contracts extend 20 years. During that time, a small firm can grow into a large company.

To resolve the dilemma, the Office of Management and Budget last February instructed the four executive agents for GWAC contracts—GSA, the Commerce Department, NASA and the National Institutes of Health—to require annual certifications of small businesses. Another SBA proposed rule would formalize annual certification. Businesses, however, have complained that such a requirement would be burdensome. Styles says that OMB is fielding suggestions on how to improve the process.

### No Going Back

The SBA's proposed rule on contract bundling would place a host of other mandates on agencies. Among the more significant is a requirement that when bundled packages are put in place, agencies take measures to ensure that there is sufficient opportunity for small businesses to participate as subcontractors.

That is not enough for some members of Congress. Rep. Nydia Velazquez, D-N.Y., ranking member of the House Small Business Committee and a staunch opponent of contract consolidation, wants to give the SBA authority to review all bundled contracts and break them apart if necessary. Her proposal does not specify whether the review would take place on contracts above a certain dollar threshold, or would apply only to specific types of contracts. The SBA suggests that reviews take place for contracts exceeding \$7 million at Defense; \$5 million at NASA, the Energy Department and the General Services Administration;



**"Do we have a problem? Yes. Is it as bad as everyone is saying it is? No."  
—Tim Foreman, Defense Department**

and \$2 million for all other agencies.

Styles says that some level of additional review of contracts is on the way, but says OFPP will not ask agencies to break apart old prime contracts to provide opportunities for small firms.

"A lot of small businesses don't want to be prime contractors," she says. "It's not politically correct to say, but subcontracting is money too, and it's good for small businesses."

Ultimately, the government has to come up with a better set of goals and measures for small business contracting, Styles adds. To that end, she has pulled together a task force of federal procurement officers to explore how else agencies can measure success.

"We have this whole socioeconomic program built around a percentage of dollars going to small business," Styles says. "That is really not a results-oriented look. It is not about dollars going to small businesses. What are we trying to achieve? Are we trying to help the economy? What's the measure there? Are we trying to create jobs? What's the metric there? Are we trying to help small businesses get larger? What's the metric there? We have gone on too long looking at dollars going to small business." ■