

**AUDIT OF THE CONTRACT
BUNDLING PROCESS**

AUDIT REPORT NUMBER 5-20

MAY 20, 2005

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**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416**

AUDIT REPORT
Issue Date: May 20, 2005
Report Number: 5-20

TO: Allegra McCullough
Associate Deputy Administrator for Government
Contracting and Business Development

FROM: Robert G. Seabrooks
Assistant Inspector General for Auditing

SUBJECT: Audit of the Contract Bundling Process

The Office of Inspector General (OIG) completed an audit survey of the contract bundling process to determine whether the Small Business Administration (SBA) is properly receiving and reviewing all bundled contracts. We found significant problems with the SBA's ability to obtain and track bundlings. Based on the results of the audit survey, we determined that a full audit of the program is not warranted at this time because those results would not likely change if we performed additional fieldwork. This report presents the results of our review.

BACKGROUND

According to the Small Business Act, "bundling of contract requirements" is the consolidation of two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern due to (1) the diversity, size, or specialized nature of the elements of the performance specified; (2) the aggregate dollar value of the anticipated award; (3) the geographical dispersion of the contract performance sites; or (4) any combination of the preceding three factors.

The Federal Acquisition Regulation (FAR) § 19.202 requires contracting officers (COs) to notify SBA when a bundling has been identified. Once notified, an SBA Procurement Center Representative (PCR) performs a six part bundling analysis to ensure the bundling is warranted and includes reasonable participation for small businesses. A PCR who determines that a bundling is not warranted may appeal to the agency's head if the CO rejects their recommendation to use an alternative contracting method that would increase small business contracting opportunities. In addition, 13 Code of Federal Regulations (CFR) § 125.2(e) mandates that each procuring agency's Office of Small and Disadvantaged Business Utilization (OSDBU) must conduct annual reviews of their bundling activities and report their findings to SBA.

According to the Government Accountability Office (GAO), cutbacks in resources have resulted in Federal agencies being without direct SBA oversight. With 43 PCRs nationwide and over 2,000 procurement locations, PCRs concentrate on sites with the highest procurement dollars at stake. For the period Fiscal Year (FY) 2001 through FY 2004, PCRs reviewed 28 reported bundlings and found 5 were not warranted.

OBJECTIVE, SCOPE AND METHODOLOGY

Our objectives were to determine whether SBA ensured that it reviewed all proposed bundled contracts, properly appraised whether proposed bundlings were necessary, and complied with the Office of Management and Budget (OMB) and GAO recommendations concerning the bundling process. We completed a survey rather than a comprehensive audit. The review covered FY 2001 through FY 2004 possible bundled contracts that SBA reviewed and possible bundlings that circumvented SBA's review. We did not confirm whether agencies properly classified procurements as bundled; if a procuring agency classified it as bundled, SBA should have reviewed it before it was awarded.

We reviewed the Small Business Act, the FAR, the CFR, and Standard Operating Procedures (SOP) to determine what constitutes bundling, when it is considered necessary, and the changes that have been made to the program within the last several years. We interviewed SBA, GAO and other agency officials. SBA's Office of Government Contracting could not provide a bundling universe; therefore we obtained the results of a bundling query from the Federal Procurement Data System - Next Generation (FPDS-NG) technical staff and surveyed PCR Area Directors and officials at four procurement agencies, as well as GAO, to identify possible bundlings. We did not test the integrity of FPDS-NG though the 2004 GAO report "*Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business is Uncertain*" (GAO-04-454), identified possible data integrity problems with its predecessor, FPDS. Despite these possible integrity problems, we included the FPDS-NG data since the Small Business Reauthorization Act of 2000 and the Small Business Act each require SBA to access FPDS as a tool in tracking and reporting all bundled contracts. As such, SBA should have verified whether each bundling reported in FPDS or FPDS-NG was a "true" bundling.

Based on FY 2001-2004 data, we judgmentally selected 6 of the 28 bundlings reviewed by PCRs, as identified by their Area Directors, to determine whether their recommendations properly reflected the six parts of their bundling analysis. In order to determine SBA's compliance with past recommendations, we reviewed SBA OIG, OMB and GAO recommendations issued on this subject within the past ten years.

Audit survey work was conducted in Washington, D.C. from October 2004 to December 2004. The survey was conducted in accordance with generally accepted Government Auditing Standards.

SURVEY RESULTS

SBA was not reviewing the majority of procurements reported by agencies as bundled. Eighty seven percent of the reported potential bundlings (with a value of at least \$384 million) we identified during the survey were not reviewed by SBA. SBA also did not fully comply with bundling regulations, an agreed upon OMB recommendation, and its own requirements. However, for the six potential bundlings we reviewed, SBA PCRs consistently appraised the required six parts of the bundling analysis and challenged inappropriate bundlings. Interviews with agency officials also showed that SBA was cooperative in providing guidance and assistance when bundling issues occurred.

Finding 1: SBA Did Not Review the Majority of Bundled Contracts Reported by Procurement Agencies

SBA did not review the majority of reported bundled contracts that we identified, though procuring activities must provide, and SBA must review proposed bundled acquisitions. As a result, 192 contracts identified by procuring agencies as bundled were awarded without SBA's review. If all of these are actually bundled contracts, a minimum of \$384 million would be potentially lost to eligible small businesses, based on minimum dollar reporting requirements of \$2 million (see FAR § 7.104). Procuring agencies acknowledged that they did not always notify SBA of the bundlings. According to an SBA official, procuring agencies do not always understand what constitutes bundling, so many of the reported bundled contracts may not actually be bundled. Although SBA stated that they did not have adequate resources to provide direct oversight, compensating controls were not implemented to ensure that it reviewed all bundlings reported to other sources, such as OMB.

SBA reviewed 28 possible bundlings for the period FY 2001 through FY 2004. We identified 220 possible bundlings, or almost eight times the number of possible bundlings that SBA reviewed. The 220 bundlings consisted of the 28 possible bundlings SBA reviewed, 86 bundlings that 4 major procuring agencies¹ reported to OMB during FY 2002-FY 2003 (24 of these 86 bundlings were also reported by GAO in their report "*Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business is Uncertain*"), and 106² additional bundlings reported in FPDS-NG (FPDS-NG is the primary database for Federal contract procurements). The number of possible bundlings may be higher than 220, as we only checked the number of bundlings that 4 of the 23 major procuring agencies reported to OMB, and did not confirm that these 4 agencies reported all of their bundlings to OMB. We also did not confirm whether any of the procuring activities recorded all of their bundlings in FPDS or FPDS-NG.

¹ These 86 bundlings consist of 15 by the Department of Defense, 2 by the Department of Health and Human Services, 49 by the Department of Transportation, and 20 by the Department of Veteran's Affairs.

² While GAO has noted in recent reports that FPDS has considerable data integrity problems, we included these figures because individuals at procuring agencies reported these contracts as bundled, and as such, SBA should have been notified of and reviewed the proposed procurements.

An SBA official stated that procuring agencies are not properly applying the definition of bundling contained in the Small Business Act when classifying contracts as bundled. In order to address this issue, SBA will use surveillance reviews of OSDBUs to identify systemic problems and provide training and education on proper bundling evaluation and notification.

The Small Business Act, Title 13 of the CFR and the FAR require procuring agencies to notify SBA of all proposed contracts that would be considered bundled. For example, according to 13 CFR § 125.2(b)(3), *Prime Contracting Assistance*:

A procuring activity must provide a copy of a proposed acquisition strategy (e.g., Department of Defense [DoD] Form 2579, or equivalent) to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) at least 30 days prior to a solicitation's issuance whenever a proposed acquisition strategy: . . . (iii) Meets the definition of a bundled requirement

Title 13 CFR§125.2(b)(1) also states that “PCRs are responsible for reviewing all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate and to identify alternative strategies to maximize the participation of small businesses in the procurement.”

We found SBA did not review possible bundlings for the following reasons:

- **Procuring activities did not notify SBA of possible bundlings.** Officials at two out of the four agencies contacted apparently did not understand that they are mandated to report all potential bundlings to SBA, regardless of whether a PCR was directly assigned. One procuring agency official noted that it was unclear that they were required to report bundlings without SBA’s specific request. While that agency reported 20 possible bundlings to OMB, there was no indication that SBA was notified of these bundlings for their verification. When asked, the responsible party responded:
As far as I know, none of these acquisitions were reviewed by SBA. To my knowledge, there are no SBA procurement center representatives assigned to any of the . . . centers that made these awards.

The representative further stated that “There is no requirement that I am aware of, for SBA to review agency's proposed bundled solicitations.”

We noted three instances where an agency did not classify proposed procurements as bundled, but a PCR independently determined they were. Since the agency did not classify the procurements as possible bundlings, they also did not notify SBA. Additionally, if a procuring agency wishes to award a bundled contract, it is easier

to do so by not notifying SBA. There are no regulations that would allow SBA to protest a bundling after the contract is awarded, and there are no negative repercussions, e.g., administrative actions, for procuring agency officials who do not report potential bundlings.

While both 13 CFR § 125.2(b) and the FAR clearly explain the reporting procedures, additional communication between SBA and the procuring agencies could clarify the responsibilities and more fully explain when a procurement is being bundled. Two of the three PCRs we interviewed, however, did not have operating plans with their area directors detailing (a) how they would monitor for bundlings, (b) specific procedures for determining what constitutes possible bundling, and (c) when proposed procurements should be referred to SBA for review. The third PCR did not have a current operating plan. These operating plans are mandated by SOP 60 02 (see finding 2). SBA also did not have a communication system set up for those sites without direct PCR oversight.

- **SBA did not have the resources to pro-actively monitor whether most proposed procurements were bundled and should be reviewed by SBA.** There were approximately 2,250 Federal sites with potential bundlings, however, only 43 PCRs were available to provide oversight in identifying potential bundled contracts at approximately 250 of these sites. There was a 34 percent decline of PCRs between 1993 and 1999. The 2000 GAO report “*Small Businesses: Limited Information Available on Contract Bundlings Extent and Effects*,” noted that over 2,000 federal procurement centers had no PCR coverage for their activities. During FY 2002, these centers awarded approximately \$80 billion in Federal contracts. Without controls, such as a tracking or data collection system to compensate for this lack of SBA review and coverage, bundled contracts may not be reviewed and, thus not challenged.
- **SBA did not monitor after-the-fact to determine which procuring activities have not been reporting so SBA could monitor them more closely in the future.** SBA did not reconcile the bundlings reported to FPDS, FPDS-NG, OMB or FedBizOpps with the bundlings reported by procuring agencies to SBA. If this was done, SBA could have focused its limited resources on agencies that had not reported past bundlings.
- **SBA did not have a tracking system to ensure that they reviewed all possible bundlings sent to them.** A recent bundling notification by an agency could not be located or confirmed by SBA in a timely manner, and the contract was awarded before SBA had a chance to review it as a possible bundling. Although it was subsequently determined to be a case beyond SBA’s jurisdiction, it could not be looked into due to lost and untracked documentation. According to an SBA official, an updated FPDS-NG will be used as the primary database for tracking and monitoring the progress of identified bundlings. SBA has allocated resources to assist in correcting problems associated with the system. However,

until this or another system is developed, SBA will not have an effective tracking system to monitor contract bundling.

As a result, SBA's ability to protect the interests of small business was hampered. One hundred ninety-two contracts identified by procuring agencies as bundled were awarded without SBA's review, with a minimum of \$384 million potentially lost to eligible small businesses.³ SBA's Office of Advocacy reported that "for every increase of 100 bundled contracts there was a decrease of 106 contracts to small business." Unnecessary bundling displaces entrepreneurial prime contractors and discourages competition. It also undermines a congressionally mandated goal that at least 23 percent of the nearly \$200 billion spent each year by the Federal Government on goods and services go to small businesses.

Management Action

SBA officials stated that they have recently implemented controls to better monitor the performance of OSDBUs and their procurement activities. The 2005 surveillance review included an analysis of contract files to determine if the buying activity has made every reasonable effort to maximize contract opportunities for small business concerns. According to an SBA official, it will allow PCRs the opportunity to identify non-compliance with bundling requirements and recommend corrective measures. SBA has also initiated a series of education programs that may assist agencies in identifying and notifying SBA of possible bundlings. An SBA official stated that these controls were initiated based on OIG concerns as well as other procurement related issues. However, further compensating controls identified in the report are needed, such as: (1) updating/establishing SBA operating plans and establishing specific procedures for OSDBUs to follow; (2) implementing a process to hold procuring agencies responsible for unreported bundlings; and (3) implementing a tracking process and verifying bundlings reported to FPDS-NG.

Recommendations

We recommend that the Associate Deputy Administrator for Government Contracting and Business Development:

- 1A. Implement current operating plans in accordance with SOP 60 02 and establish procedures with each of the 23 major procurement agencies' Offices of Small and Disadvantaged Business Utilization. These procedures should identify what constitutes possible bundling, when and where proposed procurements must be referred to SBA for review, and consequences for procuring agencies that do not notify SBA of proposed acquisitions involving contract bundling.

³ Since SBA does not have a database with the actual number of bundlings, we cite the number of bundled contracts we identified, but were not reviewed by SBA. According to the FAR, the minimum contract dollar amount for a bundling is typically \$2 million dollars. If one \$2 million contract was lost to small business on each of the 192 bundled contracts SBA did not review, \$384 million in Federal contracts would have been lost to small business.

- 1B. Establish a process to hold procuring agencies accountable for unreported bundlings, e.g., options cannot be exercised on bundled contracts not reported to SBA.
- 1C. Complete the implementation of recently developed compensating controls.

Finding 2: The Office of Government Contracting was not in Compliance with Various Requirements Concerning Contract Bundling

SBA's Office of Government Contracting has not complied with regulatory requirements, agreed upon OMB and GAO recommendations, and its own operating procedures. Specifically, SBA:

- did not have a bundling database as required by the Small Business Reauthorization Act of 2000;
- had not disseminated a best practices guide as required by OMB's Office of Federal Procurement Policy bundling strategy; and
- did not have a signed or formal operating plan in place for many of its PCRs, as required by its internal procedures.

As a result, SBA did not know the extent that bundling may be negatively impacting small business participation in government contracting. The bundling reports SBA is mandated to provide to the Congress may also be understated, unrealistic, or skewed. Without guides for best practices and operating plans, procuring offices and SBA will not be consistent in reporting bundlings. Additionally, reliance on informal, unwritten agreements presently used by PCRs and procuring agency officials are weakened and affected by unforeseen events and other activities such as personnel changes. Ultimately, bundlings may not be reviewed by SBA, potentially causing millions of dollars in lost opportunities to deserving small businesses.

Bundling Database

The Office of Government Contracting, which advocates on behalf of small business in Federal procurement, is charged with maintaining and reporting bundling data. SBA did not have the required database needed to report on bundling and had no plans to develop it.

Section 810 of the Small Business Reauthorization Act of 2000, entitled "Database, Analysis, and Annual Report with Respect to Bundled Contracts," mandates SBA to establish and maintain a database which documents bundled contracts awarded by a Federal agency along with each small business concern that has been displaced as a prime contractor resulting from the award. SBA was required to establish and maintain

the database no later than June 2000, i.e., 180 days after the Small Business Reauthorization Act of 2000 was signed into law. Section 15(p)(5)(B) of the Small Business Act (as updated by the Reauthorization Act) states “To assist in the implementation of this section, the head of each contracting agency shall provide, upon request of the Administration, procurement information collected through **existing** agency data collection sources.” (*Emphasis added*)

According to an SBA official, the database has not been developed because DoD, which accounts for over 50 percent of the procurement actions, is not required to supply certain bundling information needed for the database. SBA officials state that there is no existing DoD database that will provide all required bundling information. There is also no requirement for DoD to modify their data base in order for SBA to obtain the needed data. An SBA official stated that a feasible database could not be created internally; however she believes that FPDS-NG can be modified to serve the same purpose.

SBA officials stated that bundling issues have not been a priority since there has been an insignificant number reported. We believe that is why they have not taken the steps necessary to create a tracking mechanism. SBA acknowledged that they did not review FPDS, FPDS-NG, GAO, and OMB reports to determine whether there were possible bundlings not reported to SBA.

Best Practices

SBA had not disseminated a “best practices” guide, although OMB recommended it do so in 2002. GAO’s May 2004 bundling report emphasized that SBA had not complied with the OMB recommendation. GAO recommended “that SBA will disseminate best practices to maximize small business contracting opportunities, as required” Although the Agency concurred with both agency recommendations, SBA has not finalized nor distributed a best practices guide, even though several years have passed since issuance of the OMB report.

In March 2002, as part of the Small Business Agenda, the President called upon OMB to prepare a strategy for unbundling Federal contracts. One of the strategies in the October 2002 OMB Report, “*Contract Bundling- Strategy for Increasing Federal Contracting Opportunities for Small Business*,” states that SBA should “Identify best practices for maximizing small business opportunities.” The recommendation within the strategy states that:

In cooperation with department and agency procurement executives and OSDBU directors, SBA will collect and disseminate these examples and incorporate them in appropriate training courses and materials.

SBA did not appear to place a high priority on completing the best practice guides. An SBA official stated that documentation received from various agencies was inadequate to put together meaningful “best practice guides,” therefore, SBA was unable

to complete it. They had not, however, attempted to obtain updated information. SBA had not projected when adequate information will be obtained for the guides.

Operating Plan

We were unable to locate current operating plans describing agency responsibilities concerning bundlings and communication between SBA and contracting activities. Two of the three PCRs interviewed could not produce a written operating plan covering their areas of responsibility and the third PCR did not have a current plan. Representatives from four major government agencies, the Departments of Defense, Veterans Affairs, Transportation, and Health and Human Services, stated that they were not aware of a written operating procedure between them and the responsible PCR. Without current operating plans or procedures, agencies did not have a consistent way to communicate bundlings to SBA.

Pursuant to Standard Operating Procedure SOP 60 02 06, “*Responsibilities of the PCR*”:

You [PCR] will interface with all of the contracting activities assigned to you and establish a written operating plan. The plan should include the following...A description of the items/services purchased by the contracting activity; Procedures for review of purchase requisitions, solicitations (including electronic solicitation systems), and subcontracting plans. .. (*Emphasis added*)⁴

There did not appear to be a bundling concern with SBA even though several reports by GAO, Eagle Eye Publishers, Inc., and OMB indicate that a problem exists. Currently, in order to monitor bundlings, each PCR maintains informal communication with each procuring office he (she) has responsibility for. The lack of current operating plans and implemented procedures is an internal control weakness, which leads to inconsistencies in how each PCR relates to procurement matters. PCRs indicated that small businesses would alert SBA when unauthorized bundling occurs. However, based on the OIG survey results, this statement cannot be supported. Recommendation 1A for Finding 1 addresses this issue.

Recommendations

We recommend that the Associate Deputy Administrator for Government Contracting and Business Development:

- 2A. Monitor and verify contract bundling and other existing regulatory reporting requirements included in Section 810 of the Small Business Reauthorization Act of 2000 through existing data collection mechanisms including FPDS-NG.

⁴ This SOP was updated in October 2004.

- 2B. Disseminate a best practices guide to maximize small business contracting opportunities as required by OMB.

SBA MANAGEMENT'S COMMENTS

The Associate Deputy Administrator for Government Contracting and Business Development (ADA) did not disagree with the findings and recommendations but made the following six comments:

1. SBA currently uses FPDS-NG for purposes of tracking contract bundling, though the draft report stated it does not.
2. SBA is not apprised of proposed contract bundlings through agency referrals alone. The Contract Bundling Hotline provides notification for bundlings not reported by the procuring agency. Additionally, if the bundling is real, a small business should come forward to notify SBA or initiate legal action.
3. The draft report incorrectly asserts that SBA does not have a tracking system and does not acknowledge that it maintains bundling alerts, which represent a chronological hard copy system as its internal tracking mechanism.
4. "Responsible" should be changed to "accountable" in Recommendation 1B.
5. The draft report mischaracterizes SBA's explanation regarding the absence of a separate bundling database. SBA cannot fully comply with the statutory mandate to establish and maintain a bundled contract database because of the additional requirement set forth by the Small Business Act to obtain information from "existing agency data collection systems." Required information such as "displaced small businesses" is not included in existing collection systems maintained by procurement agencies.
6. With respect to Recommendation 2B, SBA officials indicated they are finalizing the bundling best practices guidance.

The ADA's comments are included in their entirety in Attachment 1.

OIG EVALUATION OF SBA MANAGEMENT'S COMMENTS

Based on additional support obtained from SBA Management, we deleted the statement that SBA does not use FPDS-NG for tracking contract bundling, and clarified why SBA has not complied with the Small Business Reauthorization Act's database requirement. We also made the suggested word change in Recommendation 1B. We disagree that hard copies of bundling alerts are being used as SBA's internal tracking

system due to its limited availability to its staff. After discussion, SBA officials stated that these alerts could be input into an electronic system to correct the problem.

* * * * *

The findings included in this report are the conclusions of the Office of Inspector General's Auditing Division. The findings and recommendations are subject to review, management decision, and corrective action by your office in accordance with existing Agency procedures for audit follow-up and resolution.

Please provide us your management decision for each recommendation within 30 days. Your management decisions should be recorded on the attached SBA Forms 1824, "Recommendation Action Sheet," and show either your proposed corrective action and target date for completion, or explanation of your disagreement with our recommendations.

Should you or your staff have any questions, please contact Robert G. Hultberg, Director, Business Development Programs Group at (202) 205-[FOIA Ex. 2].

Attachments



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

DATE: May 12, 2005

TO: Robert G. Seabrooks
Assistant Inspector General for Auditing

FROM: Allegra McCullough, FOIA Ex. 6
Associate Deputy Administrator for
Government Contracting and Business Development

SUBJECT: Response to Revised Audit Report on the Contract Bundling Process

Thank you for this opportunity to respond to the revised draft Office of Inspector General (IG) Contract Bundling Audit Report, which you provided for our review on April 28, 2005. As we indicated in our March 28 response to your earlier draft Report on the Contract Bundling Process, and as we mentioned during our subsequent meetings, the Small Business Administration (SBA) has implemented significant measures aimed at unbundling contracts and improving the process for monitoring contract bundling. We appreciate that your revised draft Report acknowledges some of those measures and addresses some of the concerns we raised in our March 28 response to your earlier draft.

Based on our review of your revisions to the draft Report, we have a few comments for your consideration and have proposed further revisions as explained below. For your information, our proposed deletions to the revised draft are lined out and our proposed insertions are bracketed and bolded.

1. With respect to Finding 1, the second full paragraph on page four incorrectly suggests that SBA does not currently use FPDS-NG for purposes of tracking contract bundling. As we pointed out during our meetings, SBA already uses FPDS-NG for monitoring contract bundling and will continue to use it for that, among other, purposes in the future. Accordingly, we recommend that you amend paragraph 2 on page 4 as follows:

*An SBA official stated that procuring agencies are not properly applying the definition of bundling contained in the Small Business Act when classifying contracts as bundled. In order to address this issue, SBA will use surveillance reviews of OSDBUs to identify systemic problems and provide training and education on proper bundling evaluation and notification. SBA also ~~plans to use~~ **[relies on]** FPDS-NG as its primary procurement data source and **[utilizes the system for]** tracking **[agency bundling activities.]** ~~system-onee system issues are resolved. However, no date has been set for its implementation~~*

2. In the first bullet on page 5 of the Report, you express concern that “SBA did not have the resources to pro-actively monitor whether most proposed procurements were bundled and should be reviewed by SBA.” You also complain in the second full paragraph on that page that agencies do not always report possible contract bundlings to SBA and that “there are no negative repercussions” for their failure to do so. However, SBA is not apprised of proposed contract bundlings through agency referrals alone. To the contrary, SBA has learned about proposed bundled contracts through its contract bundling hotline (<http://www.sba.gov/GC/indexprograms-bundlingreport.html>). There, small businesses report complaints to SBA’s Office of Government Contracting in Washington, D.C. These complaints in turn are forwarded to our field staff for investigation and action. Incumbent firms are strongly motivated to notify SBA when their current contract is proposed to be incorporated into a bundled action since they stand to lose their contract if it is bundled. Additionally, noncompliant agencies are subject to the General Accountability Office bid protest procedures when they fail to follow applicable bundling requirements. Like the motivation for reporting contract bundling on SBA’s bundling hotline, small businesses are vigilant in pursuing protests when they stand to lose a procurement opportunity as a result of a bundled acquisition.

3. In the first bullet on page 6, you incorrectly assert that SBA does not “have a tracking system to ensure that they reviewed all possible bundlings sent to them.” However, you neglected to acknowledge that SBA’s Office of Government Contracting maintains Bundling Alerts, which represent a chronological hard copy system in which bundling records forwarded to the Office are filed for tracking and review. SBA provided the IG with a copy of the Alerts and the IG apparently relied on this tracking system in conducting the instant audit.

4. With respect to the Recommendations on page 7, we suggest that you clarify Recommendation 1B as follows:

Establish a process to hold procuring agencies **[accountable]** responsible for unreported bundlings, e.g., options cannot be exercised on bundled contracts not reported to SBA.

5. With respect to Finding 2 regarding the requirement for a bundling database, the revised draft Report mischaracterizes SBA’s explanation regarding the absence of a separate bundling database. In particular, according to page 8 of the Report an SBA official claimed that the “database has not been developed because DoD, which accounts for over 50 percent of the procurement actions, is not required to supply certain bundling information needed for the database” but could not provide a citation supporting this statement.

As we explained on previous occasions, SBA is unable to fully comply with the statutory requirement that it maintain a bundling database. Specifically, Section 15(p)(2)(A)(ii) of the Small Business Act requires that SBA maintain a database that contains, among other things, “data and information regarding . . . each small business concern that has been displaced as a prime contractor as a result of the award of such a [bundled] contract.” The problem is that under a separate paragraph of the same section (specifically Section 15(p)(5)(B)), the Small Business Act makes clear that agencies are required to provide the necessary information through “existing agency data collection sources.” Since there were no existing data collection

sources that provided information on small business concerns that have been displaced as a prime contractor as a result of contract bundling, there was no existing collection source in place to require agencies to provide that information. As we explained during our meetings, however, the enhanced capabilities of FPDS-NG, coupled with the new reporting requirements under 13 C.F.R. § 125.2(c), will better enable SBA to track and maintain bundling information in accordance with Section 15(p) of the Small Business Act.

6. Finally with respect to Recommendation 2B on Page 10, we note that we are presently in the process of finalizing bundling best practices guidance, which we expect to post on SBA's website and distribute to the appropriate procuring officials within 30 days.

Thank you once again for this opportunity to comment on the revised draft Audit Report on the Contract Bundling Process. If you have any questions, please feel free to contact Denise Benjamin, Acting Associate Administrator of Government Contracting, at 202-619-1 FOIA Ex. 2

REPORT DISTRIBUTION

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