

NOAA Could Improve Monitoring of Blanket Purchase Agreements by Complying with Key Federal Acquisition Regulation and Administration Requirements

FINAL REPORT NO. OIG-18-014-A

FEBRUARY 26, 2018



U.S. Department of Commerce
Office of Inspector General
Office of Audit and Evaluation



February 26, 2018

MEMORANDUM FOR: Ben Friedman
Deputy Under Secretary for Operations
National Oceanic and Atmospheric Administration

Jeffrey S. Thomas
Director
Acquisition and Grants Office
National Oceanic and Atmospheric Administration

A handwritten signature in black ink that reads "Mark H. Zabarsky".

FROM: Mark H. Zabarsky
Principal Assistant Inspector General for Audit and Evaluation

SUBJECT: *NOAA Could Improve Monitoring of Blanket Purchase Agreements by
Complying with Key Federal Acquisition Regulation and Administration
Requirements*
Final Report No. OIG-18-014-A

Attached is our final audit report on our audit of National Oceanic and Atmospheric Administration's (NOAA's) use of blanket purchase agreements (BPAs). Our objective was to determine whether NOAA established and administered BPAs in accordance with laws, regulations, and agency guidance.

We reviewed a total of 30 BPAs—17 General Services Administration (GSA) Schedule BPAs and 13 NOAA-established BPAs. Overall, we found that NOAA did not properly establish or administer all 30 BPAs because they did not comply with at least one or more of the key Federal Acquisition Regulation and NOAA requirements. Specifically, we found the following:

- Competition was not always maximized by establishing GSA BPAs with multiple vendors.
- Vendor price discounts on GSA BPAs either were not sought or were only sought through language included in the Request for Quotation.
- Required annual reviews were not performed or documentation supporting the reviews was not maintained.
- BPA files did not provide a complete history of the acquisitions.

On December 15, 2017, OIG received NOAA's response to the draft report's findings and recommendations, which we have included within the attached final report as appendix D. NOAA agreed with all five recommendations and noted actions it will take to address them.

Pursuant to Department Administrative Order 213-5, please submit to us an action plan that addresses the recommendations in this report within 60 calendar days. This final report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We appreciate the cooperation and courtesies extended to us by your staff during our audit. If you have any questions or concerns about this report, please contact me at (202) 482-3884 or Cheryl Henderson, Audit Director, at (202) 482-4350.

Attachment

cc: Chad Wagner, Director, Policy and Oversight Division, Acquisitions and Grants Office, NOAA
Mack Cato, Director, Audit and Information Management Office, NOAA
Rhonda Lawrence, Audit Liaison, NOAA



Report in Brief

February 26, 2018

Background

A blanket purchase agreement (BPA) is an agreement that is used by government agencies to pay for supplies and services that are purchased from qualified sources on a repetitive basis. BPAs are not contracts since they do not obligate agencies to purchase a minimum quantity or dollar amount of a good or service until they place—and the contractor accepts—an order. When an order is issued under the BPA, and the BPA-holder agrees to provide the service, that individual order becomes a binding contract between the parties, and both parties are then bound to all the terms and conditions in the BPA for that order. Thus, a BPA is a simplified method of filling anticipated repetitive needs for supplies or services by establishing “charge accounts” with qualified sources of supply.

The National Oceanic and Atmospheric Administration (NOAA) uses two types of BPAs: (1) General Services Administration (GSA) Schedule agreements, which incorporate the terms and conditions of an underlying GSA contract, and (2) NOAA-established agreements.

Why We Did This Review

Our objective was to determine whether NOAA established and administered BPAs in accordance with laws, regulations, and agency guidance. We reviewed a total of 30 BPAs—17 GSA Schedule BPAs and 13 NOAA-established BPAs.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA Could Improve Monitoring of Blanket Purchase Agreements by Complying with Key Federal Acquisition Regulation and Administration Requirements

OIG-18-014-A

WHAT WE FOUND

We found that NOAA did not properly establish or administer all 30 BPAs because they did not comply with at least one or more of the key Federal Acquisition Regulation (FAR) and NOAA requirements. Based on our review, the total estimated ceiling price of BPAs that did not fully comply with these key requirements was approximately \$215.1 million. Specifically, we found contracting officials did not consistently

- maximize competition because they established single-award rather than multiple-award BPAs;
- seek vendor price discounts;
- perform required annual reviews or maintain documentation supporting that the reviews were performed; and
- maintain BPA files to provide a complete history of the acquisitions.

Consequently, NOAA is missing potential cost savings on BPAs by issuing single-award agreements without sufficient competition, not consistently requesting price discounts, and not conducting annual reviews.

By properly conducting and documenting annual reviews for 23 BPAs, NOAA could potentially put up to a maximum of \$73 million in expected funds to better use for these BPAs.

WHAT WE RECOMMEND

We recommend that NOAA’s Deputy Under Secretary for Operations and Director of Acquisition and Grants Office do the following:

1. Require contracting officials to: (a) assess the multiple factors outlined in the FAR when determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate; and (b) properly document the decision in the acquisition plan or BPA contract file.
2. Require contracting officers to request vendor price discounts on all orders or BPAs exceeding the simplified acquisition threshold at any time (a) before placing an order; (b) before establishing a BPA; or (c) in conjunction with the annual review.
3. Require contracting officers to perform annual BPA reviews, properly document the results of the reviews, and maintain documentation of the reviews in the BPA file.
4. Improve controls to properly maintain and safeguard contracts.
5. Ensure training is provided for contracting personnel to correct identified deficiencies.

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Cover: Herbert C. Hoover Building main entrance at 14th Street Northwest in Washington, DC. Completed in 1932, the building is named after the former Secretary of Commerce and 31st President of the United States.

Introduction

A blanket purchase agreement (BPA) is an agreement that is used by government agencies to pay for supplies and services that are purchased from qualified sources on a repetitive basis. BPAs are not contracts since they do not obligate agencies to purchase a minimum quantity or dollar amount of a good or service until they place—and the contractor accepts—an order. When an order is issued under the BPA, and the BPA-holder agrees to provide the service, that individual order becomes a binding contract between the parties, and both parties are then bound to all the terms and conditions in the BPA for that order. Thus, a BPA is a simplified method of filling anticipated repetitive needs for supplies or services by establishing “charge accounts” with qualified sources of supply.

The National Oceanic and Atmospheric Administration (NOAA) uses two types of BPAs:

1. General Services Administration (GSA) Schedule agreements, which incorporate the terms and conditions of an underlying GSA contract, and
2. NOAA-established agreements.

GSA Schedule BPAs follow procedures defined by the Federal Acquisition Regulation (FAR)¹ subpart 8.4, “Federal Supply Schedules.” NOAA-established BPAs follow FAR part 13, “Simplified Acquisition Procedures” and procedures outlined in the *NOAA Acquisition Process Guide*.²

GSA Schedule Agreements

GSA has thousands of schedule contracts with vendors for commercial supplies and services and makes these contracts available to federal agencies to establish as a BPA. Agencies use the framework of the underlying GSA contract to establish GSA Schedule BPAs. In addition, agencies may establish GSA Schedule BPAs with one vendor (a single-award agreement) or more than one vendor (multiple-award agreements). GSA Schedule BPAs simplify the filling of recurring needs for supplies and services, while leveraging ordering activities’ buying power by taking advantage of quantity discounts, saving administrative time, and reducing paperwork.

NOAA-Established Agreements

If an agency cannot meet its requirement through the federal supply schedule or other preferred methods,³ FAR section 13.303 permits federal agencies to establish BPAs against the

¹ The FAR is codified in title 48 of the Code of Federal Regulations.

² The introductory paragraph in the *NOAA Acquisition Process Guide* states, “The National Oceanic and Atmospheric Administration (NOAA) Acquisition Process Guide is [a] web-based, knowledge management tool developed by the NOAA Acquisition and Grants Office (AGO) to incorporate internal agency guidance (*FAR 1.301*) into an already complex system of regulations, policies and procedures that govern acquisition activities.”

³ FAR § 13.003(a) states, “Agencies shall use simplified acquisition procedures to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold This policy does not apply if an agency can meet its requirement using— (1) Required sources of supply under FAR part 8 (Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply

open market as a simplified means to fill anticipated repetitive needs for supplies or services. FAR⁴ requirements for using this type of BPA are: (a) the order size must be under the simplified acquisition threshold (subject to certain exceptions); (b) agency officials must ensure adequate competition; and (c) annual reviews must be performed.

In September 2009, the U.S. Government Accountability Office (GAO) reported agencies were not maximizing opportunities for competition or savings under BPAs despite significant increase in usage.⁵ The report noted the following:

- Agencies were not taking full advantage of opportunities for competition under multiple-award BPAs.
- Frequent use of single-award BPAs resulted in a lack of competition of orders.
- Agencies often did not seek or receive discounts from schedule pricing.
- Agencies generally did not comply with the annual review requirement and missed opportunities for savings.

An Office of Management and Budget (OMB) memorandum⁶ discusses the report *Acquisition and Contracting and Improvement Plans and Pilots*, which described the actions agencies were taking to improve the federal acquisition system. The use of BPAs under the Federal Supply Schedule (Schedule) was provided as an example of a best practice for agencies to consider using in order to negotiate better deals by seeking discounts from Schedule vendors. The memorandum provided further detail in ways for agencies to maximize the value of BPAs, such as taking advantage of competition, negotiating discounts, and reviewing BPAs at least annually.

Schedule contracts); (2) Existing indefinite delivery/indefinite quantity contracts; or (3) Other established contracts.”

⁴ FAR § 13.303.

⁵ GAO, September 9, 2009. *Contract Management: Agencies Are Not Maximizing Opportunities for Competition or Savings under Blanket Purchase Agreements Despite Significant Increase in Usage*, GAO-09-792. Washington, DC: GAO.

⁶ OMB, December 22, 2009. *Memorandum for Chief Acquisition Officers Senior Procurement Executives: Achieving Better Value From Our Acquisitions*. Washington, DC: OMB.

Objective, Findings, and Recommendations

Our objective was to determine whether NOAA established and administered BPAs in accordance with laws, regulations, and agency guidance. We reviewed a total of 30 BPAs—17 GSA Schedule BPAs and 13 NOAA-established BPAs. Overall, we found that NOAA did not properly establish or administer all 30 BPAs because they did not comply with at least one or more of the key FAR and NOAA requirements. Based on our review, the total estimated ceiling price of BPAs that did not fully comply with these key requirements was approximately \$215.1 million. Specifically, we found contracting officials did not consistently

- maximize competition because they established single-award rather than multiple-award BPAs;
- seek vendor price discounts;
- perform required annual reviews or maintain documentation supporting that the reviews were performed; and
- maintain BPA files to provide a complete history of the acquisitions.

Consequently, NOAA is missing potential cost savings on BPAs by issuing single-award agreements without sufficient competition, not consistently requesting price discounts, and not conducting annual reviews. By properly conducting and documenting annual reviews for 23 BPAs, NOAA could potentially put up to a maximum of \$73 million⁷ in expected funds to better use for these BPAs (see appendix C).

Appendix A further details the objective, scope, and methodology of our audit. Appendix B provides a set of tables that summarize the findings.

I. Competition Was Not Always Maximized by Establishing GSA BPAs with Multiple Vendors

To encourage and facilitate competition when placing orders under BPAs, the FAR⁸ establishes a preference for multiple-award BPAs rather than single-award BPAs. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPAs and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). In determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate, the contracting officer should consider the following factors and document the decision in the acquisition plan and BPA file:⁹

⁷ The potential maximum amount of funds put to better use of approximately \$73 million was calculated using the total estimated ceiling prices negotiated for the option years remaining on the 23 BPAs reviewed where annual reviews were not conducted or documented.

⁸ FAR § 8.405-3(a)(3)(i).

⁹ Id., subsec. (iv).

- Scope and complexity of the requirement(s);
- Benefits of on-going competition and the need to periodically compare multiple technical approaches or prices;
- Administrative costs of BPAs; and
- Technical qualifications of the Schedule contractor(s).

Once a single-award BPA is established, all orders may be issued directly with the vendor without additional competition. We found this to be the case for 8 of the 17 GSA BPAs in our sample. However, for 4 of these BPAs, we found contracting officials did not adequately justify and document the decision to give preference to a single vendor despite having utilized competitive procedures and receiving multiple vendor quotes. Discussions with contracting officials found that they primarily established agreements with single vendors because it was considered less costly to administer and required less oversight for them. We believe administrative costs should not be the only factor in making this determination.

To illustrate, NOAA established a 5-year BPA with an estimated ceiling price of \$45 million as a single award to obtain specialized information technology (IT) engineering and systems administration services. The acquisition plan states that the possibility of having numerous contractors involved and having to compete numerous completion orders on a frequent basis would be a resource-intensive, time-consuming approach. However, neither contracting officials nor the BPA file had documentation to show the administrative cost associated with multiple-award BPAs or how NOAA would save time and resources with the single-award strategy.

Contracting officials' ability to obtain the best value for the government could be affected if all factors are not taken into account when deciding whether to use single- or multiple-awards. Specifically, multiple-award agreements encourage vendors to offer better prices and possible discounts. With single-award BPAs, the risk of overspending and negotiating less desirable terms and conditions increases. By awarding a BPA to a single vendor when there was opportunity to award to multiple vendors, contracting officials may have missed opportunities for potential cost savings.

II. Vendor Price Discounts on GSA BPAs Either Were Not Sought or Were Only Sought Through Language Included in the Request for Quotation

The FAR¹⁰ requires contracting officials to seek a price reduction when the order or BPA exceeds the simplified acquisition threshold of \$150,000. In addition, contracting officials may request a price reduction at any time before placing an order, establishing a BPA, or in conjunction with the annual BPA review. The GSA website provides ordering guidelines for when contracting officials should request price reductions.¹¹ GSA states that “[w]hen issuing a written RFQ [Request for Quotation], it is a best practice to request a price discount in the initial RFQ **and** after quotes have been received and evaluated.” Although contractors

¹⁰ FAR § 8.405-4.

¹¹ GSA. *Price Reductions* [online]. www.gsa.gov/portal/content/200397 (accessed February 8, 2018).

are not required to provide these further discounts, customers should attempt to negotiate for lower prices to ensure the government is receiving the best value.

For 16 of the 17 GSA BPAs reviewed, contracting officials were required to seek a price reduction because the BPAs exceeded the simplified acquisition threshold of \$150,000. However, contracting officials did not always request vendor discounts when establishing BPAs or obtain better pricing when placing orders. We found no evidence that contracting officials requested a price reduction for 3 of the 16 GSA BPAs we reviewed. For instance, for a BPA valued at \$5 million for naval architecture and marine engineering services, contracting officials stated they did not request vendor discounts during the establishment of the BPA because the vendor's prices were determined to be reasonable and were lower than the independent government cost estimate.

For the remaining 13 GSA BPAs, contracting officials included language in the RFQ instructing vendors to submit in their price quotes of any discounts offered. However, for 3 of these BPAs, the vendors did not offer discounts in their initial quotation in response to the RFQ, and contracting officials did not follow up with the vendor to request a discount.

For example, on a single-award BPA valued at \$50 million for management support services, contracting officials invited contractors to propose discounts in their response to the RFQ, but a vendor discount was not specifically requested of the BPA awardee at the establishment of the BPA or call order. Contracting officials stated, "Vendors were invited to propose discounts in response to the RFQ. A column on the pricing spreadsheet was provided for vendors to identify the discount offered from their Schedule rates." Our review of the BPA files did not show any indication that additional follow-up was performed to actively request a discount, and contracting officials relied solely on the language included in the RFQ to seek vendor price discounts. Consequently, NOAA missed opportunities for cost savings when discounts were not requested—even when the estimated amount of the BPA was in the millions of dollars.

In contrast, for the 10 BPAs in our sample for which contracting officials sought price reductions, it resulted in substantial savings for NOAA. On one BPA valued at approximately \$9.9 million for scientific and professional/technical services, contracting officials actively sought and received a discount of 2.5 percent on the labor escalation rate when the initial quotation did not contain a proposed discount in response to the RFQ. For 9 other BPAs, vendors offered discounts in their initial quotation in response to the RFQ. For the 10 BPAs, vendors provided discounted rates on various proposed labor categories ranging typically from 2 to 15 percent.

III. Required Annual Reviews Were Not Performed or Documentation Supporting the Reviews Was Not Maintained

NOAA may have missed opportunities for additional savings because contracting officials did not consistently perform required annual BPA reviews or document that the reviews

were performed for 11 GSA and 12 NOAA-established BPAs.¹² Based on discussions with contract officials, we concluded, in part, that these officials lacked familiarity with FAR requirements and procedural guidance outlined in the *NOAA Acquisition Process Guide* for performing and documenting annual BPA reviews and that management did not provide sufficient oversight to ensure that these reviews were properly conducted.

Annual reviews provide contracting officials an opportunity to make decisions by assessing pertinent factors such as whether:

- the BPA still represents the best value;¹³
- the underlying GSA Schedule contract is still in effect;¹⁴
- estimated quantities/amounts have been exceeded and additional price reductions can be obtained;¹⁵ or
- new arrangements with different suppliers or modifying existing arrangements are warranted.¹⁶

For NOAA, conducting and properly documenting annual reviews for the 23 BPAs could potentially put up to \$73 million in expected funds to better use (see appendix C).

A. Annual Reviews Required for GSA BPAs Were Not Performed or Documentation Supporting the Reviews Was Not Maintained

The FAR¹⁷ requires contracting officials to conduct and document annual reviews that determine whether (1) the schedule contract upon which the BPA was established is still in effect; (2) the BPA still represents the best value to the government; and (3) quantities or amounts estimated when the BPA was established have been exceeded and additional price discounts can be obtained. However, we found that contracting officials did not conduct required annual reviews for 6 of the 17 GSA BPAs. These 6 BPAs had a total negotiated ceiling price of approximately \$56.4 million. For example, contracting officials should have performed an annual review by September 2016 for a BPA valued at a ceiling price of approximately \$9.8 million for communications and outreach related services. According to contracting officials, the annual review had not been performed because of the heavy volume of contracts awarded in September 2016. Yet, on August 16, 2016, contracting officials exercised an option year under the BPA. The annual review could have been performed at the time the contracting officials exercised the option year; however, it was not. We followed up with contracting

¹² Annual reviews for GSA Schedule BPAs follow procedures defined by FAR § 8.405-3(e), and NOAA-established BPAs follow FAR § 13.303-6 and procedures outlined in the *NOAA Acquisition Process Guide* § 4.4.1.4.

¹³ FAR § 8.405-3(e)(1)(ii).

¹⁴ Id., subsec. (i).

¹⁵ Id., subsec. (iii).

¹⁶ FAR § 13.303-6(b)(2).

¹⁷ FAR § 8.405-3(e).

officials via email in December 2016 and January 2017 on the status of the annual review, but they did not provide a response to our inquiries.

Furthermore, for 5 of the remaining 11 GSA BPAs—with a total negotiated ceiling price of approximately \$33.8 million—contracting officials stated that they conducted the required annual reviews; however, they had no documentation detailing the results of the reviews. Examples include:

- The *GSA Annual Review Checklist* for a BPA valued at approximately \$10 million for technical and consulting services contained “yes/no” questions. These questions addressed specific elements required to conduct an annual review. Contracting officials would either answer yes or no to the qualifying questions. To illustrate, contracting officials checked yes to the question, “The BPA still represents the best value (FAR 8.404(d)).” However, contracting officials could not provide any evidence to support their response or to verify that they had conducted the review.
- A BPA valued at \$150,000 for executive coaching services was awarded in June 2014. The contracting official stated that one annual review was completed and the second was not performed because the BPA ended in June 2016. Although the annual BPA review determination was not included in the BPA file, the contracting official later provided it to us. Based on our review of the determination document, we found that the annual review did not conform to the FAR requirements, but instead was an assessment of the contractor’s performance.

B. Annual Reviews Required for NOAA-Established BPAs Were Not Performed or Documentation Supporting the Reviews Was Not Maintained

FAR section 13.303-6 requires contracting officials that entered into each BPA to review each BPA agreement annually and, if necessary, update the BPA, including maintaining awareness of changes in market conditions, sources of supply, and other pertinent factors that may warrant making new arrangements with different suppliers or modifying existing arrangements. These reviews provide officials an opportunity to select additional vendors or to modify the current pool of vendors. The *NOAA Acquisition Process Guide*¹⁸ also provides guidance to contracting officials to conduct and document each NOAA-established BPA annually, update as necessary, and ensure that:

- calls are rotated among qualified suppliers;
- authorized callers have not exceeded their call authority;
- BPA call logs are properly maintained;
- invoices are properly supported and submitted on time for payment; and
- requirements are not “split” in order to permit purchasing within caller's authority.

¹⁸ *NOAA Acquisition Process Guide*, § 4.4.1.4, “Blanket Purchase Agreements (BPAs) and BPA Calls.”

Contracting officials did not conduct the required annual review for 7 of the 13 NOAA-established BPAs with a total negotiated ceiling price of approximately \$2.3 million. For example, our review of a BPA valued at \$150,000 for rental of a charter vessel for research noted that the annual BPA review was not conducted. According to contracting officials, they started a review in December 2015, after option period I was exercised on September 8, 2015. Contracting officials did not complete the review because they found contract administration issues, such as instances where employees who were authorized to issue calls: (a) were not properly maintaining the call log; (b) were not obtaining certified funds and accounting codes before scheduling cruises; and (c) were setting up cruises months in advance prior to determining if they were needed. Due to lack of oversight in the administration of the BPA, contracting officials modified the BPA on November 3, 2016, to shorten the period of performance to end on December 30, 2016, instead of September 7, 2019.

Furthermore, for 5 of the remaining 6 NOAA-established BPAs—with a total negotiated ceiling price of approximately \$7.5 million—contracting officials did not maintain documentation to support the reviews performed. To illustrate, for a BPA valued at \$75,000 for snow removal, contracting officials considered the determination and findings (D&F) document to be their annual review of the BPA. However, contracting officials did not address the required annual BPA review elements, such as maintaining awareness of changes in market conditions, sources of supply, and other factors that may warrant making new arrangements with different suppliers in the D&F document. According to contracting officials, they were not aware of the annual BPA review requirements outlined in the FAR or the procedural guidance in the *NOAA Acquisition Process Guide*.

IV. BPA Files Did Not Provide a Complete History of the Acquisitions

Contracting officers did not maintain BPA files in accordance with the requirements of FAR subsection 4.801(b). We found that 29 out of 30 files lacked key documentation required by the FAR¹⁹ to support the establishment and review of BPAs, such as notification to unsuccessful offerors, vendor quotations, list of schedule contracts considered, evaluation criteria, evidence of RFQ posting, single-award justification, discount request documentation, call logs, and annual review documentation.

The FAR²⁰ requires that documentation in contract files be sufficient to constitute a complete history of the contract transactions to support informed decisions at each step in the acquisition process and provide information for reviews and investigations. The need for well-maintained and complete contract files is important, not only for day-to-day contract administration, but also for when the Department experiences turnover with its contracting staff. Complete contract files help ensure proper transfer of responsibilities among staff and continuity of operations.

¹⁹ FAR § 4.803, FAR § 8.405-3, and FAR § 13.303.

²⁰ FAR § 4.801(b).

Recommendations

We recommend that NOAA's Deputy Under Secretary for Operations and Director of Acquisition and Grants Office do the following:

1. Require contracting officials to: (a) assess the multiple factors outlined in the FAR when determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate; and (b) properly document the decision in the acquisition plan or BPA contract file.
2. Require contracting officers to request vendor price discounts on all orders or BPAs exceeding the simplified acquisition threshold at any time (a) before placing an order; (b) before establishing a BPA; or (c) in conjunction with the annual review.
3. Require contracting officers to perform annual BPA reviews, properly document the results of the reviews, and maintain documentation of the reviews in the BPA file.
4. Improve controls to properly maintain and safeguard contracts.
5. Ensure training is provided for contracting personnel to correct identified deficiencies.

Summary of Agency Response and OIG Comments

In response to our draft report, NOAA concurred with all five of our recommendations. We are encouraged that steps have already been initiated by NOAA to address our recommendations. However, we are concerned that NOAA's response to recommendations I, 2, 3, and 5 to provide training does not guarantee that the issues related to these recommendations will be resolved. We look forward to NOAA's action plan that will provide details on the corrective actions to be taken. See appendix D for NOAA's complete response. Within their response, NOAA included technical comments and suggested revisions to our report, which have been addressed in the report as appropriate.

Despite concurring with our recommendations, NOAA's management raised several concerns about our findings. Specifically:

1. NOAA stated that two of the four contracts cited in finding I did have justification and documentation supporting the decision to give preference to a single vendor. As noted in our report, discussions with contracting officials found that they primarily established agreements with single vendors because it was considered less costly to administer and required less oversight. We noted during our review that neither contracting officials nor the BPA file had documentation to show the higher administrative costs associated with multiple-award BPAs or how NOAA would save time and resources with the single-award strategy.
2. NOAA provided clarification for one of four contracts cited in finding II as showing no evidence that price reductions were requested. NOAA noted that the dollar value did not exceed the simplified acquisition threshold and, therefore, the agency was not mandated by FAR section 8.405-4 to seek discounts. We agree with NOAA and revised our report to reflect the change.
3. Our report cited three BPAs where contracting officials did not contact the vendor to request a discount when it was not provided in response to the RFQ, which included language requesting a price discount (see finding II). NOAA stated that this occurred because:
 - (a) the requirement was solicited with the notice that non-price factors were significantly more important than price;
 - (b) the successful vendor's price quote was among the lowest of all vendor quotes; and/or
 - (c) only one quote was received and the price was consistent with the vendor's GSA Schedule and the vendor proposed a consistent hourly rate with no escalation, which is considered a discounted rate.

For two BPAs, the RFQ included language to seek a vendor price discount. However, we found no evidence that NOAA followed up with the vendors and took advantage of

seeking a discount from the GSA established pricing. According to the FAR,²¹ contracting officers must seek a price reduction when the order of BPA exceeds the simplified acquisition threshold. In the third BPA, we noted that the contracting official confirmed during discussions that the proposed rates were the same as the GSA Schedule rates and discounts were not sought.

4. With respect to finding III, NOAA requested that we exclude 6 of the 11 instances where the report noted that no evidence was found that annual reviews were performed on GSA BPAs. Although NOAA acknowledges that documentation was not produced during the audit, NOAA stated they subsequently found evidence of the reviews. One of the 6 BPAs cited by NOAA in this request was not in our sample of BPAs reviewed for this report, so OIG has not further addressed NOAA's request with respect to that BPA here.²²

FAR subsection 8.405-3(e) requires contracting officials to conduct and document annual reviews that determine whether (1) the schedule contract upon which the BPA was established is still in effect; (2) the BPA still represents the best value to the government; and (3) quantities or amounts estimated have been exceeded and additional price discounts can be obtained.

We noted in our report that documentation to support the results of the annual review was not maintained in 4 of these 5 GSA BPA files. Discussions with contracting officials also confirmed that documentation was not maintained to support that the annual review was performed.

For the remaining GSA BPA, we noted that the contracting official did not perform the annual review. To verify whether annual reviews were conducted, we made multiple attempts via email and telephone to follow up with contracting officials to provide them an opportunity to inform us of the status of the annual review and we did not receive a response.

Therefore, in regard to the 5 GSA BPAs that OIG reviewed and that NOAA requested OIG exclude from this finding, the results of our review remains unchanged (see finding III).

5. Also with respect to finding III, NOAA requested that we exclude 5 of the 12 instances where the report noted that no evidence was found that annual reviews were performed on NOAA-established BPAs because:
 - (a) in three instances, the annual review was incorporated in the determination and finding (D&F) document when an option was exercised;
 - (b) in one instance, an annual review was not required because it was a sole source award mandated by treaty; and
 - (c) in another instance, the second annual review was not due for completion prior to OIG's review.

²¹ FAR § 8.405-4.

²² BPA file EA133C14BA0010 was not included in our sample list of BPAs reviewed for this report.

With respect to the instance involving NOAA's assertion that the second annual BPA review was not due for completion prior to the OIG's review, we noted during our review that the second annual review was due prior to the completion of our audit fieldwork and was not performed. Subsequently, contracting officials informed us that the second annual review had not been performed and it may be late due to fourth quarter work that keeps them extremely busy. We also noted that the first annual review for this BPA did not adequately document the required elements for an annual review as required by FAR section 13.303-6 or outlined in the procedural guidance in the *NOAA Acquisition Process Guide*.

Regarding the three instances where NOAA noted that the annual review was incorporated in the D&F when an option was exercised, the requirement to perform an annual review is not contingent upon whether an option year is exercised on a BPA. FAR section 13.303-6 requires contracting officials to review each BPA agreement annually to ensure that it reflects changes in market conditions, sources of supply, and other pertinent factors, and to make new arrangements or update the terms of the agreement as necessary. Annual reviews may be performed during the exercise of an option period, because the period for the annual review as well as exercising a yearly option is likely to coincide. However, if a BPA is still active or open, the FAR²³ requires an annual review to be performed.

With respect to the BPA referenced by NOAA as not requiring an annual review because it was a sole source award mandate by treaty, the FAR²⁴ does not list exceptions to the requirement for contracting officers to perform and document annual BPA reviews. Therefore, although the BPA was awarded as a sole source mandated by treaty it does not negate the FAR requirement to perform an annual review.

Therefore, in regard to the five NOAA-established BPAs that NOAA requested OIG exclude from this finding, the results of our review remains unchanged (see finding III).

NOAA requested that the term "NOAA Acquisition Process Guide" be changed to "NOAA Acquisition Manual Acquisition Alerts and Acquisition Instructions". In regard to this request, we will retain the use of *NOAA Acquisition Process Guide* in the report. The *NOAA Acquisition Process Guide* is defined in the introduction to this guide as a tool that incorporates internal agency guidance, with a goal to explain in simple terms the federal acquisition process by displaying the process steps as a "flow" chart or diagram with policy directly embedded in hyperlinked content, checklists, templates, and samples. The *NOAA Acquisition Process Guide* contained detailed processes and procedures for establishing and administering BPAs, whereas the other documents noted by NOAA did not. If NOAA is not utilizing the *NOAA Acquisition Process Guide*, NOAA should remove the guide from the NOAA Acquisition and Grants Office website and notate that it is not in use.

²³ FAR § 13.303-6.

²⁴ Ibid.

Appendix A: Objective, Scope, and Methodology

The objective of our audit was to determine whether NOAA established and administered BPAs in accordance with laws, regulations, and agency guidance. We assessed whether NOAA properly competed—and economically used—BPAs to maximize savings opportunities. Specific sub-objectives were to determine whether contracting officials: (1) maximized competition by establishing GSA Schedule agreements with multiple rather than single vendors; (2) consistently sought price reductions on orders; and (3) performed the required annual reviews to ensure established BPAs still represent the best value to the government.

To accomplish our objective we did the following:

- Evaluated NOAA’s practices against relevant policies and guidance, including OMB guidance, the FAR, the *Commerce Acquisition Manual (CAM)*, and NOAA policies and procedures.
- Identified the total number of BPAs that were established in fiscal year (FY) 2014 and FY 2015 using the Federal Procurement Data System–Next Generation (FPDS-NG) (the total universe included 67 BPAs).
- Randomly selected a sample of 30 agreements (of the 30 sampled, 13 were FAR Part 13-established BPAs and 17 were FAR Part 8-established BPAs).
- Tested the reliability of FPDS-NG data by comparing information from the contract file with information gained in interviewing contracting officials (although prior GAO and OIG reports noted problems with data quality in FPDS-NG, we found the data sufficient for generalizing issues found in the BPAs we reviewed).
- Reviewed procurement files for sampled agreements including requests for quotation, vendor bids, single-award justifications, award documents, vendor agreements, and correspondence.

Further, we obtained an understanding of the internal controls used to award BPAs by interviewing NOAA acquisition personnel. While we identified and reported on internal control deficiencies, no incidents of fraud, illegal acts, violations, or abuse were detected within our audit. We identified weaknesses in the controls related to the processes and procedures used to award BPAs. We relied on computer-processed data from the FPDS-NG to perform this audit. We conducted the audit fieldwork between April and July 2017. We performed our fieldwork at NOAA offices in Boulder, Colorado; Norfolk, Virginia; and Silver Spring, Maryland.

We conducted this performance audit 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. We performed our work under the authority of the Inspector General Act of 1978, as amended, and Department Organizational Order 10-13, dated April 26, 2013.

Appendix B: Summary of Findings

Table B-I. Summary of Findings for GSA BPAs

BPA Contract No.		Specific Product or Service	Total Estimated Ceiling Price	Single- or Multiple-Award BPA	Single-Award BPAs Resulted in Lack of Competition on Call Orders	Vendor Discounts Were Not Sought	Vendor Discount Language in RFQ Only / Discounts Not Offered	BPA Review Was Not Performed or Missing Supporting Documentation
1	AB133M15 BA0025	Naval architecture and marine engineering services	\$5,000,000	M				X
2	AB133M15 BA0034	Naval architecture and marine engineering services	5,000,000	M		X		X
3	BG133R15 BA0038	Specialized IT engineering and systems administration	45,000,000	S	X			
4	EA133015 BA0023	Relocation services	9,900,000	S	X		X	X
5	EA133C14 BA0002	Facilitation and consulting services	1,609,326	S	X	X		X
6	EA133C14 BA0040	Administrative services	9,900,000	M				X
7	EA133C14 BA0049	Monitoring and assessing the nation's coastal oceans	4,180,866	S		X		
8	EA133C15 BA0009	Scientific and professional / technical services	9,900,000	S				
9	EA133F15 BA0016	Technical and consulting support	9,998,920	M				X
10	EA133F15 BA0045	Communications and outreach related services	9,847,550	M				X
11	EA133R15 BA0030	Software development and technical services	24,999,999	M				X
12	EE133E14 BA0021	Executive coaching services	150,000	M				X
13	RA133R14 BA0043	Provide and install science on a sphere exhibits in museums	1,100,000	S			X	

BPA Contract No.	Specific Product or Service	Total Estimated Ceiling Price	Single- or Multiple-Award BPA	Single-Award BPAs Resulted in Lack of Competition on Call Orders	Vendor Discounts Were Not Sought	Vendor Discount Language in RFQ Only / Discounts Not Offered	BPA Review Was Not Performed or Missing Supporting Documentation
14	ST133014 BA0041	49,999,000	S			X	
15	WC133R14 BA0026	5,000,000	S	X			
16	EA133W15 BA0021	6,596,025	M				X
17	EA133W15 BA0022	7,146,826	M				X
Totals		\$205,328,512		4	3	3	11

Source: OIG review of BPA files.

Table B-2. Summary of Findings for NOAA-Established BPAs

BPA Contract No.	Specific Product or Service	Total Estimated Ceiling Price	Single- or Multiple-Award BPA	BPA Review Was Not Performed or Missing Supporting Documentation
1	AB133015 BA0039	\$750,000	M	X
2	AB133015 BA0041	750,000	M	X
3	AB133015 BA0047	750,000	M	X
4	AB133M15 BA0011	6,500,000	S	X
5	DG133E14 BA0019	495,000	S	X
6	EA133F14 BA0033	150,000	S	X
7	EE133E15 BA0013	25,000	S	X
8	RA133F14 BA0045	150,000	S	X
9	WC133R15 BA0004	50,000	S	X
10	WC133W15 BA0003	75,000	S	X
11	WC133W15 BA0014	105,000	S	X
12	WE133W14 BA0014	21,000	S	X
13	WE133W14 BA0016	24,000	S	
Totals		\$9,845,000		12

Source: OIG review of BPA files.

Appendix C: Potential Monetary Benefits

	Questioned Costs	Unsupported Costs	Potential Funds to Be Put to Better Use
Finding III			\$73,002,620 ^a

^a Conducting and documenting annual reviews may potentially identify funds to be put to better use, up to this maximum amount.


Appendix D: Agency Response



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for Operations
Washington, D.C. 20230

DEC 15 2017

MEMORANDUM FOR: Mark H. Zabarsky
Principal Assistant Inspector General for Audit and Evaluation

FROM: Ben Friedman 
Deputy Under Secretary for Operations

SUBJECT: *NOAA Could Improve Monitoring of BPAs by Complying with Key
Federal Acquisition Regulation and Administration Requirements*
Draft OIG Audit Report

The National Oceanic and Atmospheric Administration (NOAA) is pleased to submit the attached response to the Office of Inspector General's draft report on NOAA's blanket purchase agreements. We agree with all recommendations and included comments in the attached response.

We appreciate the opportunity to review and respond to your draft report as well as for the extension that your office granted. If you have questions, please contact Mack A. Cato, Director, Audit and Information Management Office on (301) 628-0949.

Attachment



**National Oceanic and Atmospheric Administration's Comments on:
Draft OIG Report Entitled, "NOAA Could Improve Monitoring of BPAs by Complying with
Key Federal Acquisition Regulation and Administration Requirements" (November 1, 2017)**

General Comments

This memorandum comprises the National Oceanic and Atmospheric Administration's (NOAA) response to the draft report from the Office of Inspector General (OIG) entitled, "NOAA Could Improve Monitoring of BPAs by Complying with Key Federal Acquisition Regulation and Administration Requirements" (Draft Report). The Draft Report concludes that NOAA did not properly establish or administer all 30 Blanket Purchase Agreement (BPAs) because it did not show through documentation that it had complied fully with one or more key Federal Acquisition Regulation (FAR) and/or NOAA requirements.

Below are specific comments pertaining to the Draft Report:

Finding I: *Competition was not always maximized by establishing GSA BPAs with Multiple Vendors*

The Draft Report cites four instances in which NOAA did not adequately justify and document the decision to give preference to a single vendor. We note that in two of those four instances, WC133R14BA0026 and BG133R15BA0038, the files included Determination and Finding (D&F) memorandums that provided the justification and documented the basis for the single vendor decisions.

Finding II: *Vendor price discounts on GSA BPAs were not sought or only sought through language included in the Request for Quotation (RFQ)*

The Draft Report cites four instances where no evidence was found that contracting officials requested a price reduction. To clarify, NOAA would like to note the reasons that vendor price discounts were not sought. In contract number EE133E14BA0021, NOAA was not required to request a discount prior to the award because it did not exceed the simplified acquisition threshold. FAR 8.405-4 does not mandate that discounts be sought for BPAs of this dollar value.

The Draft Report also cites three instances where contracting officials did not contact the vendor to request a discount when it was not provided in response to the RFQ, which included language requesting a price discount. NOAA would like to clarify the reasons for not contacting the vendors to request discounts.

In contract number EA133015BA0023, NOAA did not request a further reduction because the requirement was solicited with the notice that the non-price factors were significantly more important than price and because the successful vendor's price quote was 18% lower than the other quotes.

In contract number ST133014BA0041, the requirement was solicited with the notice that non-price factors were significantly more important than price, and the successful vendor's price

quote was among the lowest of the quotes.

In contract number RA133R14BA0043, where only one quote was received, the price was consistent with the vendor's GSA schedule and the vendor proposed a consistent hourly rate with no escalation, which is consider a discounted rate, for all five years of the BPA.

NOAA would like to also clarify that following-up with vendors after receipt of their quotes would require opening discussions and discussions were not held for any of the three contracts listed above.

Finding III: *Required annual reviews were not performed or documentation supporting the reviews was not maintained*

The Draft Report cites 11 instances where no evidence was found that annual reviews were performed on GSA BPAs. NOAA requests that the OIG exclude the following six BPAs from this finding because, although documentation was not produced during the audit, NOAA subsequently found evidence of the reviews.

Table 1: NOAA's Assessment of Annual Review Documentation for GSA BPAs

Contract/Call Order Number	Date Review Completed
EA133015BA0023	May 2, 2016
EA133C14BA0010	September 11, 2015 September 30, 2016
EA133F15BA0045	October 14, 2016
EA133W15BA0021	October 11, 2016
EA133W15BA0022	October 11, 2016
EA133F15BA0016	May 14, 2016

The Draft Report also cites 12 instances where no evidence was found that annual reviews were performed on NOAA-established BPAs. NOAA would note that in four of those instances, NOAA conducted annual reviews, and in the fifth case, no annual review was required because it was a sole source mandated by a treaty.

Accordingly, NOAA believes the five BPAs listed below should be excluded from this finding:

In contract number DG133E14BA0019, no annual review was required because it was a sole source mandated by a treaty.

In contract number EA133F14BA0033, the FY15 annual review was completed on August 25, 2015. This file was requested by the OIG for review on August 19, 2016 and the FY16 annual review was not due for completion prior to the OIG's review.

In contract numbers WC133R15BA0004, WC133W15BA003, and WC133W15BA0014, the annual reviews were incorporated in the D&F when an option was exercised.

Recommended Changes for Factual/Technical Information:

Page 1, third paragraph, line 3: NOAA requests that the term, "NOAA Acquisition Process Guide," be changed to "NOAA Acquisition Manual, Acquisition Alerts, and Acquisition Instructions." NOAA acquisition policy is found within the NOAA Acquisition Manual, Acquisition Alerts, and Acquisition Instructions.

NOAA Response to OIG Recommendations:

Recommendation 1: Require contracting officials to: (a) assess the multiple factors outlined in the FAR when determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate; and (b) properly document the decision in the acquisition plan or BPA contract file.

NOAA Response: We Concur. To satisfy this recommendation, NOAA AGO will create training slides, distribute, and verify our contracting staff completes this training.

Recommendation 2: Require contracting officers to request vendor price discounts on all orders or BPAs exceeding the simplified acquisition threshold at any time (a) before placing an order; (b) before establishing a BPA; or (c) in conjunction with the annual review.

NOAA Response: We Concur. To satisfy this recommendation, NOAA AGO will create training slides, distribute, and verify our contracting staff completes this training.

Recommendation 3: Require contracting officers to perform annual BPA reviews, properly document the results of the review, and maintain documentation of the reviews in the BPA file.

NOAA Response: We Concur. To satisfy this recommendation, NOAA AGO will create training slides, distribute, and verify our contracting staff completes this training.

Recommendation 4: Improve controls to properly maintain and safeguard contracts.

NOAA Response: We Concur. NOAA AGO will develop a standard contract file checklist which will incorporate the requirements of FAR part 4.801(b). NOAA AGO will ensure implementation through our biennial Acquisition Management Reviews and Field Delegate Audit Reviews.

Recommendation 5: Ensure training is provided for contracting personnel to correct identified deficiencies.

NOAA Response: We Concur. To satisfy this recommendation, NOAA AGO will create training slides, distribute, and verify our contracting staff completes this training.

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