Office of Audits
Office of Inspector General
U.S. General Services Administration

The Federal Acquisition Service's Reporting of Small Business Procurements Contained Significant Inaccuracies

Report Number A170121/Q/6/P20006
September 14, 2020

Executive Summary

The Federal Acquisition Service's Reporting of Small Business Procurements Contained Significant Inaccuracies

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Why We Performed This Audit

We performed this audit based upon previous preaward contract audit work that identified a small business award in which the work was primarily performed by a large business. Our objective was to determine if the Federal Acquisition Service (FAS) properly identifies and reports small business procurements in accordance with the Federal Acquisition Regulation.

What We Found

To determine if FAS's reporting of its small business procurements was accurate, we sampled procurements that FAS identified as small business in Fiscal Year 2016 and Fiscal Year 2017. We found that FAS's reporting of small business procurements contained significant inaccuracies. We identified $89 million in procurements erroneously recorded as small business in the Federal Procurement Data System–Next Generation. While Federal Acquisition Regulation 4.604, *Responsibilities*, specifies that the awarding contracting officer has the responsibility to accurately identify and report small business procurements, Federal Procurement Data System–Next Generation limitations do not allow contracting officers to accurately report small business procurements at the task order level.

In addition, FAS's small business procurement reporting does not identify the extent of the work performed by large businesses. We found approximately $120 million of small business procurements in which large businesses performed a portion of the work. Because there is no requirement for small businesses or FAS to report how much of the work is performed by large businesses, the reported information may not provide an accurate assessment of FAS's small business procurements.

What We Recommend

We recommend that the FAS Commissioner:

1. Address the Federal Procurement Data System–Next Generation limitations to ensure that contracting officers can accurately identify, and the data will accurately reflect, small business procurements.

2. Hold discussions with the Small Business Administration to consider if changes should be initiated to require reporting of subcontracting and reseller work for small business procurements.

The FAS Commissioner partially agreed with Recommendation 1 and agreed with Recommendation 2. FAS contends that its small business procurement reporting was in accordance with current regulations and Federal Procurement Data System–Next Generation limitations. However, the data reported is inaccurate, which is not in accordance with the Federal Acquisition Regulation as noted in the report. FAS agreed to provide a corrective action plan to address both recommendations. FAS's response is included in its entirety in ***Appendix B***.

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Introduction

We performed an audit of the Federal Acquisition Service's (FAS's) identification and reporting of small business procurements.

Purpose

We performed this audit based upon previous preaward contract audit work that identified a small business award in which the work was primarily performed by a large business.

Objective

Our objective was to determine if FAS properly identifies and reports small business procurements in accordance with the Federal Acquisition Regulation (FAR).

See ***Appendix A*** – Scope and Methodology for additional details

Background

Maximizing contracting opportunities for small businesses is a priority throughout government. In 1953, Congress created the Small Business Administration (SBA) to assist and protect the interests of small business concerns and ensure that a fair portion of federal purchases and contracts be placed with small businesses. In 1988, Congress established an annual government-wide goal for contracting directly with small businesses. Currently, the goal for contracting to small businesses is 23 percent of all government procurements. Each year, the SBA works with federal agencies to set additional agency-specific small business procurement goals. In an effort to meet established small business contracting goals, FAS awards contracts to small businesses to fulfill its own and customer agency procurement needs.[1] During Fiscal Years (FYs) 2016 and 2017, $3.7 billion of FAS procurements were reported as small business procurements.

The SBA is responsible for establishing small business size standards for categories of products and services. These categories have unique numerical codes defined under the North American Industry Classification System (NAICS). When a federal agency solicits for a product or service, it lists the required NAICS code(s) in its solicitation. A business responding to the solicitation must represent itself as either a small or large business for the solicited NAICS code(s). This designation is based on a business's self-certification in the federal government's System for Award Management for each NAICS code it offers. The maximum size standards governing eligibility for small business procurements vary among the NAICS codes.[2] The maximum size

[1] FAS procures for itself and on behalf of other federal agencies through the Office of Assisted Acquisition Services.

[2] As a result, the same business can be designated as small business for some NAICS codes and a large business for others.

standards are based on either: (1) the number of employees or (2) average annual gross revenues. The contractor determines which size standard it is certifying as small business.

Agencies must report all contract actions in the GSA-managed Federal Procurement Data System–Next Generation (FPDS-NG). Acquisition agencies are required to enter all contract information into FPDS-NG at the time of award; therefore, FPDS-NG is the main source for tracking and storing all government procurement data. The SBA uses FPDS-NG data to track agencies' progress toward meeting small business contracting goals and provides Congress with a Small Business Goaling Report annually. FPDS-NG data is also used to create other reports related to small business procurements that are provided to the President, Congress, and the public.

Results

Maximizing contracting opportunities for small businesses is a priority throughout government. In an effort to meet its small business contracting goals, FAS awards contracts to small businesses to fulfill its own and customer agency procurement needs. To determine if FAS's reporting of its small business procurements was accurate, we sampled procurements that FAS identified as small business in FY 2016 and FY 2017. We found that FAS's reporting of small business procurements contained significant inaccuracies. We identified $89 million in procurements erroneously recorded as small business in FPDS-NG. While FAR 4.604, *Responsibilities*, specifies that the awarding contracting officer has the responsibility to accurately identify and report small business procurements, FPDS-NG limitations do not allow contracting officers to accurately report small business procurements at the task order level.

In addition, FAS's small business procurement reporting does not identify the extent of the work performed by large businesses. We found approximately $120 million of small business procurements in which large businesses performed a portion of the work. Because there is no requirement for small businesses or FAS to report how much of the work is performed by large businesses, the reported information may not provide an accurate assessment of FAS's small business procurements.

Finding – FAS's reporting of small business procurements contained significant inaccuracies.

Inaccurate Identification and Reporting of Small Business Procurements in FPDS-NG

Due to inaccurate NAICS codes, FAS identified and reported four task orders valued at $89 million as contract awards to small businesses although they were actually large business procurements.

NAICS codes are used as a basis for determining whether a business is considered a small or large business. Each NAICS code has size standards that are used to determine eligibility for small business procurements. All government contractors report their status as a small or large business in the federal government's System for Award Management based on the size standards applicable to the NAICS codes they offer.

We identified 10 procurements totaling $274 million for which the NAICS codes in FPDS-NG did not match the NAICS codes on the contract award documents. Four of those ten procurements, totaling $89 million, were large business procurements identified inaccurately in FPDS-NG as small business procurements due to the wrong NAICS code.

According to FAR 4.604, *Responsibilities*, the awarding contracting officer has the responsibility to accurately identify and report small business procurements in FPDS-NG. Therefore, the contracting officer is responsible for ensuring the correct NAICS code is input into FPDS-NG.

However, according to FAS officials and the FPDS-NG Data Dictionary, the incorrect NAICS codes for these procurements are due to a system limitation within FPDS-NG. FPDS-NG pre-populates the NAICS codes for task orders using the NAICS code for the base contract and does not allow contracting officers to modify the NAICS codes, even when the code is inaccurate.

The four procurements identified above were task orders placed against base contracts, but were awarded using a different NAICS code. As described by FAS officials and the FPDS-NG Data Dictionary, FPDS-NG pre-populated the task orders with the NAICS code for the base contract and, although the codes were incorrect for the task orders, the system does not allow the pre-populated NAICS code to be corrected. As a result of incorrect NAICS codes identifying the task orders as small business procurements in FPDS-NG, these procurements were misreported and FAS's small business procurements were overstated by at least $89 million for FY 2016 and FY 2017.

Reporting of Small Business Procurements Performed by Large Businesses

According to FAR 19.202-5, *Data collection and report requirements*, agencies must accurately measure small business participation in their acquisition programs. However, there is no requirement or reporting mechanism to provide visibility into the amount of small business awards that are performed by large businesses. As a result, FAS reporting of small business procurements does not reflect that at least $120 million of contracts designated as small business awards were fulfilled by large businesses.

FAR 19.702, *Statutory requirements*, requires large business contractors to report their subcontracting activities and dollar values. The federal government uses the Electronic Subcontracting Reporting System to track and report the amount of small business participation in government contracting that is achieved through large business subcontracting to small businesses. However, there is no similar requirement for small businesses to identify and report activities and amounts of work they subcontract to large businesses. As a result, FAS reporting of small business awards designates contracts as small business awards even when they are performed in part or even mostly by large businesses.

While examining FAS's reported small business procurements for FY 2016 and FY 2017, we identified five small business procurements (totaling approximately $308 million) where three of the small businesses subcontracted at least 25 percent of the work ($76 million) to large businesses, yet the entire $308 million was reported as small business.

We also reviewed 11 FAS procurements, with a total value over $46 million, to small businesses that resell items manufactured by large businesses. For these 11 procurements, we determined that large businesses actually performed between 94 to 99 percent of the work. The small business resellers in these procurements performed limited administrative functions only. As a result, reporting the entire $46 million as small business in FPDS-NG, while consistent with the reporting requirements, was misleading because at least $43 million of the $46 million was performed by large businesses.

In total, we identified contracts worth at least $120 million reported as small business procurements, which were actually performed by large businesses. FAS officials advised us that the decision to report subcontracting and reseller work for small business procurements and how to report, is made by the SBA, as authorized by the Small Business Act and the Code of Federal Regulations.[3] Because GSA does not have the authority to pursue policy changes on its own, FAS should discuss a policy change with the SBA that would result in more accurate information on the extent small business procurements are actually performed by small businesses.

[3] 13 CFR § 125.6.

Conclusion

To determine if FAS's reporting of its small business procurements was accurate, we sampled procurements that FAS identified as small business contracts in FY 2016 and FY 2017. We found that FAS's reporting of small business procurements contained significant inaccuracies. We identified $89 million in procurements erroneously recorded as small business in FPDS-NG. While FAR 4.604, *Responsibilities*, specifies that the awarding contracting officer has the responsibility to accurately identify and report small business procurements, FPDS-NG limitations do not allow contracting officers to accurately report small business procurements at the task order level.

In addition, FAS's small business procurement reporting does not identify the extent of the work performed by large businesses. We found approximately $120 million of small business procurements in which large businesses performed a portion of the work. Because there is no requirement for small businesses or FAS to report how much of the work is performed by large businesses, the reported information may not provide an accurate assessment of FAS's small business procurements.

To address these issues, FAS should address the FPDS-NG limitations to ensure awards to small businesses are reported accurately and hold discussions with the SBA regarding reporting large business subcontracting and reseller awards to small businesses.

Recommendations

We recommend that the FAS Commissioner:

1. Address the FPDS-NG limitations to ensure that contracting officers can accurately identify, and the data will accurately reflect, small business procurements.

2. Hold discussions with the SBA to consider if changes should be initiated to require reporting of subcontracting and reseller work for small business procurements.

GSA Comments

The FAS Commissioner partially agreed with Recommendation 1 and agreed with Recommendation 2. FAS contends that its small business procurement reporting was in accordance with current regulations and FPDS-NG limitations. However, the data reported is inaccurate, which is not in accordance with the FAR as noted in the report. FAS agreed to provide a corrective action plan to address both recommendations. FAS's response is included in its entirety in ***Appendix B***.

Audit Team

This audit was managed out of the Heartland Region Audit Office and conducted by the individuals listed below:

Michelle Westrup	Regional Inspector General for Auditing
Erin Priddy	Audit Manager
Shannon McKinzie	Auditor-In-Charge

Appendix A – Scope and Methodology

Our audit evaluated if FAS properly identified and reported small business procurements in accordance with the FAR.

To accomplish our objective, we:

- Reviewed background information related to small business government contracting and the FPDS-NG;
- Obtained all FAS small business procurements for FY 2016 and FY 2017 from FPDS-NG, totaling $3.7 billion;
    - Evaluated a judgmental sample of the 30 largest small business procurements awarded by the FAS Office of Assisted Acquisition Service, totaling $752 million. This represents approximately 20 percent of small business awards during our review period based upon sales volume; and
    - Reviewed GSA contract files and related correspondence for all small business procurements sampled;
- Reviewed the Small Business Act, FAR, and FAS internal policies governing small business procurements;
- Interviewed GSA contracting officials, small business contractors, and GSA Office of Small and Disadvantaged Business Utilization officials; and
- Held discussions with FAS Office of Acquisition Policy officials.

We conducted the audit between June 2018 and June 2019 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

Internal Controls

Our assessment of internal controls was limited to those necessary to address the objective of the audit.

Appendix B – GSA Comments

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GSA Federal Acquisition Service

MEMORANDUM FOR: Michelle Westrup
Regional Inspector General for Auditing
Heartland Region Audit Office (JA-6)

FROM: Julie Dunne 8/21/2020
Commissioner
Federal Acquisition Service (Q)

SUBJECT: Response to GSA OIG Audit Report Number A170121: FAS's Reporting of Small Business Procurements Contained Significant Inaccuracies

Thank you for the opportunity to comment on the referenced draft report *FAS's Reporting of Small Business Procurements Contained Significant Inaccuracies,* Report Number A170121, dated August 11, 2020. The Federal Acquisition Service (FAS) provides its response to the recommendation below.

The OIG recommends that FAS:

1. Address the Federal Procurement Data System–Next Generation limitations to ensure that contracting officers can accurately identify, and the data will accurately reflect, small business procurements.
2. Hold discussions with the Small Business Administration to consider if changes should be initiated to require reporting of subcontracting and reseller work for small business procurements.

FAS partially concurs with recommendation 1 and concurs with recommendation 2. FAS reporting of small business procurements at the time of award was accurate and in accordance with the applicable regulations. To change the policy to improve the accuracy of reporting of small business procurements, GSA has already collaborated with the U.S. Small Business Administration (SBA), the Office of Federal Procurement Policy (OFPP), the Federal Acquisition Regulations (FAR) Council, the Award Committee for E-Government (ACE) and Procurement Committee for E-Government (PCE) to develop and implement the policy and system changes in FAR rule 2014-002, Set-Asides Under Multiple-Award Contracts, that will be effective October 1, 2022. GSA will continue to collaborate with all policy stakeholders, especially SBA, to improve the reporting of small business procurements. Upon issuance of the final audit report, FAS will establish a Corrective Action Plan which will outline the specific actions to be taken in support of the implementation as well as the estimated dates for completion of those actions.

Recommendation 1

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FAS partially concurs with recommendation 1, that current Federal Procurement Data System (FPDS) business rules and systems limitations can result in the reporting of inaccurate data for certain small business procurements when an order level representation of size status occurs. However, at the time of placement of the orders subject to the OIG's review, FAS contracting officers acted in accordance with SBA and FAR regulations and supplemental regulations.

FAS Review of the IG Sampled Orders

The GSA IG reviewed a sample of 30 of the largest FAS AAS small business procurements awarded during FY 16 and 17. 16 were orders placed against MAS contracts. 14 were orders placed against other contract vehicles. FAS has reviewed the ten procurements identified by the IG as having NAICS codes in FPDS that did not match the NAICS codes in the contract award documents, including the four of those ten contracts identified by the IG as other than small businesses based on the NAICS code in the contract award documents. The results of the FAS review indicate that the Ordering Contracting Officer (OCOs) relied on the contract level representation in FPDS in making the order level award in FPDS, per FAR 8.405-5(b). In accordance with SBA regulations, OCOs have discretionary authority to request a new size certification for the order (13 CFR 121.404 (a)(1)(iii)); however, they may rely on the contract level representation which was made in accordance with the size standard in effect at the time of representation that corresponds to the North American Industry Classification System (NAICS) code assigned to the contract. Contract level re-representation is required in only three circumstances: 1) within 30 days after execution of a novation agreement; 2) within 30 days after a merger or acquisition of the contractor and, 3) within 60 to 120 days prior to the end of the fifth year of the contract, or prior to exercising an option (FAR 19.301-2 (b)). Therefore, as rerepresentation is not required outside of these circumstances, order OCOs may properly rely on contract level business size representations. There were three administrative discrepancies between the order level award documentation and order Level FPDS NAICS. However, the OCOs could not have changed these values in FPDS due to system limitations which mandate that the NAICS propagate from the parent IDV, and the OCO was correct in relying on the Contract Level NAICS.

It is important to note that the FPDS-NG business rules in effect at the time the orders were placed adhered to applicable FAR regulations. According to the FPDS user manual, entry of a principal NAICS Code is a required data element for Indefinite Delivery Vehicles (IDVs), and users are instructed to "report the code that represents the predominance of the dollars obligated or de-obligated for the contract/action;" this code is then used to determine the contract level business size. This business size field is pre-populated for delivery/task orders and indicates whether the contractor meets the small business size standard based on the NAICS code assigned to the IDV contract. FPDS does not allow for more than one NAICS code to be assigned to a contract. The size status for orders generated from FPDS (officially used in the SBA Small Business Scorecard) is determined by the NAICS code entered for the contract vehicle, as FPDS only allows orders to be

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coded with the contract vehicle level NAICS code and size status (see Attachment A for an illustration of propagated NAICS codes in FPDS-NG).

GSA Collaboration To Update Governmentwide Policy and Systems To Improve Accuracy of Small Business Reporting

Over the past number of years, prior to the GSA IG conducting this review, FAS has collaborated extensively with GSA's Office of Governmentwide Policy (OGP) to provide input to the SBA, the FAR Council including the OFPP to update government-wide policy and systems impacting small business reporting. The business rules and system limitations identified in the draft report and addressed below will be resolved with the implementation of FAR Rule 2014-002, Set-Asides Under Multiple-Award Contracts, which will ensure the accurate identification and reporting of data related to small business procurements. In accordance with the rule, a NAICS code and corresponding size standard will be required for every order, which must match a NAICS code and corresponding size standard awarded under the IDV contract.

FAR rule 2014-002, published on February 27, 2020, addresses the issues identified in the OIG report including business rules and system limitations described above. The report identifies a mismatch between the NAICs codes entered into FPDS at the order level and those pre-populated at the contract level. In accordance with the rule, FPDS will be updated to allow for the assignment of multiple NAICS code to a contract and allow an order to designate a NAICS code and corresponding size standard that matches a NAICS code and corresponding size standard awarded under the IDV contract ((FAR 19.102(b)(3)).

Although FAS manages the Integrated Award Environment (IAE) including FPDS, FAS does not set the policy; the subsequent business rules and system limitations that guide the FPDS data dictionary. The IAE governance through OFPP, ACE and PCE set those business rules and system requirements. With the publication of FAR rule 2014-002, the IAE has worked through the IAE governance process with the OFPP, the FAR Council, the ACE and PCS to update FPDS functionality to implement this policy change, which will allow for the assignment of multiple NAICS codes to a contract and the alignment of contract and order level NAICS. FAS will continue to work with all relevant stakeholders to implement FAR rule 2014-002.

Recommendation 2

Although FAS concurs with recommendation 2, FAS's existing policies and methods for the reporting of subcontracting and reseller procurements follow the current SBA regulations and are accurately reported.

With regard to subcontracting, unless a procurement was either fully or partially set aside to a small business, there is no prohibition or limitation on a small business subcontracting a portion of the work to be performed under the contract to an other than small business. Only where an order is

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placed under a full or partial small business set aside, would limitations on subcontracting (LOS) apply (13 CFR 125.6) For purposes of small business credit for the procurements reviewed by the IG, neither regulation or policy restricts or proportions small business credit on the basis of subcontracting to large businesses. For this reason, FAS's designation of contracts as small business awards even when performed in part by other than small businesses, is consistent with current regulations.

Similar to the LOS rule for nonmanufacturer resellers, unless the procurements under review were either fully or partially set-aside for small businesses, there is no prohibition against small business resellers selling items that were manufactured by large businesses. The nonmanufacturer rule applies only to small business set-asides and essentially requires small business resellers to supply the products of small business manufacturers, if a procurement is set aside for small business (13 CFR 121.406). SBA regulations do not distinguish between small business resellers and non-resellers for the purpose of allocating credit to ordering agencies for awards made to small businesses. Any limitation on the small business reseller's ability to supply items manufactured by a large business, would depend on whether the procurement has been set aside to small businesses.

While FAS's reporting of small business procurements related to subcontracting and reseller work was consistent with current regulations, FAS is willing to share the audit finding with SBA for their consideration.

Thank you for the opportunity to review this draft report. If you have any questions, please contact Magdy Bastawrous from the FAS Office of Policy and Compliance at magdy.bastawrous@gsa.gov or (703) 605-9442.

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Attachment A

FPDS User Manual: Assignment of IDV Level NAICS to the Order:

Per the GSA FPDS Data Dictionary, element 8G - NAICS, automatically propagates which is defined as "Input is not allowed for the data element from any agency." The value is propagated either from the referenced IDV or from the base record" therefore the contracting activity was following all rules and regulations. The below data definition of 8G - NAICS illustrates the limitation of the required values.

8G	NAICS
ElementNo:	8G
Name:	NAICS
DEName:	NAICS_Code
Screen Name:	Principal NAICS Code
XML Tag Name:	principalNAICSCode
XML Version:	Version 1.0 and later
Derivation:	None
Definition:	The North American Industry Classification System (NAICS) codes designate major sectors of the economies of Mexico, Canada, and the United States.
Instruction:	Report the code that was used in the solicitation.
FAR/DFARS:	FAR 4.601(b)(4); FAR19.303; DFARS 253.204-70(b)(12)(iv)
SF279:	13
DD350:	B12D
Source:	CO and the NAICS Manual
Format:	String
Length:	6

Requirement State - Award:

DO referencing an FSS, GWAC and Multiple Award IDC	DO referencing a Single Award IDC	DO referencing a BOA	PO	DCA	Part 8 BPA Call	Part 13 BPA Call	MOD
Propagates	Propagates	Propagates	Required	Required	Propagates	Propagates	Propagates

Requirement State - IDV:

FSS	GWAC	BOA	Part 8 BPA	Part 13 BPA	IDC	MOD
Required	Required	Required	Propagates	Required	Required	Propagates

Access Restricted:	No
Values:	Must be a valid code from the NAICS table.
FPDS Legacy:	Currently collected; PEC approved.

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Appendix C – Report Distribution

GSA Administrator (A)

GSA Deputy Administrator (AD)

Commissioner (Q)

Deputy Commissioner (Q1)

Chief of Staff (Q0A)

Chief Administrative Services Officer (H)

Audit Management Division (H1EB)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)