Transforming Government Acquisition Systems: Overview and Selected Issues

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Summary

Increasingly, the federal government uses technology to facilitate and support the federal acquisition process. Primary beneficiaries of this shift to online systems (websites and databases) are the government's acquisition workforce and prospective and incumbent government contractors. The suite of web-based systems supports contracting officers' efforts to ensure the government contracts only with responsible parties, is essential to the dissemination of information regarding contracting opportunities, and facilitates interagency contracting. From the contractor perspective, the government's online systems streamline the processes involved in fulfilling various administrative requirements, provide access to possible contracting opportunities, and are potential resources for market research.

Congressional interest in the government's online procurement systems, and, relatedly, the federal acquisition process, flows from the institution's responsibilities involving government spending and oversight of executive branch operations. Congress monitors how well the federal acquisition process works, which includes several web-based systems, and also uses data and information available from some of the systems as resources for its oversight activities.

The federal government's major, governmentwide web-based acquisition systems include Acquisition Central, Electronic Subcontracting Reporting System (eSRS), Federal Business Opportunities (FedBizOpps), Federal Funding Accountability and Transparency Act (FFATA) Portal (this system is known as the "FFATA Portal"), Federal Procurement Data System-Next Generation (FPDS-NG), Federal Awardee Performance and Integrity Information System (FAPIIS), FFATA Sub-Award Reporting System (FSRS), Interagency Contract Directory (ICD), Past Performance Information Retrieval System (PPIRS), System for Award Management (SAM), USAspending.gov, and Wage Determinations On-line (WDOL).

Interest in the federal government's online acquisition systems is reflected in a variety of issues and topics. Over the years, questions have been raised regarding the accuracy, completeness, and timeliness of the contract award data available from FPDS and its successor, FPDS-NG. Recent efforts to remedy these problems include guidance issued by the Office of Federal Procurement Policy (OFPP) in 2011, which provides instructions for calculating and reporting the accuracy and completeness of data submitted to FPDS-NG. The most recent information available regarding FPDS-NG data shows that, governmentwide, the four-year average (FY2008-FY2011) for completeness was 98.3% and for sample accuracy 94.0%.

Another significant topic involving the government's web-based acquisition systems was the launch of the System for Award Management in 2012. The following three systems became part of SAM in July 2012: Central Contractor Registration (CCR, which includes Federal Agency Registration (FedReg)), Excluded Parties List System (EPLS), and Online Representations and Certifications Application (ORCA). When completed, SAM will also include five other online procurement systems, plus the Catalog of Federal Domestic Assistance (CFDA). A variety of issues and problems, including separate logins, overlapping data, the absence of a single, uniform level of service, and multiple vendors hosting the systems, prompted interest in developing an integrated system.

Although this report does not focus on transparency, several issues discussed here are related to transparency. First, while the Federal Business Opportunities (FedBizOpps) website and FPDS-NG provide information about executive branch agencies' procurements, a database of federal

agencies' contracts does not exist. In 2003, GSA established a working group to examine the feasibility, challenges, and anticipated benefits of posting federal contracts online. Ultimately, the working group concluded there were insufficient data to support recommending the establishment of a central system for posting contracts online. In 2010, the Department of Defense (DOD), GSA, and the National Aeronautics and Space Administration (NASA) issued an advance notice of proposed rulemaking (ANPR) regarding posting contracts online. Comments submitted in response to the notice identified several challenges, and the matter was concluded when the agencies withdrew the ANPR. Second, transparency does not necessarily equate to comprehension. Generally, variation exists among the users of government procurement systems regarding their knowledge of government procurement and procurement data. Third, during the 113th Congress, two similar bills (H.R. 2061 and S. 994) with the same name (Digital Accountability and Transparency Act, or DATA Act) were introduced, either of which would enhance transparency of spending data, including certain procurement data. If either bill is enacted, it might have implications for FPDS-NG.

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Introduction

Increasingly, the federal government uses technology to facilitate and support the federal procurement (or acquisition) process. Primary beneficiaries of this shift to online procurement systems (i.e., websites and databases) are the government's acquisition workforce and prospective and incumbent government contractors. Web-based procurement systems are essential for completing certain processes and fulfilling various requirements including, for example, publicizing contracting opportunities, helping to ensure that the government only does business with responsible contractors, capturing subcontracting information, and collecting and maintaining contract award data. Possible benefits conferred by the suite of acquisition systems include enhanced efficiency, improved access to information, mitigation of the administrative burden shared by federal employees and contractors, and the timely collection of accurate data. The government's reliance on web-based systems is not surprising for yet another reason: the magnitude of government procurement. Beginning with FY2008, the federal government has spent over $500 billion and conducted at least 5.7 million contract actions each fiscal year through FY2012.[1] During the same time period, federal agencies dealt with at least 154,000 contractors each fiscal year.[2] This figure does not include entities that competed for, but were not awarded, any government contract.

Congressional interest in the executive branch's procurement systems (and, more broadly, government procurement) is fueled by a combination of its responsibilities. As the keeper of the federal purse and the body responsible for oversight of the executive branch, Congress takes a keen interest in how federal agencies spend the funds appropriated to them and, generally, how well the acquisition process works. While congressional oversight of government procurement includes overseeing web-based acquisition systems, these systems also serve as resources for congressional oversight efforts as well as legislative activities. Additionally, some online procurement systems may be useful when crafting responses to constituents who have commented on, or requested assistance related to, government procurement. Relatedly, Congress has demonstrated an ongoing interest in promoting the transparency of government spending data, including contract award information, for citizens and other interested parties.[3]

This report begins with an overview of major online procurement systems that support certain acquisition processes, or contain data about agencies' procurements. This section includes a table that provides basic information about each system and that may serve as a reference guide. The

[1] USAspending.gov, "Total Federal Spending," at http://www.usaspending.gov/trends?trendreport=default&viewreport=yes&contracts=Y&maj_contracting_agency_t=&pop_state_t=&pop_cd_t=&vendor_state_t=&vendor_cd_t=&psc_cat_t=&tab=List+View&Go.x=Go; Federal Procurement Data System-Next Generation, at https://www.fpds.gov. A *contract action* is "any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. Contract action does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions." 48 C.F.R. §4.601. Parts 1-53 of Title 48 of the Code of Federal Regulations are also published as a stand-alone publication, the Federal Acquisition Regulation (FAR).

[2] USAspending.gov. Fiscal year data were generated by clicking on the "Summaries" tab; then clicking on the "Prime Awardee" tab, choosing "Contracts" as the "Spending Type," and selecting the fiscal year.

[3] See information about the Federal Funding Accountability and Transparency Act (FFATA) at **Table 1**, note g; Federal Awardee Performance and Integrity Information System (FAPIIS), **Table 1**, note d; and "Digital Accountability and Transparency Act (DATA Act) and FPDS-NG."

next section of the report then examines several issues and topics, including data quality, the System for Award Management (SAM), and the posting of contracts online.

Major web-based, executive branch procurement systems are the focus of this report. This report does not include any agency-specific websites or databases. Additionally, it does not include all of the governmentwide online systems associated with government procurement, such as the Small Business Administration's Subcontracting Opportunities Directory and SUB-Net, or the RFP-EZ pilot program.[4] Generally, only executive branch agencies are subject to the applicable statutes, regulations, policies, or guidelines that govern the use of the procurement systems covered in this report. Although individual legislative branch or judicial branch agencies might be permitted to use these systems, they are not necessarily required to do so.[5]

Overview of Major Acquisition Systems

The past two decades have seen the federal government take "increasing advantage of technology to improve the efficiency and effectiveness of the acquisition lifecycle, from performing market research to recording contractor performance information."[6] Initially, most online acquisition systems were established for the purpose of facilitating and improving the procurement process.[7] Contracting officers, and other members of the government's acquisition workforce, post solicitations (and other documents, such as sources sought notices) on the Federal Business Opportunities (FedBizOpps) website. In turn, FedBizOpps is a resource for would-be government contractors seeking opportunities to sell their goods or services to the government. The System for Award Management streamlines the registration process for prospective and current contractors while providing a single repository of information for agency personnel to use, for example, to confirm business size, review contractors' certifications, and pay contractors. To aid in ensuring that the government does business only with responsible contractors, agency personnel also use SAM to determine whether a contractor is presently suspended or debarred,

[4] The Subcontracting Opportunities Directory includes the names and addresses of prime contractors that were required to submit subconctracting plans to the government. SUB-NET is a database that lists "subcontracting solicitations and opportunities posted by large prime contractors and other non-federal agencies." U.S. Small Business Administration, "Sub-Contracting," at http://www.sba.gov/category/navigation-structure/contracting/contracting-opportunities/sub-contracting. RFP-EZ, which was designed "to make it easier for small businesses to sell to the Federal government, and for the Federal government to buy technology from the private sector," was created as a pilot program by Presidential Innovation Fellows. U.S. Small Business Administration, "Making Procurement Better: RFP-EZ," February 4, 2013, at http://www.sba.gov/community/blogs/official-sba-news-and-views/open-business/making-procurement-better-rfp-ez; White House, "The Presidential Innovation Fellows, RFP-EZ and Innovative Contracting Tools, at http://www.whitehouse.gov/innovationfellows/rfp-ez. RFP-EZ is available at https://rfpez.sba.gov/.

[5] Generally, the *Federal Acquisition Regulation* (FAR) governs the usage of web-based acquisition systems, and the FAR applies only to federal executive agencies using appropriated funds to acquire goods and services. *Federal Acquisition Regulation*, "Foreword," at https://www.acquisition.gov/far/current/pdf/FAR.pdf. However, not all executive branch agencies are subject to the FAR, and legislative branch and judicial branch agencies may choose to follow, or comply with, the FAR or certain provisions. For an explanation of the applicability of the FAR, see CRS Report R42826, *The Federal Acquisition Regulation (FAR): Answers to Frequently Asked Questions*, by (name re dacted) et al.

[6] U.S. Small Business Administration, "Request for Proposal Platform Pilot," 77 *Federal Register* 76588, December 28, 2012, at http://www.gpo.gov/fdsys/pkg/FR-2012-12-28/pdf/2012-31323.pdf.

[7] For additional information regarding the systems referenced in this paragraph, and other major web-based acquisition systems, see **Table 1**. For detailed information about a particular system, see the system's website or relevant provisions in the FAR.

and query the Federal Awardee Performance Information and Integrity System (FAPIIS).[8] Contracting officers submit performance information to the Past Performance Information Retrieval System (PPIRS) and, in turn, use information stored in the system when evaluating a contractor's past performance.

Some web-based acquisition systems may primarily serve other purposes and other users. Congressional staff and agency personnel may find the contract award data available on the Federal Procurement Data System-Next Generation (FPDS-NG) website useful when developing, or implementing, policy.[9] A push for transparency led to the passage of the Federal Funding Accountability and Transparency Act of 2006 (FFATA, P.L. 109-282). FFATA mandated the development of a user-friendly system comprising a variety of government spending data, including procurement data. Another effort aimed at enhancing transparency involves FAPIIS. Subsequent to the establishment of FAPIIS, legislation was enacted which made the contents of this system, except for past performance data, accessible to the public.[10]

Table 1 contains information regarding 11 web-based acquisition systems and a related Department of Labor system. The table reflects the current status of the General Services Administration's effort to consolidate eight procurement websites, plus the Catalog for Federal Domestic Assistance (CFDA),[11] into one integrated system, SAM. Three websites—Central Contractor Registration (CCR, which includes Federal Agency Registration (FedReg)), Excluded Parties List System (EPLS), and Online Representations and Certifications Application (ORCA)—migrated to SAM in July 2012. None of the three is listed separately in **Table 1**. Each of the five remaining procurement systems slated to migrate to SAM at later dates has its own entry in the table. These websites are the Electronic Subcontracting Reporting System (eSRS), FedBizOpps, FPDS-NG, PPIRS, and Wage Determinations Online (WDOL). Additional information about SAM is provided below.

[8] 48 C.F.R. § 9.104-6(b). FAPIIS contains information regarding "criminal, civil, or administrative proceedings in connection with the award or performance of a Government contract; terminations for default or cause; determinations of non-responsibility because the contractor does not have a satisfactory performance record or a satisfactory record of integrity and business ethics." (Ibid.)

[9] The Federal Procurement Data System (FPDS) was migrated into the Federal Procurement Data System-Next Generation (FPDS-NG). Although it is not uncommon to refer to FPDS-NG as "FPDS," this report maintains the distinction between the two systems by referring to the original system as "FPDS" and the current system as "FPDS-NG."

[10] Section 3010 of P.L. 111-212, Supplemental Appropriations Act for FY2010, effected this change.

[11] The Catalog for Federal Domestic Assistance "is a government-wide compendium of Federal programs, projects, services, and activities that provide assistance or benefits to the American public." Catalog of Federal Domestic Assistance, "CFDA Overview," at https://www.cfda.gov/?s=generalinfo&mode=list&tab=list&tabmode=list&static=overview. Hence, CFDA is not addressed in this report because it does not involve government procurement.

Table 1. Federal Government's Major Online Acquisition Systems

System	Brief Description or Purpose	Primary or Intended User(s)	Responsible Agency	Publicly Available?
Acquisition Central http://www.acquisition.gov/index.asp	Website includes links to procurement policies and regulations, major initiatives, and acquisition systems, and additional information for the acquisition workforce, federal agencies, contractors, and citizens.	Contracting officers, current and prospective government contractors, and the public	GSA	Yes
Electronic Subcontracting Reporting System (eSRS)[a] http://www.esrs.gov/	Prime contractors submit their small business subcontract reports to eSRS.[b]	Contracting officers and prime contractors	GSA	No
Federal Awardee Performance and Integrity Information System (FAPIIS)[c] http://www.fapiis.gov/fapiis/index.jsp	FAPIIS is a database of information related to the performance and integrity of government contractors (and grant recipients).[d]	Agency officials who have authority over contracts (and grants) and the public	GSA	Yes, except for past performance information.[e]
Federal Business Opportunities (FedBizOpps)[f] https://www.fbo.gov/	Agencies post solicitations (i.e., contract opportunities) for goods or services expected to exceed $25,000. Agencies also post requests for information and sources sought notices, contract awards, and justification and approval documents.[g]	Prospective government contractors	GSA	Yes
Federal Funding Accountability and Transparency Act (FFATA) Portal[g, h] http://www.ffata.org/ffata/	The FFATA database is a website that contains information about contract awards and grant awards.[i]	Public	OMB	Yes
Federal Procurement Data System-Next Generation (FPDS-NG)[j] https://www.fpds.gov	FPDS-NG is a database that contains comprehensive information about agencies' contract awards.	Agency personnel and the public	GSA	Yes
FFATA Sub-Award Reporting System (FSRS)[k] https://www.fsrs.gov	Prime contractors submit subcontract and executive compensation data regarding their first-tier subcontractors to FSRS.[l]	Prime contractors	GSA	Yes, at a different website.[m]

System	Brief Description or Purpose	Primary or Intended User(s)	Responsible Agency	Publicly Available?
Interagency Contract Directory (ICD)[n] https://www.contractdirectory.gov/contractdirectory/	The ICD is a "searchable database of Government-wide Acquisition Contracts (GWACs), multi-agency and single agency contracting vehicles, Federal Supply Schedule (FSS) contracts, or any other procurement instrument intended for use by a single agency or multiple agencies…."[o,p]	Agency personnel	GSA	Yes
Past Performance Information Retrieval System (PPIRS)[q] http://www.ppirs.gov/	Agency acquisition personnel post contractor performance evaluations to, and consult information stored in, PPIRS.[r]	Contracting officers	Department of Defense (DOD)	No
System for Award Management (SAM) (in progress)[s] https://www.sam.gov/sam/	SAM integrates the following functions, which were available originally at Central Contractor Registration (CCR, which also included Federal Agency Registration (FedReg)), Excluded Parties List System (EPLS), and Online Representations and Certifications Application (ORCA): • Serves as the "primary government repository for contractor information required for the conduct of business with the Government."[t] • Identifies "individuals and firms excluded [i.e., suspended or debarred] by Federal government agencies from receiving federal contracts" or certain other types of federal funding (e.g., grants).[u] • Provides a system where federal agencies that buy goods or services from, or sell goods or services to, other federal agencies may register.[v] • Serves as "the primary Government repository for contractor submitted representations and certifications required for the conduct of business with the Government."[w] When completed, SAM also will include eSRS, FedBizOpps, FPDS-NG, PPIRS, WDOL, and	Varies	GSA	Varies

System	Brief Description or Purpose	Primary or Intended User(s)	Responsible Agency	Publicly Available?
	CFDA. (CFDA is not a procurement system.)			
USASpending.gov[h] http://www.usaspending.gov	USASpending.gov is a website that contains information about contracts and other forms of federally funded assistance including grants. [x,k]	Public	OMB[y]	Yes
Wage Determinations On-Line (WDOL)[z] http://www.wdol.gov/	This website "provides a single location for federal contracting officers to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action."[z]	Contracting officers	Department of Labor	Yes

Notes:

a. On June 16, 2010, the Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) issued a final rule that requires contractors to submit their small business subcontractor reports using the Electronic Subcontracting Reporting System (eSRS) in lieu of submitting Standard Form 294, Subcontract Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration," Federal Acquisition Regulation; FAR Case 2005-040, Electronic Subcontracting Reporting System (eSRS)," 75 Federal Register 34260, June 16, 2010. Subpart 19.7 of Title 48 of the *Code of Federal Regulations* (C.F.R.) provides the policies and procedures governing eSRS.

b. A prime contractor is a company or individual who has entered into a contract with a federal agency.

c. On March 23, 2010, DOD, GSA, and NASA issued a final rule to implement the Federal Awardee Performance and Integrity Information System (FAPIIS). U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; FAR Case 2008-027, Federal Awardee Performance and Integrity Information System," 75 Federal Register 14059, March 23, 2010. 48 C.F.R. §9.104-6 provides guidance and procedures regarding the use of information in FAPIIS by contracting officers. Section 872 of P.L. 110-417, Duncan Hunter National Defense Authorization Act for FY2009, required the establishment of this system.

d. FAPIIS includes access to "contracting officers' non-responsibility determinations …, contract terminations for default or cause, agency defective pricing determinations, administrative agreements entered into by suspension and debarment officials to resolve a suspension or debarment, and contractor self-reporting of criminal convictions, civil liability, and adverse administrative actions." U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; FAR Case 2008-027, Federal Awardee Performance and Integrity Information System," 75 Federal Register 14059, March 23, 2010. For information about PPIRS, see the entry in this table.

e. The statutory provision that required the establishment of FAPIIS, Section 872 of P.L. 110-417, Duncan Hunter National Defense Authorization Act for FY2009, states that the database is "for use by Federal agency officials having authority over contracts and grants." However, Section 3010 of P.L. 111-212, Supplemental Appropriations Act for FY2010, amended Section 872 by adding the following language: "In addition, the Administrator [of General Services] shall post all such information [in FAPIIS], excluding past performance reviews, on a publicly available Internet website." It is the policy of the federal government that a completed past performance evaluation is not released to anyone other than government personnel and the applicable contractor. Disclosure of past performance evaluations could "cause harm both to the commercial interest of the Government and to the competitive position of the contractor being evaluated as well as impede the efficiency of Government operations." 48 C.F.R. §42.1503(b).

f. On October 1, 2003, DOD, GSA, and NASA issued a final rule implementing Section 850 of P.L. 105-85 and Section 810 of P.L. 106-398. The rule "designated Federal Business Opportunities (FedBizOpps) as the GPE [Governmentwide Point of Entry]" for federal procurement opportunities. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Electronic Commerce in Federal Procurement," 68 Federal Register 56676, October 1, 2003. Subparts 5.1 and 5.2 of Title 48 of the C.F.R. provide instructions and requirements regarding the posting of contract opportunities on FedBizOpps.

g. A justification and approval (J&A) document is required, in certain cases, when an agency engages in other than full and open competition. 48 C.F.R. §6.303.

h. P.L. 109-282, Federal Funding Accountability and Transparency Act (FFATA), as amended by Section 6202 of P.L. 110-252, Government Funding Transparency Act of 2008, required the Office of Management and Budget (OMB) to "establish a free, public website containing full disclosure of all Federal award information for awards of $25,000 or more" and include "the names and total compensation of [the] five most highly compensated officers" of contractors and subcontractors. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards," 75 Federal Register 39415, July 8, 2010. Two databases were established in response to the enactment of P.L. 109-282, Federal Funding Accountability and Transparency Act (FFATA): the FFATA portal and USAspending.gov (see separate entries in this table).

i. The Federal Procurement Data System-Next Generation (FPDS-NG) is the source of procurement data found on the FFATA website. FFATA Information Center, "Data Sources," at http://ffata.org/ffata/datasetdetails.html.

j. On December 11, 2003, DOD, GSA, and NASA issued a final rule regarding the launch of the revamped procurement database, the Federal Procurement Data System-Next Generation (FPDS-NG). The three agencies stated that "[t]he capabilities of FDPS-NG provide an efficient means of satisfying the statutory requirement of 41 U.S.C. 417 [which, following recodification, is now 41 U.S.C. §1712] that each Executive agency maintain a computer file containing the information at FAR 4.601." U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Federal Procurement Data System," 68 Federal Register 69248, December 11, 2003. Subpart 4.6 of Title 48 of the C.F.R. provides the policy and reporting requirements regarding FPDS-NG. Although it is not uncommon to refer to FPDS-NG as "FPDS," this report maintains the distinction between the two systems by referring to the original system as "FPDS" and the current system as "FPDS-NG."

k. P.L. 109-282, Federal Funding Accountability and Transparency Act of 2006, as amended by Section 6202 of P.L. 110-252, Supplemental Appropriations Act of FY2008, requires, among other things, that certain subaward data be reported and made available to the public. Subpart 4.14 of Title 48 of the C.F.R. provides the procedures governing FSRS. Only first-tier subcontractor data are to be reported. 48 C.F.R. §4.1401(c). A prime contractor may have one or more tiers, or levels, of subcontractors. The companies or individuals to whom a prime contractor awards contracts are first-tier subcontractors. If a first-tier subcontractor awards a contract to another company (for the purpose of performing work related to the prime's contract with the government), the latter is a second-tier subcontractor. A prime contractor is a company or individual who has entered into a contract with a federal agency. 48 C.F.R. §3.502-1. A subcontractor is "(1) … any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor." Ibid.

l. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards," 75 Federal Register 39415, July 8, 2010.

m. Access to first-tier subaward data is available through the USASpending.gov website, at http://www.usaspending.gov/.

n. On July 24, 2003, DOD, GSA, and NASA issued a final rule "requir[ing] contracting activities to input information in an online contact directory for Governmentwide acquisition contracts (GWACs), multi-agency contracts, Federal Supply Schedule contracts, and other procurement instruments intended for multiple agency use…." U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Electronic Listing of Acquisition Vehicles Available for Use by More Than One Agency," 68 Federal Register 43859, July 24, 2003. Subpart 5.6 of Title 48 of the C.F.R. provides guidance regarding the interagency contract directory.

o. Interagency Contract Directory, "FAQs (Frequently Asked Questions)," at https://www.contractdirectory.gov/contractdirectory/FAQs.html.

p. FPDS-NG is the source of procurement data found on the ICD website. Ibid.

q. On July 1, 2009, DOD, GSA, and NASA issued a final rule requiring, among other things, that agencies submit past performance reports to the Past Performance Information Retrieval System (PPIRS). U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; FAR Case 2008-022, Contractor Performance Information," 74 *Federal Register* 31561, July 1, 2009.

r. Generally, agency personnel are required to prepare an evaluation of contractor performance for each contract that exceeds a certain threshold. 48 C.F.R. §42.1502. An evaluation "includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; the contractor's reporting into databases (see subparts 4.14 and 4.15 [of the Federal Acquisition Regulation]); the contractor's record of integrity and business ethics, and generally, the contractor's business-like concern for the interest of the customer." 48 C.F.R. §42.1501.

s. "In December 2008, the ACE [Acquisition Committee for E-Gov] approved a proposal to aggregate the IAE [Integrated Acquisition Environment] data systems into a new System for Award Management (SAM)." U.S. Government Accountability Office, Federal Contracting: Effort to Consolidate Governmentwide Acquisition Data Systems Should Be Reassessed, GAO-12-429, March 15, 2012, p. 7, at http://www.gao.gov/assets/590/589370.pdf. ACE is one of the Chief Acquisition Officers Council's (CAOC's) working groups; it oversees and provides strategic direction to IAE. Chief Acquisition Officers Council, "Working Groups, Acquisition Committee for E-Government," at http://caoc.gov/index.cfm?function=ace.

t. 48 C.F.R. §2.101(b). Although the Central Contractor Registration (CCR) website no longer exists, the procedures and requirements remain the same, and Title 48 of the Code of Federal Regulations still references CCR. Hence, CCR-related information is provided here. Prospective contractors are required to be registered in CCR prior to the award of a contract or an agreement. Registrants provide general, corporate, and financial information to CCR. On October 1, 2003, the Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) issued a final rule amending the Federal Acquisition Regulation (FAR) "to require registration of contractors" in the CCR. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Central Contractor Registration," 68 Federal Register 56669, October 1, 2003. Prior to the publication of this rule, only "[c]ertain agencies," such as the Department of Defense, had required contractors to register in the CCR database. U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation: Central Contractor Registration," 68 Federal Register 16366, April 3, 2003. Subpart 4.11 of Title 48 of the C.F.R. provides the policy and procedures governing CCR.

u. U.S. General Services Administration, "Excluded Parties List System, Frequently Asked Questions (FAQs). (The EPLS website, including the FAQs page, no longer exists.) Although the Excluded Parties List System (EPLS) no longer exists, the procedures and requirements remain the same, and Title 48 of the Code of Federal Regulations still references EPLS. Hence, EPLS-related information is provided here. On December 20, 2004, DOD, GSA, and NASA issued a final rule requiring publication of "an electronic list of parties excluded from doing business with the Federal Government online identified as the Excluded Parties List System (EPLS)." U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Excluded Parties List System Enhancement," 69 *Federal Register* 76347, December 20, 2004. Previously, the Government Printing Office published a hardcopy List of Parties Excluded from Federal Procurement and Nonprocurement Programs (List of Parties). U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Excluded Parties System Enhancement," 68 *Federal Register* 67354, December 1, 2003. 48 C.F.R. §9.404 provides information regarding the operation of EPLS.

v. U.S. Department of the Treasury, *Treasury Financial Manual*, Vol. I, Chap. 4700: Appendix 10, p. 3, at http://www.fms.treas.gov/finstandard/reference.htm.

w. FAR 2.101(b). Although the Online Representations and Certifications Application (ORCA) website no longer exists, the procedures and requirements remain the same, and Title 48 of the C.F.R. still references ORCA. Hence, ORCA-related information is provided here. Generally, a representation indicates the nature of company ownership, or a company's business status. Examples of representations include contract clauses 52.204-5, Women-Owned Business (Other Than Small Business); 52.219-1, Small Business Program Representations; and 52.226-2, Historically Black College or University and Minority Institution Representation. 48 C.F.R. § 4.1202. By including, or completing a certification, a company is attesting that it has satisfied some requirement. Examples of certifications include contract clauses 52.223-1, Biobased Product Certification; 52.225-2, Buy American Act Certificate; and 52.225-20, Prohibition on Conducting Restricted Business Operations in

Sudan—Certification. Part 52 of Title 48 of the C.F.R. On December 20, 2004, DOD, GSA, and NASA issued a final rule "requir[ing] offerors to submit representations and certifications electronically via the Business Partner Network (BPN), unless certain exceptions apply." U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Electronic Representations and Certifications," 69 Federal Register 76341, December 20, 2004. Subpart 4.12 of Title 48 of the C.F.R. provides the policy and procedures regarding the Online Representations and Certifications Application (ORCA) website.

x. FPDS-NG and FSRS are the sources of procurement data found on USAspending.gov. USAspending.gov, "Sources of Data for USAspending.gov," at http://www.usaspending.gov/learn?tab=FAQ. Click on the "Sources of Data" tab.

y. The President's FY2014 budget would have the Department of the Treasury "assume responsibility for operating and expanding *USAspending.gov*." Transferring this system from GSA to Treasury "is consistent with recommendations from the Government Accountability and Transparency Board to transition assets built by the Recovery Accountability and Transparency Board into the Federal Government's overall financial management framework." Executive Office of the President, Office of Management and Budget, *Fiscal Year 2014 Budget of the U.S.* Government, p. 143, at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/treasury.pdf. (Italics in original.) Additionally, if either of two similar bills (H.R. 2061 and S. 994) that were introduced in the 113th Congress (and that bear the same name, Digital Accountability and Transparency Act (DATA Act)) was to be enacted, responsibility for USAspending.gov would shift from the head of OMB to the Treasury Secretary. See "Digital Accountability and Transparency Act (DATA Act) and FPDS-NG."

z. The website was launched in 2003. U.S. Department of Labor, "Wage Determinations OnLine.gov Frequently Asked Questions," at http://www.wdol.gov/faqs.aspx.

Selected Topics

Quality of Procurement Data

Over the years, questions have been raised regarding the accuracy, completeness, and timeliness of the contract award data available from FPDS and its successor, FPDS-NG. FPDS was established in February 1978, and by fall 1982 the Government Accountability Office (GAO) had published three reports that documented deficiencies in the completion and accuracy of data submitted by federal agencies.[12] A decade later, during preparations for the transition from FPDS to FPDS-NG, GAO reported to the Director of OMB in late 2003 that FPDS data were "inaccurate and incomplete."[13] During the transition, agencies were asked to "review their data and identify and correct any deficiencies" before they transferred the data to FPDS-NG and certify "the accuracy and completeness" of their FY2004 data.[14] Yet, in 2005, GAO shared its concerns with the OMB Director regarding the "[t]imeliness and accuracy of data" and "[e]ase of use and access to data" in FPDS-NG.[15] In its 2007 report, the Acquisition Advisory Panel (AAP) catalogued several problems with FPDS-NG, including inaccurate data, unclear instructions, the system's failure to capture certain data, and validation rules that did not function as intended.[16] An April 2008 review of "complex service acquisitions" by GAO revealed that "the FPDS-NG field identifying major programs was typically blank."[17] Other GAO studies revealed difficulties in identifying interagency contracts in FPDS-NG because of the way they were coded, and reported that "some contracts were incorrectly coded as T&M [time and material] contracts while others were incorrectly coded as having acquired commercial services."[18]

Reports of procurement data problems have been met by efforts to ensure the data are accurate and complete, and reported in a timely manner. Most recently, the Administrations of George W. Bush and Barack Obama have provided guidance to agencies regarding data submitted to FPDS-

[12] See U.S. General Accounting Office, *The Federal Procurement Data System Could Be an Effective Tool for Congressional Surveillance*, PSAD-79-109, October 1, 1979, at http://www.gao.gov/assets/130/127889.pdf; U.S. General Accounting Office, *The Federal Procurement Data System—Making It Work Better*, PSAD-80-33, April 18, 1980, at http://www.gao.gov/assets/130/129310.pdf; and U.S. General Accounting Office, *Analysis of Internal Control Systems to Ensure the Accuracy, Completeness, and Timeliness of Federal Procurement Data*, PLRD-82-119, September 23, 1982, at http://www.gao.gov/assets/210/205810.pdf.

[13] U.S. General Accounting Office, *Reliability of Federal Procurement Data*, GAO-04-295R, December 30, 2003, p. 1, at http://www.gao.gov/new.items/d04295r.pdf. The General Accounting Office was renamed the Government Accountability Office in 2004.

[14] U.S. Government Accountability Office, *Improvements Needed to the Federal Procurement Data System-Next Generation*, GAO-05-960R, September 27, 2005, p. 3, at http://www.gao.gov/new.items/d05960r.pdf.

[15] Ibid., pp. 2-3.

[16] Acquisition Advisory Panel, *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*, January 2007, pp. 441-442, at https://www.acquisition.gov/comp/aap/24102_GSA.pdf. A validation rule is used, in data validation, to ensure that the information submitted fulfills the parameters of the system. For example, an acceptable format for a date (e.g., mm/dd/yyyy) is a type of validation rule. Section 1423 of P.L. 108-136, National Defense Authorization Act for FY2004, authorized the formation of the Acquisition Advisory Panel. Title XIV is the Services Acquisition Reform Act (SARA).

[17] U.S. Government Accountability Office, *Federal Contracting: Observations on the Government's Contracting Data Systems*, GAO-09-1032T, September 29, 2009, p. 4, at http://www.gao.gov/new.items/d091032t.pdf.

[18] Ibid.

NG.[19] The latest guidance, which was issued by the Office of Federal Procurement Policy (OFPP) in 2011, complements and expands upon FAR 4.604. Under FAR 4.604(a), an agency's senior procurement executive "is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS [FPDS-NG]." Additionally, the chief acquisition officer of the agency "must submit to the General Services Administration (GSA), in accordance with FPDS [FPDS-NG] guidance, within 120 days after the end of each fiscal year, an annual certification of whether, and to what degree, agency CAR [contract action report] data for the preceding fiscal year is complete and accurate."[20]

OFPP's 2011 memorandum provides instructions, sampling methodologies, and templates for agencies to use in calculating and reporting the accuracy and completeness of data submitted to FPDS-NG.[21] Agencies are required to compute the accuracy of 25 "key data elements," including date signed, extent competed, type of set aside, and place of manufacture.[22] Governmentwide, the four-year average (FY2008-FY2011) for completeness was 98.3% and for sample accuracy 94.0%.[23] Data were not provided for individual agencies, and these are the most recent data available.

OFPP also stated in its memorandum that, in conjunction with GSA, it would carry out the following activities as part of its "sustained efforts to improve procurement data quality throughout the year":

- "continue the interagency working group on data quality, focusing on emerging issues, challenges, solutions, guidance, and process improvements;"
- "revitalize the [online] community of practice ... to collect tools and agency best practices for improving data quality and host focused discussions on key issues; and"
- "collaborate with the Federal Acquisition Institute and the Defense Acquisition University to review and improve related workforce training and development

[19] See Clay Johnson III, Deputy Director for Management, U.S. Office of Management and Budget, "Timely and Accurate Procurement Data," memorandum, August 25, 2004, at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/procurement/procurement_data082504.pdf; Paul A. Denett, Administrator, Office of Federal Procurement Policy, "Federal Procurement Data Verification and Validation," memorandum, March 9, 2007, at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/procurement/pro_data/fpds_030907.pdf; Paul A. Denett, Administrator, Office of Federal Procurement Policy, "Improving Acquisition Data Quality—FY2008 FPDS Data," memorandum, May 9, 2008, at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/procurement/memo/a123_guidelines.pdf; and, Lesley A. Field, Acting Administrator, Office of Federal Procurement Policy, "Improving Acquisition Data Quality for Fiscal Years 2009 and 2010," memorandum, October 7, 2009, at http://www.whitehouse.gov/sites/default/files/omb/assets/procurement_memo/data_quality_guidance_100709.pdf.

[20] 48 C.F.R. §4.604(c).

[21] See Daniel I. Gordon, Administrator, Office of Federal Procurement Policy, "Improving Federal Procurement Data Quality—Guidance for Annual Verification and Validation," memorandum, May 31, 2011, at http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/improving-data-quality-guidance-for-annual-verification-and-validation-may-2011.pdf.

[22] Ibid., p. 3 (Exhibit 1).

[23] "Federal Government Procurement Data Quality Summary Fiscal Years 2008 Through 2011 for Agency Data in the Federal Procurement Data System," p. 2, at http://www.usaspending.gov/customcode/4_year_summary_Federal_Government_Procurement_Data_Quality.pdf. This document does not identify the author. Since agencies are required to submit their data quality reports to the Office of Management and Budget, it seems likely that OMB, or OFPP, is the author of this two-page document.

> and to develop a better understanding of how procurement data are used throughout the acquisition process."[24]

Additionally, policies, system limitations, and regulations can be sources of seemingly inaccurate, or incomplete, data; lead to unusual, or anomalous, results; or hamper transparency. Examples include the following:

- FPDS-NG does not contain classified data, or information about purchases for "petroleum or petroleum products ordered against a Defense Logistics Agency Indefinite Delivery Contract."[25]
- DOD's procurement data are not available immediately through FPDS-NG; the data are "subject to a 90-day delay."[26]
- When registering in SAM, a business may choose to identify itself as, for example, a woman owned business or minority owned business.[27] Independent verification of these designations is not required, which leaves open the question of the accuracy of this type of information.
- Data in FPDS-NG are identified, or organized, as data elements, and, over the years, data elements have been added, deleted, or revised. It is possible that the inclusion of a recently added data element, or one that is scheduled to be removed, in a user's search could affect the results.[28] For example, conducting a search for FY2007 procurement data that includes a data element added to FPDS-NG in FY2010 might yield anomalous results.
- Regarding transparency, some might argue that it is hampered by regulations that permit the use of a generic Data Universal Numbering System (DUNS) number. Generally, an entity is required to have a unique DUNS when registering in SAM. Under certain circumstances, an entity may use an authorized generic DUNS number (e.g., 123456787, which is identified as "Miscellaneous Foreign Awardees"), which precludes identification of the contractor.[29]

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[24] Gordon, "Improving Federal Procurement Data Quality—Guidance for Annual Verification and Validation," p. 2.

[25] FAR 4.603(a); U.S. General Services Administration, "FPDS-NG FAQ," at https://www.fpds.gov/wiki/index2.php/FPDS-NG_FAQ.

[26] U.S. General Services Administration, "DOD Data Availability," at https://www.fpds.gov/common/html/dodDataAvailability.html; Shay D. Assad, Director, Defense Procurement and Acquisition Policy, "Update on DOD Transition to Federal Procurement Data System-Next Generation (FPDS-NG)," memorandum, December 29, 2006, p. 2.

[27] U.S. General Services Administration, *System for Award Management User Guide—v2.1*, September 10, 2012, p. 62, at https://www.sam.gov/sam/transcript/System_for_Award_Management.pdf. Upon selecting "Minority Owned Business," a contractor is then required to select the applicable sub-group, such as Black American Owned, Hispanic American Owned, or Native American Owned. (Ibid.) Although there are some exceptions, generally, prospective contractors are required to be registered in SAM prior to award of a contract. 48 C.F.R. §4.2201(a). Certain representations, or certifications, such as those involving AbilityOne and the Small Business Administration's 8(a) program, are "applied automatically if they are applicable" to an entity. U.S. General Services Administration, *System for Award Management User Guide—v2.1*, September 10, 2012, p. 62, at https://www.sam.gov/sam/transcript/System_for_Award_Management.pdf.

[28] For example, *date signed*, *type of contract*, *contracting agency code*, and *solicitation identifier* are data elements. For a complete list of FPDS-NG data elements, see the table of contents in the FPDS-NG data element dictionary, at https://www.fpds.gov/downloads/Version_1.4.3_specs/FPDSNG_DataDictionary_V1.4.3.pdf.

[29] Generally, prior to award of a contract, a company or other entity must have registered for and received a DUNS number. 48 C.F.R. §4.605(b). The company Dun & Bradstreet, Inc. assigns unique DUNS numbers to businesses. Dun (continued...)

System for Award Management (SAM)

As mentioned above, an initiative is underway to consolidate eight procurement websites, and the Catalog of Federal Domestic Assistance, into one system.[30] The eight procurement websites are Central Contractor Registration, Electronic Subcontract Reporting System, Excluded Parties List System, Federal Business Opportunities, Federal Procurement Data System-Next Generation, Online Representations and Certifications Application, Past Performance Information Retrieval System, and Wage Determinations OnLine.gov. When discussing SAM, these websites are referred to as "legacy systems."

The history of SAM begins with the Integrated Acquisition Environment (IAE). Established by OMB in 2001 and housed within GSA, IAE "was initiated to integrate, standardize, and streamline some of the many different acquisition data systems used throughout the government."[31] The development and implementation of web-based acquisition systems occurred independently and, accordingly, without an overarching, comprehensive plan, as the federal government shifted from paper-based systems to web-based systems for its procurement processes.[32] The mix of government procurement systems also included "unique data systems" that had been developed by some agencies for their own use.[33] IAE's initial strategy was to "adopt, adapt, acquire," which involved adopting existing data systems that had been developed by federal agencies (e.g., DOD's CCR), adapting existing systems (e.g., transforming FPDS into FPDS-NG), and acquiring systems to fulfill unmet needs (e.g., ORCA).

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& Bradstreet, Inc., "The D-U-N-S® Number," at http://www.dnb.com/get-a-duns-number.html. For contract actions valued at or below $25,000, a contractor may use a generic DUNS number if he or she is a student; a dependent of "a veteran, foreign service officer, or military member assigned outside the United States and its outlying area"; or, is located and performs the work outside the United States and its outlying areas and "does not otherwise have a DUNS number." 48 C.F.R. §4.605(c)(2)(i). A generic DUNS number also may be used for "[c]ontracts valued above $25,000 awarded to individuals" located and performing work outside the United States and its outlying areas, or when "specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods and services." 48 C.F.R. §4.605(c)(2)(ii) and (iii).

[30] The Catalog of Federal Domestic Assistance contains "a full listing of all Federal programs available to State and local governments (including the District of Columbia); federally-recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals." Catalog of Federal Domestic Assistance, "About CFDA," at https://www.cfda.gov/.

[31] U.S. Government Accountability Office, *Federal Contracting: Effort to Consolidate Governmentwide Acquisition Data Systems Should Be Reassessed*, GAO-12-429, March 15, 2012, p. 2, at http://www.gao.gov/assets/590/589370.pdf.

[32] Vivek Kundra, then-U.S. Chief Information Officer, stated: "In the early nineties, vendors interested in contracting opportunities had to subscribe to a daily print publication called the Commerce Business Daily. In 2002, the Commerce Business Daily was retired, and FedBizOpps became the central source for contracting opportunities…. Previously, information about what the government buys was provided in an annual paper-based report. The current Federal Procurement Data System (FPDS), established in 2003, captures up to 198 data elements per transaction…. Before the Central Contractor Registration system was made mandatory in 2003, vendors interested in doing business with the government mailed forms to individual contracting offices…." U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on Contracting Oversight, *Improving Transparency and Accessibility of Federal Contracting Databases*, 111th Cong., 1st sess., September 29, 2009, S.Hrg. 111-277 (Washington: GPO, 2010), p. 23.

[33] U.S. Government Accountability Office, *Federal Contracting: Effort to Consolidate Governmentwide Acquisition Data Systems Should Be Reassessed*, p. 2.

Although IAE improved the acquisition systems it inherited, questions remained regarding, among other things, the efficiency, responsiveness, and coherence of the existing systems. Testifying at a congressional hearing in fall 2009, the Federal Chief Information Officer (CIO) described the problems associated with the multiple procurement systems.

> Each of the eight IAE systems was originally developed independently, used different software, and operated on different hardware platforms run by different contractors. In this complex and stove-piped environment, it was difficult to respond to policy or technology changes in a timely manner.[34]

Specific issues, or problems, included separate logins, which are "inefficient and confusing"; overlapping data, which is "inefficient and creates opportunity for error"; no single or uniform level of service, which could subject users to varying levels of service; and multiple vendors hosting the systems, which is "more expensive than consolidated hosting."[35]

At the same hearing where he described the problems with the existing acquisition systems, the Federal CIO stated that consolidating the eight systems into "an integrated platform for procurement" would improve data quality, simplify access to procurement data, and improve the usability of the procurement systems.[36]

The effort to develop an integrated platform began in February 2010 when GSA awarded a contract to IBM US Federal to consolidate nine systems (eight procurement systems plus the CFDA) into SAM.[37] **Table 2** shows how SAM will be organized when completed.

Table 2. Organization of the System for Award Management (SAM)

Functional Area	Capabilities	Legacy Systems
Entity Management[a]	• "Manage entity core data" • "Manage certifications [and] representations"	• Central Contractor Registration • Federal Agency Registration • Online Representations and Certifications Application
Award Management	• "Post solicitation and award data" • "Maintain government-wide contract award data" • "Manage government-wide subcontractor data"	• Federal Business Opportunities • Federal Procurement Data System • Electronic Subcontracting Reporting System • FFATA Subaward Reporting

[34] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on Contracting Oversight, *Improving Transparency and Accessibility of Federal Contracting Databases*, p. 77.

[35] U.S. General Services Administration, "System for Award Management (SAM), Creating Efficiencies Through Integration and Consolidation," February 2012, p. 3, at https://www.sam.gov/sam/transcript/SAM_Overview-Feb2012.pdf.

[36] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Ad Hoc Subcommittee on Contracting Oversight, *Improving Transparency and Accessibility of Federal Contracting Databases*, p. 77.

[37] U.S. General Services Administration, "GSA to Consolidate Contract Performance Databases," news release, February 18, 2010, at http://www.gsa.gov/portal/content/104150.

Functional Area	Capabilities	Legacy Systems
		System
Wage Data	• "Access wage determinations"	• Wage Determinations Online
Performance Information	• "Management/maintain past performance information"	• Past Performance Information Retrieval System
	• "Manage exclusion list"	• Federal Awardee Performance and Integrity Information System
		• Excluded Parties List System
Assistance Program Catalog	• "Create/maintain assistance program catalog"	• Catalog of Federal Domestic Assistance
Support	• "Provide security/access control"	None
	• "Provide reporting/communications support"	
	• "Provide internal controls"	

Source: U.S. General Services Administration, "System for Award Management (SAM), Creating Efficiencies Through Integration and Consolidation," February 2012, p. 8, at https://www.sam.gov/sam/transcript/SAM_Overview-Feb2012.pdf.

Note:

a. "*Entity* refers to prime contractors, organizations or individuals applying for assistance awards, those receiving loans, sole proprietors, corporations, partnerships, and any Federal government agencies desiring to do business with the government." U.S. General Services Administration, "System for Award Management (SAM), Creating Efficiencies Through Integration and Consolidation," February 2012, p. 8, at https://www.sam.gov/sam/transcript/SAM_Overview-Feb2012.pdf.

The first phase, launched in July 2012 after a two-month delay, saw the entity management functions—CCR (including Federal Agency Registration), EPLS, and ORCA—migrate to SAM.[38] However, several news articles reported that problems with SAM prompted GSA to shut down the system for several days, until August 6, 2012.[39] GSA also contacted the contractor responsible for SAM, summarizing, in a notice of concern, the problems encountered by users.

> The overall performance issues and functionality defects that materialized with the initial release of SAM Phase 1 on July 28, 2012, have prevented a majority of users from performing a variety of award management process with SAM Phase 1. The performance issues and defects continue to impact end to end award management processes within the system, forcing users to rely on emergency system workarounds.[40]

[38] U.S. General Services Administration, "System for Award Management: Announcement," n.d., at https://www.sam.gov/sam/announce1.htm. Upon announcing the shift in implementation date from May 29, 2012 to late July 2012, GSA stated that the "additional sixty days will allow federal agencies to continue preparing their staff, give agencies and commercial system providers even more time to test their data transfer connections, and will ensure SAM contains the critical, documented capabilities users need from the system." Ibid.

[39] Matthew Weigelt, "GSA's New Award-Management System Offline Right After Launch," *FCW*, August 3, 2012, at http://fcw.com/Articles/2012/08/03/sam-goes-live.aspx?sc_lang=en&p=1. See also "GSA's SAM May Not Yet Be Fixed," *Washington Technology*, August 8, 2012, at http://washingtontechnology.com/articles/2012/08/07/sam-trouble.aspx?sc_lang=en; Matthew Weigelt, and "GSA's SAM Continues to Frustrate Its Users," *FCW*, September 13, 2012, at http://fcw.com/articles/2012/09/15/buzz-system-for-award-management-gsa.aspx?sc_lang=en.

[40] Gene Lee, Team Lead Contracting Officer, Team B Administrative Services, Office of Administrative Services, U.S. (continued...)

Concerns about the operability of SAM also prompted GSA to re-establish temporarily its Excluded Parties List System website in fall 2012.[41] Contracting officers use EPLS to determine whether prospective contractors have been excluded from receiving government contracts.

DOD responded to SAM performance issues by issuing a class deviation from registration requirements and annual representations and certifications requirements for contractors.[42] The Defense Department's memorandum noted that "SAM has experienced performance issues that have affected the timely processing of awards," and added that GSA had been working aggressively to resolve the issues promptly.[43] Reportedly, the Administrator of OFPP stated, in September 2012, that "'GSA has a lot of thinking to do before they implement future phases of SAM.... OFPP is working hand-in-hand with them and CIO [U.S. Chief Information Officer] Steve VanRoekel, and other users such as DOD, to make sure the system moves forward in the right direction.'"[44]

Several months after Phase 1 was implemented, GSA shifted management responsibility for SAM from its Office of Government-wide Policy to the agency's Federal Acquisition Service (FAS) and the Office of the Chief Information Officer. Specifically, the Acting FAS Commissioner and the Deputy CIO have taken over management of SAM.[45] The same announcement noted that the Acting Administrator of General Services has "called for the development, reporting and monitoring of key metrics around the SAM implementation."[46]

While performance problems were not apparent publicly until implementation had begun, budget and schedule problems were identified earlier. In March 2012, GAO reported that the project has

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General Services Administration, letter to Ms. Manzi, IBM, August 7, 2012, at http://www.federalnewsradio.com/pdfs/IBM_SAM_concern_letter_GSA.pdf. Neither the full name nor the title of the addressee was included in the letter.

[41] Richard Ginman, Director, Defense Procurement and Acquisition Policy, U.S. Department of Defense, "Class Deviation—System for Award Management (SAM)," memorandum, August 21, 2012, p. 2, at http://www.acq.osd.mil/dpap/policy/policyvault/USA004926-12-DPAP.pdf. In an announcement dated November 19, 2012, GSA stated that the "EPLS system will be retired on November 21, 2012." System for Award Management, "News and Announcements," at https://www.sam.gov/portal/public/SAM/?portal:componentId=1ef9bb65-9ec6-4df3-9b3c-8b937668f2da&portal:type=action&navigationalstate=JBPNS_rO0ABXdcACJqYXZheC5mYWNlcy5wb3J0bGV0YnJpZGdlLlNUQVRFX0lEAAAAAQApdmlldzplYWM1ZTI2MC0yOGZhLTRiMTUtOTNkYy04NTAzZTk0MGUxMGIAB19fRU9GX18*&interactionstate=JBPNS_rO0ABXdHABBfanNmQnJpZGdlVmlld0lkAAAAAQAmL2pzZi9nZW5lcmFsSW5mby9zYW1HZW5lcmFsSW5mb05hdi5qc3AAB19fRU9GX18*. As of the date of this report, the EPLS URL, http://www.epls.gov, automatically redirects to the SAM website.

[42] Ginman, "Class Deviation—System for Award Management (SAM)," p. 2. See Subpart 4.11 of the FAR and Defense FAR Supplement (DFARS) 204.1103(2)(i) for registration requirements, and FAR 4.1201 and DFARS 204.1202 for annual representations and certifications requirements.

[43] Ginman, "Class Deviation—System for Award Management (SAM)," p. 1.

[44] Jason Miller, "OFPP Keeping a Close Eye on Struggling Acquisition System Consolidation," September 12, 2012, at http://www.federalnewsradio.com/517/3033079/OFPP-keeping-a-close-eye-on-struggling-acquisition-system-consolidation. In early 2013, GSA identified another problem with SAM, a "security vulnerability" which could have allowed "some existing users in the system to access certain registration information of other entities.... GSA implemented a software patch to address the immediate vulnerability ... [and] is undertaking a full review of the system to investigate and address any additional impacts to registrants in SAM." U.S. General Services Administration, "System for Award Management Security Vulnerability," press release, March 2013, at http://www.gsa.gov/portal/content/167851.

[45] U.S. General Services Administration, System for Award Management, "SAM News," October 22, 2012, at https://www.sam.gov/portal/public/SAM/.

[46] Ibid.

been plagued by cost increases, funding shortages, and schedule delays. Failure to "adequately execute the SAM hosting strategy as initially planned" and increased "demand for help desk services" contributed to higher development costs.[47] GAO estimated that the cost of SAM-related contracts increased from $96.0 million (initial contract award amounts) to $181.1 million (GAO estimate).[48] The increase in cost was due mostly to "higher than expected hosting costs."[49] While costs have been increasing, "the program also did not receive funding increases it requested."[50] GSA's response has been to modify and delay the schedule, and defer payments or revise contract requirements.[51] GAO recommended that GSA "[r]eassess the SAM business case to compare the costs and benefits of various alternatives," and, if it makes sense to continue the project, then "reevaluate the hosting strategy" and "take steps to ensure that the SAM development contract payments are more closely aligned with the program schedule and delivery of capabilities."[52]

Access to and Comprehension of Procurement Information and Data

Public access to procurement information and data, which is often couched in terms of transparency, has grown over the years.[53] Some procurement processes, such as the posting of solicitations, have moved online, and statutory requirements and policies have led to the creation of procurement data systems, such as USAspending.gov. Transparency can yield significant benefits, such as contributing to an informed citizenry, enhancing policy planning and decisionmaking, and fostering accountability.

Access to online systems and procurement information and data, however, does not necessarily equate to comprehension. Without sufficient knowledge of government procurement and expertise in using the government's online acquisition systems, users may face challenges identifying which system(s) can be used meet their needs; understanding the capabilities and limitations of the different systems; determining how to access, or find, the data or information they seek; and understanding how to analyze and interpret the data or information they obtain. The following examples demonstrate situations users might encounter.

- The dollar amounts associated with some contract actions in FPDS-NG (and, relatedly, USAspending.gov) are either negative or zero. A negative dollar amount represents a deobligation and a dollar amount of zero represents an administrative action.

[47] U.S. Government Accountability Office, *Federal Contracting: Effort to Consolidate Governmentwide Acquisition Data Systems Should Be Reassessed*, GAO-12-429, March 15, 2012, p. 10, at http://www.gao.gov/assets/590/589370.pdf.

[48] Ibid., p. 11.

[49] Ibid., p. 12. Hosting involves maintaining "a secure facility with Internet connectivity; the hardware on which the system will be installed; the operating system and other software necessary to operate the code that will make up SAM; and the operation and maintenance of the hosting environment." Ibid.

[50] Ibid., p. 14.

[51] Ibid.

[52] Ibid., p. 21.

[53] For additional information regarding government transparency, see CRS Report R42817, *Government Transparency and Secrecy: An Examination of Meaning and Its Use in the Executive Branch*, by (name redacted) et al.

- The Federal Awardee Performance Information and Integrity System may contain information for a particular contractor that covers a five-year period.[54] However, "some of that information may not be relevant to a determination of present responsibility" for the contractor, including "a prior administrative action such as debarment or suspension that has expired or otherwise been resolved."[55] Moreover, a contractor's Certification Regarding Responsibility Matters only covers three years, not five years.[56]
- For certain types of businesses, such as minority-owned and woman-owned, a business owner self-certifies that the business belongs in a particular group. A business owner's interpretation of a particular designation might differ from a user's interpretation. Thus, a user who is unaware self-certification is permitted for certain types of businesses might obtain incorrect data.
- FPDS-NG is a dynamic system in that data elements (e.g., type of contract, date signed, and vendor name) may be added, merged, or eliminated. For that reason, some searches could yield potentially inaccurate results.

Posting Contracts Online

Presently, the federal government does not have a database of contracts awarded by federal agencies. (FPDS-NG includes discrete information, in data fields (data elements), about contract awards.) Since June 2003, at least two separate executive branch initiatives have explored the possibility of posting contracts online, and at least one bill, if enacted, would have led to posting contracts online.

The General Services Administration led the initial executive branch effort, posting a notice in the *Federal Register* in 2003. The stated goal of the initiative was to increase transparency and "further the [Bush] Administration's global vision of a citizen-centric E-Government" while the notice sought comments that could aid in implementing a pilot.[57] GSA noted that any proprietary information[58] would be redacted from a contract before it would be posted.[59] Whereas some respondents supported the proposal, suggesting that implementation would increase visibility of and transparency in federal procurement, others stated that existing information sources, policies, and regulations were sufficient.[60]

Working through its Integrated Acquisition Environment, GSA established a working group, which consisted of representatives from several federal agencies, to examine the feasibility,

[54] Section 872(c) of P.L. 110-417, Duncan Hunter National Defense Authorization Act for FY2009.

[55] 48 C.F.R. §9.104-6(b).

[56] 48 C.F.R. §52.209-5.

[57] U.S. General Services Administration, "Integrated Acquisition Environment Pilot: Posting Awarded Contracts on the Worldwide Web," 68 *Federal Register* 33951, June 6, 2003.

[58] Certain matters are exempt from disclosure under the Freedom of Information Act (FOIA; 5 U.S.C. §552), including "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 US.C. §552(b)(4).

[59] U.S. General Services Administration, "Integrated Acquisition Environment Pilot: Posting Awarded Contracts on the Worldwide Web," p. 33951.

[60] Integrated Acquisition Environment, U.S. General Services Administration, *Contract Award Documents Online*, Version 3.3, December 20, 2004, pp. 2-3.

challenges, and anticipated benefits of posting federal contracts online. The project was named Contract Award Documents Online (CADO). The CADO working group considered how the Freedom of Information Act (FOIA) process might integrate with, or affect, making contracts publicly available as a matter of course, because agencies use the FOIA process when responding to most requests for copies of contracts. The CADO working group identified the following challenges:

- "CADO removes the FOIA staff from the process, exposing Agencies to legal challenges by minimizing active FOIA participation in the document release process."
- "Proactive posting to the public increases the potential for inadvertently releasing sensitive information."
- "Agency Staff limitations—CADO would require drastic increases in administrative and technical staff to maintain and operate proactive systems in both the vendor and government communities."
- "Lack of current federal regulation or policy guiding agencies and contractors in the procedures and processes of obtaining contract award documents outside of the current FOIA process."[61]

Anticipated benefits of making contracts publicly available include "[i]ncreased transparency of contract award documents … [p]otential reduction in the number of FOIA requests … [and] [r]educed cost of operations and maintenance of manual response systems in each agency."[62] The CADO working group concluded, however, "that there is insufficient data supporting a Business Case to recommend the design, development and implementation of a centralized federal system to present contract award data online."[63]

More recently, DOD, GSA, and NASA issued an advance notice of proposed rulemaking regarding posting contracts online. Anticipating that, in the future, a requirement to post contracts, task orders, and delivery orders online might be established, in 2010 the Civilian Agency Acquisition Council (CAAC) and Defense Acquisition Regulations Council (DAR Council) solicited comments with the goal of learning how to post contracts "without compromising contractors' proprietary and confidential commercial or financial information."[64] Additionally, the councils sought suggestions that would "facilitate uniform, consistent

[61] Ibid., p. 9.

[62] Ibid.

[63] Ibid.

[64] U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation: FAR Case 2009-004, Enhancing Contract Transparency," 75 Federal Register 26916, May 13, 2010, at http://www.gpo.gov/fdsys/pkg/FR-2010-05-13/pdf/2010-11381.pdf. The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations (DAR) Council "prepare[ ] and issue[ ] through coordinated action" revisions to the Federal Acquisition Regulation (FAR). 48 C.F.R. §1.201-1(a). The Administrator of General Services chairs the CAAC. "The other members of this council shall be one each representative from the—(1) Departments of Agriculture, Commerce, Energy, Health and Human Services, Homeland Security, Interior, Labor, State, Transportation, and Treasury; and (2) Environmental Protection Agency, Social Security Administration, Small Business Administration, and Department of Veterans Affairs." The representative of the Secretary of Defense serves as the Director of the DAR Council. "Membership shall include representatives of the military Departments, the Defense Logistics Agency, and the National Aeronautics and Space Administration." 48 C.F.R. §1.201-1(b) and (c). A task order is "an order for services placed against an established contract or with Government sources." 48 C.F.R. §2.101(b). A delivery order is an order for goods.

processing methods that are fair and equitable as well as cost effective and efficient, while at the same time simplifying access to acquisitions once posted."[65]

In responding to a particular set of comments elicited by the advance notice of proposed rulemaking, the CAAC and DAR Council identified several issues they believed warranted consideration prior to implementing a scheme for the posting of contracts online.

> Any contract-posting initiative must give consideration to the cost involved (in technology and software as well as the time of contractor and Government employees) and the risks associated with posting this information (e.g., lawsuits against the Government for inadvertently releasing information that could be damaging to national security and/or the competitive positions of companies doing business with the Government). DOD, GSA, and NASA advocate a judicious approach to establishing contract-posting requirements, one that will appropriately conserve resources and identify information that should be protected from general release to the public. Our assessment is that any contract posting requirement, at a minimum, should involve … a high dollar threshold [regarding the value of a contract], a requirement for only the successful offeror to redact the contract and/or proposal that will be posted, and an incentive for the successful offeror to do so.
>
> Necessary protections for information and personnel involve, at a minimum, a FOIA analysis, which is time consuming and requires senior analysts and attorneys. DOD, GSA, and NASA are concerned, too, that the on-going efforts to identify protections essential for safeguarding unclassified information are not yet sufficiently mature that such efforts can be bypassed to establish a contract-posting requirement prior to guidance on unclassified information. To avoid inadvertent disclosures, the Government would be required to review contractor-redacted documents before such items are posted to a public Web site. The contract or contractor's proposal may contain information that requires protection beyond trade secrets or proprietary information.[66]

Offering the following rationale, DOD, GSA, and NASA withdrew the advance notice of proposed rulemaking.

> [A]t this time … [we] do not plan to amend the FAR because some of the existing acquisition systems … provide certain information on Government contracts that is readily available to the public, and most of the content of a contract solicitation or contract action not already available on one of the [government] acquisition systems … is either standard FAR terms and conditions … agency specific terms and conditions … or sensitive information that may be releasable under FOIA.[67]

Congress also has shown interest in making procurement documents, including contracts, available to the public. If enacted, S. 3077 (110th Congress) would have required that "the request for proposals, the announcement of the award, the contract, and the scope of work to be performed" for all "contracts, subcontracts, purchase orders, task orders, lease agreements and assignments, and delivery orders" be posted on the website required by the Federal Funding

[65] U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation: FAR Case 2009-004, Enhancing Contract Transparency," p. 26916.

[66] U.S. Department of Defense, U.S. General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Enhancing Contract Transparency," 76 *Federal Register* 7525, February 10, 2011, at http://www.gpo.gov/fdsys/pkg/FR-2011-02-10/pdf/2011-2900.pdf.

[67] Ibid.

Accountability and Transparency Act (FFATA) of 2006.[68] Neither this bill, nor its companion bill, H.R. 6411, was enacted.

During the 113th Congress, a bill was introduced that, if enacted, would require executive branch agencies to make public records available on the Internet at no charge."[69] Whether S. 549 would apply to government contracts probably would depend, at a minimum, on the interpretations of *public record* and *record*, and any regulations that would be promulgated to implement this bill.[70] The term *public record*, as defined in S. 549, "means any record, regardless of form or format, that an agency discloses, publishes, disseminates, or makes available to the public."[71] The bill's definition of *record* "includes contracts entered into by persons working as agents of the Federal Government, including records in the possession of Government contractors."[72]

Digital Accountability and Transparency Act (DATA Act)[73] and FPDS-NG

The DATA Act—which is the title of two similar bills, H.R. 2061 and S. 994, that were introduced during the 113th Congress—would amend the Federal Funding Accountability and Transparency Act (FFATA; P.L. 109-282; 31 U.S.C. §5101 note).

If the DATA Act (i.e., either bill) is enacted, responsibility for the operation of the website established pursuant to FFATA, USAspending.gov, would shift from the Director of OMB to the Secretary of the Treasury. Generally, the DATA Act would require, among other things, the following:

- The Treasury Secretary, in consultation with the heads of OMB, GSA, and other federal agencies, to establish governmentwide "financial data standards for Federal funds";
- The Director of OMB to lead an effort to consolidate financial reporting requirements for recipients of federal awards; and
- The Recovery Accountability and Transparency Board, in consultation with the Secretary of the Treasury and the head of OMB, to establish a pilot program for recipients of federal funds that meet certain conditions. The pilot program would involve reporting financial data related to receipt of federal funds.[74]

Neither bill would establish a *procurement* database. A key distinction between the thrust of the DATA Act and the purpose of most procurement databases is that the former focuses on spending

[68] Section 2(a)(2)(A)(iii) of S. 3077 (110th Congress). A federal agency, as a party to contracts, purchase orders, task orders, lease agreements and assignments, and delivery orders, would have possession of these documents. However, a federal agency is not a party to the subcontract(s) between a prime contractor and its subcontractor(s). If this provision had been enacted, it is unclear how federal agency would have obtained copies of subcontracts. The term *prime contractor* refers to the company that was awarded a contract by a federal agency.

[69] Section 7(a)(1)(A) of S. 549 (113th Congress).

[70] Section 7(b) of S. 549 (113th Congress) addresses rulemaking for this bill.

[71] Section 3(7) of S. 549 (113th Congress).

[72] Section 3(6)(B) of S. 549 (113th Congress).

[73] Although the title of the bill includes the word "act," the bill is commonly referred to as the "DATA Act."

[74] Section 4 of H.R. 2061 (as introduced, 113th Congress).

data and using it as a tool to detect fraud, waste, or abuse while the latter facilitate the acquisition process. Possible implications for FPDS-NG involve the connection between it and USAspending.gov. FPDS-NG is the source of the prime contracting procurement data available through USAspending.gov.[75] The implications of a requirement to develop and implement financial data standards for FPDS-NG.

Concluding Remarks

Web-based systems increasingly have become embedded in the federal government's acquisition process, providing the means for collecting, storing, searching, or disseminating a variety of data and other information to the acquisition workforce and other interested parties. Many of the systems were designed to facilitate the acquisition process; some of them also promote transparency. Recognizing the potential benefits of integrating certain online procurement systems (and the Catalog for Federal Domestic Assistance), GSA has undertaken an effort to consolidate nine systems into the System for Award Management. It remains to be seen whether efforts to disclose additional procurement information (such as posting contracts online), or to present procurement data in a new portal, or format (such as proposed in the DATA Act), come to fruition. No matter the source of information or data, though, some would argue that access does not necessarily confer comprehension, which may require some knowledge of government procurement.

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[75] USAspending.gov also includes subaward (e.g., subcontract and subcontractor) data, but FPDS-NG, which does not include subaward data, is not the source. Subaward data are provided by prime contractors through the FFATA Subaward Reporting System. See **Table 1** for additional information.