

**PUBLIC COMMENTS
OF e-LYNXX CORPORATION**

FAR CASE 2002-011

**PROPOSED RULE ISSUED NOVEMBER 13,
2002 – 67 FEDERAL REGISTER 68914**

**OMB MEMORANDUM NO. M-02-07
ON PROCUREMENT OF PRINTING
AND DUPLICATING THROUGH THE
GOVERNMENT PRINTING OFFICE**

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EXECUTIVE SUMMARY

The Proposed Rule presents a welcome opportunity to modernize the Federal Government's print procurement system. We strongly support this modernization effort, and believe that the Proposed Rule, with certain revisions, could create in the executive branch the type of fair, open, and competitive system that is essential to the continued well-being of thousands of small business printers. The modernization can only be accomplished, however, by utilizing electronic commerce solutions that are achieving in the private sector what OMB has identified as its three primary goals: enhanced competition, greater cost-savings, and the promotion of small business opportunities.

In fostering this modernization, the Proposed Rule should be cognizant of two features of GPO's centralized procurement system that have been effective and should be maintained or incorporated into any new print procurement regime. These features are GPO's success in (1) minimizing agency printing costs and delivery times for small and micro-purchases; and (2) providing maximum job opportunities for small business printing concerns. At the same time, however, GPO has demonstrated (3) an inability to adopt the most cost-effective method of handling small and micro-purchases; (4) an inability to offer "best value" contract awards and systemic transparency for stakeholders who want to communicate directly and track workflow easily; and (5) an inability to counter a growing agency preference for in-house print production and sole-source direct purchasing from the private sector, which in turn has led to an increasing number of "fugitive documents".

The Proposed Rule achieves progress in the areas of “best value”, in-house printing, and fugitive documents, but revisions are needed to attain all five goals listed above. Accordingly, we recommend delaying until September 30, 2003 implementation of those parts of the Proposed Rule that relate to GPO’s mandated procurement status in order to give the new Public Printer time to effectuate changes that address the concerns outlined in OMB Memorandum No. M-02-07. Thereafter, beginning with Fiscal Year 2004, we recommend keeping the new requirement that GPO compete for agency work being produced at GPO’s in-plant facilities, but modifying the Proposed Rule so that executive agencies can elect either (i) to continue using GPO as a print procurement agent, or (ii) begin procuring printing services directly from the private sector; *provided that* the agency head, with the concurrence of the Administrator of the Office of Federal Procurement Policy, has certified to the OMB Director that the agency has demonstrated the capability of procuring its printing using electronic commerce technology that is commercially available in the private sector and which:

- creates solicitations on all outsourced print jobs, including small and micro-purchases, and makes them available to the private sector for dissemination;
- awards printing contracts on a “best value” basis that incorporates and maximizes use of objective standards for rating vendor performance;
- furnishes system-wide transparency as to bid results, production workflow, and delivery status;
- ensures full compliance with the distribution requirements of the Federal Depository Library Program; and
- allows robust monitoring and oversight by OMB.

A. Introduction

These public comments are being submitted on behalf of e-LYNXX Corporation, a information technology and print management consulting firm based in Chambersburg, Pennsylvania, with over 27 years experience in the Federal print market. During the past quarter century, we have been an essential link in the supply chain by which executive departments and agencies obtain printing services from the private sector through the U.S. Government Printing Office (GPO).

These comments relate to the proposed rule that was issued on November 13, 2002 (“Proposed Rule”) to implement OMB Memorandum No. M-02-07 on Procurement of Printing and Duplicating Through the Government Printing Office (“OMB Memo”). Our interest in the Proposed Rule derives from the value-added services that we furnish to hundreds of GPO contractors throughout the nation. In brief, our company pays GPO a full cost-recovery fee to obtain all bid solicitations that GPO issues to the private sector based on printing requisitions received from its agency customers. We then “add value” to these solicitations by coding, data-entering, sorting, and disseminating them to printer clients based on the specific solicitation types, product categories, and geographic areas that our clients select.

Since most printers are small businesses, and since GPO typically issues 150-200 bid solicitations (including small purchases) each business day, we provide a valuable service that enables many printers to participate in the GPO print market – printers who would otherwise lack the resources to find agency jobs that are tailored to their production capabilities. In addition to this core bid solicitation distribution service,

we also offer training on how to succeed in the federal print market, furnish print job-related package pick-up services, and maintain a comprehensive database for clients seeking information on GPO bid results, job details, and print volume.¹

Given this background, we have long been a supporter of GPO's unique system of de facto "full and open competition" for all types of print jobs, including both small purchases and micro-purchases. We recognize, however, that for many years GPO has failed to maintain the goodwill of many of its customer agencies and that its business model has failed to generate sufficient revenue to cover its operating costs, and that neither shortcoming can be eliminated unless GPO modernizes the way in which it services its agency customers.

The Proposed Rule presents a welcome opportunity to achieve this modernization. We strongly support this modernization effort, and believe that the Proposed Rule, with certain revisions, could create in the executive branch the type of fair, open, and competitive system that is essential to the continued well-being of thousands of small business printers. As our public comments will make clear, however, this modernization can only be accomplished with electronic commerce solutions that are achieving in the private sector what OMB has identified as its three primary goals: enhanced competition, greater cost-savings, and the promotion of small business opportunities. 67 Fed. Reg. 68914.

For reasons more fully explained below, we recommend delaying until September 30, 2003 implementation of those parts of the Proposed Rule that relate to

¹ The figures referenced in these public comments are based on reports drawn from this database.

GPO's mandated procurement status in order to give the new Public Printer time to effectuate changes that address the concerns outlined in the OMB Memo. Thereafter, beginning with Fiscal Year 2004, we recommend keeping the new requirement that GPO compete for agency work being produced at GPO's in-plant facilities, but modifying the Proposed Rule so that executive agencies can elect either (i) to continue using GPO as a print procurement agent, or (ii) begin procuring printing services directly from the private sector; *provided that* the agency head, with the concurrence of the Administrator of the Office of Federal Procurement Policy, has certified to the OMB Director that the agency has demonstrated the capability of procuring its printing using electronic commerce technology that is commercially available in the private sector and which:

- creates solicitations on all outsourced print jobs, including small and micro-purchases, and makes them available to the private sector for dissemination;
- awards printing contracts on a "best value" basis that incorporates and maximizes use of objective standards for rating vendor performance;
- furnishes system-wide transparency as to bid results, production workflow, and delivery status;
- ensures full compliance with the distribution requirements of the Federal Depository Library Program; and
- allows robust monitoring and oversight by OMB.

B. GPO's Current System of "Full and Open Competition"

Prior to 1982, GPO print procurement lacked "full and open competition" and, instead, allowed GPO contracting officers to award work to printers who were either

conveniently located near the procurement office or large enough to maintain a sales staff that could win work through direct marketing. The GPO then opened up its procurement system in 1982 by establishing a "Bid Subscription Service", whereby GPO began selling timely copies of all printing solicitations (regardless of dollar value) to the public on a daily basis for a full cost-recovery fee. In so doing, the GPO began what has now become a 20-year old partnership with the private sector to disseminate federal printing solicitations nationwide to thousands of printers and thereby achieve "full and open competition" *without* additional cost to the taxpayer or the increased regulatory burdens that are associated with large dollar purchases under the FAR.

It is important to point out that the FAR does *not* differ significantly from the GPO's Printing Procurement Regulation (PPR) in this regard. Under the PPR, the simplified acquisition threshold is \$50,000 (rather than \$100,000) and the micro-purchase threshold is \$1,000 (rather than \$2,500). The difference lies in the GPO's reliance on the private sector to create a de facto system of "full and open competition" for *all* of its bid solicitations, including small and micro-purchases, thereby *achieving* the cost-savings of "full and open competition" without formally *requiring* "full and open competition" in any statute or formal GPO regulation.²

During the past 20 years, however, GPO has failed to modernize its procurement system, causing it to lose the goodwill of many agency customers who are mainly frustrated by two things: (1) lack of knowledge about the status of their print jobs; and

² Instead, this policy of relying on private sector bid solicitation distribution to achieve "full and open competition" is embodied in an internal GPO memorandum, known as GPO Instruction PP304.1.

(2) GPO's refusal to award work based on "best value" rather than low price. Because GPO serves as the contracting entity, agencies are generally precluded from dealing directly with the printer who is producing their work. Yet GPO offers no system for tracking the progress of a print job, thus leaving agencies in the dark until a deadline is missed or a job is rejected. This frustration is heightened by the fact that agencies are often forced to send their work to a low bidder whose past performances have been less than stellar but not so poor as to result in a default or non-responsibility declaration.

It is these two factors that are driving agency customer dissatisfaction and which can be traced to GPO's status as a mandated source of print procurement under Title 44. Protected by their statutory mandate, GPO has consistently failed or refused to reform itself in a way that would satisfy longstanding customer concerns. As a result, executive agencies have gradually undermined the fair, open, and competitive nature of the existing GPO procurement system by producing more print jobs in-house and purchasing jobs directly from the private sector outside the GPO system. It is not surprising then that there has been a significant decline in annual GPO print volume over the last decade – from over \$550 million in Fiscal Year 1992 to roughly \$400 million today – without a corresponding drop in the federal budget for Object Class 24 (Printing and Duplicating).

At the same time, GPO's failure to modernize has caused it to operate on a financially unsustainable business model, as demonstrated in Booz•Allen & Hamilton's *Management Audit of the Government Printing Office*, released in May 1998 ("Booz•Allen Management Audit"). What Booz•Allen found is that small and micro-

purchases are the reason why GPO is unable to finance its procurement operations without Congressional appropriations. At the time of the Booz•Allen Management Audit, procurements under \$25,000³ accounted for 98% of GPO's Printing Procurement Department (PPD) workload, but only 53% of its revenue.⁴ As a result, Booz•Allen necessarily concluded that the GPO's "large dollar segment of procurements is vital to the success of the PPD; without it, the PPD would be unable to maintain viability."⁵ To stem the losses being incurred from the small purchases themselves, Booz•Allen urged that GPO acquire an electronic commerce solution for print procurement, which it described as follows:

Essentially, the PPD has no *integrated* automated procurement capability.... GPO should be striving to achieve a "paperless" procurement process" among the customer, GPO, and the vendors.... An integrated, automated system should be implemented that allows electronic transmission of agency requirements to GPO and that electronically processes the requirements through various steps of procurement planning and preparation, solicitation, bid/proposal evaluation, source selection, and contract award. All of the procurement steps should be merged into one seamless computerized system. Paper jackets [i.e. solicitations] should be eliminated and replaced with electronic processing of printing procurement requirements between relevant organizations and individuals. Solicitation packages should be established online, and processed online. Solicitations to vendors should be transmitted via the Internet or other electronic interface (e.g. e-mail), and bids should be received, evaluated, and awarded in a paperless manner. Vendors who do not make the required investment in technology will be incapable of meeting the solicitation requirements and should be eliminated from competition.... Further, the automated procurement system should provide management information on timely status on all jobs, and workload and performance data for use by all levels of management. Performance measurements, including procurement processing

³ GPO defined its "small purchases" in 1998 as acquisitions not exceeding \$25,000. This small purchase threshold was subsequently raised to \$50,000 in May 2001.

⁴ Booz•Allen & Hamilton, *Management Audit of the Government Printing Office*, at p. 3-7 (May 21, 1998).

⁵ Id.

time, quality of procurement, maximizing value at least cost, and customer satisfaction should be established and tracked on a regular basis to help determine the Printing Procurement Department's effectiveness and efficiency.

See Booz•Allen Management Audit at pp. 3-24 to 3-25 (emphasis in original). In his official response to this Management Audit, the Public Printer defended his agency's procurement operations and virtually ignored the Booz•Allen recommendation for an electronic commerce system. See Letter from Michael F. DiMario, Public Printer dated April 29, 1998 (attached to Management Audit Final Report). It is important to note, however, that GPO is not unique in this respect. Any executive agency buying print for itself or another agency would sustain a similar losses on small and micro-purchases if this work was outsourced by competitive means without the web-based "integrated automatic procurement capability" recommended by Booz•Allen.

The end result is that GPO's centralized procurement system has two features which are successful and should be maintained or incorporated into any new print procurement regime, and three features that have undermined the current system and must be corrected under the Proposed Rule. The two features that should be maintained are GPO's success in (1) minimizing agency printing costs and delivery times for small purchases; and (2) providing maximum job opportunities for small business printing concerns. The three features that must be corrected are the current system's (3) inability to handle small purchases on a cost-effective basis; (4) failure to offer "best value" and systemic transparency for stakeholders who want to communicate directly and track workflow easily; and (5) growing agency preference for in-house print production and sole-source direct purchasing from the private sector, which in turn

leads to an increasing number of “fugitive documents”. For the reasons stated below, the Proposed Rule achieves progress in the areas of “best value”, in-house printing, and fugitive documents, but revisions are needed to attain all five of the objectives listed above.

C. GPO’s Dual Role As Provider of Print Production and Procurement Services

As OMB Director Mitchell E. Daniels, Jr. noted in his policy statement on May 3, 2002, there is a longstanding bipartisan Executive Branch view that GPO’s mandatory status under Title 44 is unconstitutional, as a violation of both (1) the separation of powers doctrine (because GPO cannot exercise executive functions as a legislative agency – the so-called “*Bowsher*” problem)⁶ and (2) the Constitution’s presentment clause (because Title 44 empowers the Joint Committee on Printing to grant legislative waivers without presenting a bill to the President that has been passed by both the House and Senate – the so-called “*Chadha*” problem)⁷. Congress has been aware of these constitutional issues since at least May 1996, when the Department of Justice (DOJ) released a formal opinion on the matter, but nonetheless has failed to take any action that would resolve this problem.

Shortly after the DOJ opinion was released, the Clinton Administration reassured Congress by adopting policy of voluntary compliance with Title 44 – the idea being that while it was unconstitutional to force executive agencies to send their printing to GPO, there was nothing improper about the Administration electing to do so. This policy of

⁶ *Bowsher v. Synar*, 478 U.S. 714 (1986).

⁷ *INS v. Chadha*, 462 U.S. 919 (1983).

voluntary compliance was never intended to be long-term, however, and while Congress could have attempted to resolve the constitutional issues by amending Title 44 or obtaining a favorable court ruling, it was inevitable at some point that OMB would stop recognizing GPO's mandatory status.

As a print management consulting firm, e-LYNXX takes no position and offers no comments on the merits of this constitutional dispute. The focus of these comments is strictly on how best to create the most efficient and cost-effect print procurement system for the Federal Government. In addressing this constitutional issue, however, it is important that the Proposed Rule distinguish between GPO's role as a provider of print production services at its in-plant facilities and its role as print procurement agent or broker that already outsources over 75% of agency requisitions to the private sector.

1. Requiring GPO To Compete For In-Plant Production Work

The Propose Rule is explicit in mandating that “agencies shall not obtain printing services from GPO after January 1, 2004 unless GPO demonstrates [best value] through public-private competition” 67 Fed. Reg. at 68918. Insofar as GPO is providing the printing service itself, it is acting in the same role as any private sector printer and should be required to compete in the same manner as commercial printers. We support this provision in the Proposed Rule, but for purposes of clarification, and for reasons more fully stated in the next section, we also recommend changing the phrase “printing services” to “print *production* services.”

2. Making GPO's Print Procurement Services Optional

While supporting the new competition requirement for GPO's in-plant production services, we respectfully submit that the text of the Proposed Rule is overbroad in its impact on GPO's role as a print procurement agent for the agencies. As we understand the text of proposed FAR 8.801(c), beginning January 1, 2004, GPO would no longer be recognized as an *optional* source of print procurement services. This is apparent from the pre-2004 transition period during which "agencies may opt to use the services of GPO without requiring competition to select GPO" (67 Fed. Reg. at 68916) – the clear implication being that after January 1, 2004 agencies may *not* use GPO as an optional print procurement source unless GPO successfully competes against the "best value" offered by direct contracts with the private sector or in-house agency printing facilities.

The key phrase here is "printing services", as used in proposed FAR 8.801(c). If meant to refer only to GPO as a *producer* of printing services, then it is both logical and reasonable to make GPO's in-plant shops compete for agency print jobs (assuming the unconstitutionality of its mandatory status under Title 44). GPO, however, is predominantly a *procurer* of printing services, outsourcing over 75% of its customer agency printing requisitions. Given this fact, if "printing services" is meant to encompass GPO's print procurement services, then the Proposed Rule would be setting up an unworkable double system of bidding competition in which solicitation responses for the same print job would be requested both by GPO and the agency buyer itself. This procurement morass would raise all sorts of questions like:

- Would the agency solicit bids simultaneously with GPO or wait for GPO to obtain bid prices and then go out on its own?
- Would printers be allowed to submit separate bids to GPO and the agency? If so, could the bids be different and, again if so, which one would count?
- Would GPO report all the bid results or just the low bid to the agency for a “best value” comparison with the agencies direct bids?
- Would GPO be expected to make a “best value” judgment as to the bids it received or just forward the bid information onto the agency for a “best value” comparison?
- Would GPO be allowed to cull out non-responsive bids? If so, would the non-responsive printer be allowed to try again directly with the agency?
- Would GPO be allowed to declare a printer non-responsible before sending its bid to the agency? If so, would the non-responsible GPO bidder be allowed to appeal to the agency for consideration of its bid?
- If GPO outsourced the agency’s print job under the new “best value” standard, which set of procurement rules apply, the FAR or GPO’s Printing Procurement Regulation, Contract Terms, and QATAP standards?

Such a system of double bidding is untenable not only from the agency’s standpoint, but also for printers who would now have to cope with different regulatory schemes for the same job.

The solution, however, should *not* be for OMB to restrict the freedom of choice and flexibility of agencies by forcing them to drop GPO as a purchasing agent and outsource print jobs exclusively under the FAR. While the constitutional objection over GPO’s mandatory status remains unresolved, no case has been made for *prohibiting* agencies from using GPO under current procedures. It is one thing for agencies to complain about being forced to use GPO, but quite another to determine by FAR rule

that agencies cannot decide for themselves whether GPO's procurement services offer them "best value." Director Daniels was very clear in the OMB Memo that "[i]t is the policy of this Administration to ensure that the federal government receives the best possible deal when spending taxpayers' money." Prohibiting agencies from seeking the "best possible deal" using GPO's print procurement services undermines this policy.

D. Making Small Purchases More Costly and Less Available

The Proposed Rule effectively denies the private sector the opportunity to compete for what now constitutes roughly 80% of GPO's procurement work – namely small purchases that are \$2,500 or less. Under FAR § 13.202(a)(2), these "micro-purchases may be awarded without soliciting competitive quotations if the [purchasing official] considers the price to be reasonable." Thus, if governed by the FAR, 80% of all future government printing contracts that now go to small businesses throughout the country could be awarded on what, in effect, would be a sole-source basis.

We understand that the FAR Council originally considered limiting "full and open competition" to printing jobs over \$25,000, which under FAR § 5.101(1) is the threshold dollar amount for advertising solicitations at "FedBizOpps" (www.fedbizopps.gov), the single Government Point of Entry (GPE). To address concerns that such a high threshold would limit the range of bidding opportunities for small printers, the Proposed Rule now sets the GPE threshold (for printing only) to the FAR micro-purchase threshold amount of \$2,500. This lower threshold is advantageous for small business printing concerns, but it ignores the fact that most government print jobs are under \$2,500, so that any benefit from this uniquely low GPE threshold for printing will likely

be much less than the FAR Council anticipates.

As pointed out above in Section B, GPO obtains de facto “full and open competition” on *all* jobs, regardless of dollar value, not by posting (electronic or otherwise), but by making their solicitations available for purchase in bulk by any interested party, which can then distribute the solicitation according to market demand. Thus, the real effect of limiting GPE notification to jobs over \$2,500 will be to *severely restrict competition and bidding opportunities for small businesses* below this threshold since no agency has a bulk sale program in place. The resulting lack of competition will greatly increase the costs of small purchases to the agencies.

How severe will this restriction and added costs be? Assuming that the nature of print jobs does not change when it is procured directly by an agency rather than through GPO, the impact is likely to be considerable. For the fiscal year that just ended on September 30, 2002, for example, GPO issued 39,202 small purchase and formal jackets, valued at \$203.6 Million (or roughly half of all printing work outsourced through GPO). These jobs are broken down by dollar range as follows:

<u>Dollar Range</u>	<u>Small Purchases</u>	<u>Formal Jackets</u>
\$1 - \$500	16,546 jobs (43.7%)	14 jobs (01.0%)
\$501 - \$2,500	13,580 jobs (35.9%)	138 jobs (10.1%)
\$2,501 - \$25,000	7,332 jobs (19.4%)	443 jobs (32.4%)
\$25,001 - \$100,000	364 jobs (01.0%)	522 jobs (38.1%)
Over \$100,000	11 jobs (00.0%)	252 jobs (18.4%)
TOTALS:	37,833 jobs (100%)	1,369 jobs (100%)

Comparable figures for print orders issued under GPO term contracts, including both single-award and multiple-award programs, show a similar finding:

<u>Dollar Range</u>	<u>S-Programs</u>	<u>M-Programs</u>
\$1 - \$500	53,011 PO's (63.6%)	14,078 PO's (59.9%)
\$501 - \$2,500	20,801 PO's (25.0%)	6,332 PO's (26.9%)
\$2,501 - \$25,000	8,674 PO's (10.4%)	2,893 PO's (12.3%)
\$25,001 - \$100,000	670 PO's (00.8%)	179 PO's (00.8%)
Over \$100,000	193 PO's (00.2%)	22 PO's (00.1%)
TOTALS:	83,349 PO's (100%)	23,504 PO's (100%)

Thus, if the proposed amendment takes effects in its current form, one can expect that as much as 80% of executive agency one-time jobs and 90% of print orders will be procured by Government-wide commercial purchase cards with minimal or no bidding competition.

Who will benefit from this new system? For jobs \$2,500 or less, the largest printers are likely to profit most because they can devote more resources to the type of sales and marketing efforts that will be needed to obtain this non-competitive work. This result, of course, would directly conflict with the FAR Council's express aim of creating "a much broader range of opportunities for small businesses." 67 Fed. Reg. 68914.

The Proposed Rule, however, also hurts large printers. Specifically, large printers with over 500 employees would lose out on jobs valued between \$2,501 and \$100,000 (inclusive), which would become subject to small business set-asides under the FAR. Whereas, the GPO recently ended its set-asides for small disadvantaged businesses and now limits its socio-economic program to Javits-Wagner-O'Day Act requirements for the blind and severely disabled, the FAR imposes much stricter set-aside requirements. Specifically, under FAR § 19.502-2(a), any print job with

an anticipated dollar value exceeding \$2,500, but not over \$100,000 is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery.

Since it is highly unlikely, given the Proposed Rule's publication requirements for print jobs over \$2,500, that an agency would fail to get competitive bids from two or more printers with 500 or less employees, printing companies with over 500 employees would be "automatically" excluded from bidding on work valued between \$2,500 and \$100,000. In that event, the impact of this set-aside requirement could be very adverse to the interests not just of large printers, but also the agencies themselves. Large printers, like other GPO vendors, rely on GPO work to fill short-term production downtime – a key element in those printers' ability to maintain profitability. Deprived of small purchase and term contract work between \$2,501-\$100,000, these larger printers will go after the \$0-\$2,500 work even more intensely to the exclusion of small and mid-size printers. Conversely, small and mid-size printers will be cut out of the small jobs for which they are best suited and left competing for the larger \$2,501-\$100,000 work.

From a quality assurance and delivery standpoint, it is precisely the \$2,501-\$100,000 work – which tends to be larger and more complex – that agencies will want larger printers (who generally have higher quality level ratings, larger production capacity, more sophisticated equipment, and skilled personnel) to be able to produce. Instead, the Proposed Rule will create a system where the largest printers produce the smallest jobs, and small to mid-size printers produce most large jobs – just the opposite of what agencies would want and expect.

E. Slower Small Purchase Turn-Around Times

In addition to minimizing printing costs by partnering with the private sector to create a de facto system of “full and open competition” for all print jobs, the GPO procurement program offers another unique and highly advantageous feature: the speed with which both small purchases and formal jackets can be bid out and performed. Unlike executive branch agencies, GPO utilizes an official minimum bidding time of just 4 hours, and even then GPO has been known to require bids in as little as 1-2 hours.⁸ While GPO maintains a 15-day notice rule for jobs that are publicized in Commerce Business Daily, this rule only applies to jobs not published electronically on the GPO print procurement web page, of which there are now few if any. Indeed, of the 39,202 solicitations identified above for Fiscal Year 2002, 22,790 (58.1%) were small purchase jobs that opened either the same day on which they were issued or the following day and needed to be produced within an average of 10 days. Another 15,043 (38.4%) were small purchase jobs that opened on average within two days of issuance and were typically produced within thirteen days. The remaining 1369 (3.5%) solicitations were formal one-time jobs on which printers typically had four days to bid and 27 days to produce.

As a legislative agency governed by its own Printing Procurement Regulation, GPO has the flexibility to meet these fast turn-around times. Such flexibility for jobs valued over \$2,500 would be lost under the FAR. For jobs \$2,500 or less, flexibility would not be an issue because the Proposed Rule would permit such jobs to be

⁸ GPO adopted this 4-hour turn-around standard in 1994. Prior to that time, the official GPO minimum turn-around time was three working days.

procured by purchase card without notice or competition. At the same time, however, fast turn-around times for these smallest of jobs will pressure purchasing officials not only to use their purchase cards, but also to buy regularly from the same (and probably large) printer each time, further undermining OMB's goals of cost-savings and expanding small business opportunities.

For jobs over \$2,500, however, the situation is quite different because, under the new GPE threshold for printing, these jobs will be governed by the same rules that currently apply to procurements between \$25,000 and \$100,000. These rules are set out in FAR §§ 5-201(a), (b)(1)(i), and 5-203(a), which generally require that a notice of solicitation be published on FedBizOpps at least 15 days before the solicitation itself is issued. Thereafter, upon issuance, agencies are further required to give vendors a minimum 30-day response period for submitting bids or proposals. To be sure, there are exceptions to this 15-day notice/30-day response rule, but the exceptions that would be applicable to printing are hardly reassuring if the FAR Council is expecting short-turnaround times on a regular basis. Under FAR § 5-202(a)(2), for example, shorter notice and response times can be used, but only when the proposed contract action is deemed "unusual and compelling urgency." Similarly, under FAR § 5-202(a)(6) and Subpart 16.5, indefinite-delivery contracts (including definite-quantity, requirements, and indefinite-quantity contracts) are exempted, but again this exemption would tend to favor the larger printers who can better compete for and perform such contracts.

The most relevant exemption, set forth under FAR §§ 5-202(a)(10) and 5-203(a) & (b), applies to “commercial items”,⁹ for which contracting officers may establish a “shorter” notice period than 15 days and designate a “solicitation response time that will afford potential offerors a reasonable opportunity to respond” after considering such circumstances as “complexity, commerciality, availability, and urgency.” In theory, this exemption would authorize agency contracting officers to solicit bids in less than 24 hours, but the Proposed Rule still leaves unanswered whether any minimum response period similar to the GPO 4-hour rule would apply. Even if the Proposed Rule explicitly

⁹ While it is probably true that printing services can be equated to a “commercial item” under the definitional section in FAR § 2-101(f), see *Matter of Aalco Forwarding, Inc.*, B-277241.8; B-277241.9, 97-1 CPD ¶ 110 (October 21, 1997) (household goods moving services qualify as “commercial item”), the FAR Council may wish to examine this issue more closely. To qualify as a “commercial item” under the FAR, the printing service must be

of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed.

FAR § 2-101(f). The acquisition of “commercial items”, however, is governed by FAR Part 12, which expressly requires “market research to determine whether commercial items ... are available that could meet the agency’s [printing] requirement.” FAR § 12-101(a). Unless this “market research” requirement is dispensed with as nothing more than a formality each time printing services are requisitioned, it would become a significant administrative and time burden for contracting officers trying to procure numerous low-dollar print jobs. Moreover, customized printing, particularly short turn-around work, is exactly the type of service that is *not* offered and sold competitively based on “*established* catalog or market prices.” FAR § 2-101(f) (emphasis added). The inherent nature of customized printing is that it cannot be accurately priced until the printer has reviewed the manufacturing specifications, requisite quality level, shipping instructions, and delivery date(s) – *and then matched that information with available press equipment and production time*. This is why it would be difficult to develop a GSA multiple award schedule for printing services and why the printing of OMB’s Fiscal Year 2004 budget documents cannot be ordered out of a catalog. Absent clarification that printing will be routinely treated as “commercial items”, the Proposed Rule would play havoc with agency print jobs that are above the \$2,500 threshold but must be produced under tight time deadlines.

authorized and/or established a 4-hour turn-around time for printing, there are no procedures in place at the agencies to actually implement such a rule.

What is significant about the GPO's Bid Subscription Service ("BSS") is not that solicitations are made available to interested parties – this can be accomplished by mere posting (electronic or otherwise) – but rather that solicitations are made available in a *comprehensive and timely* fashion. Thus, when GPO requires bids back in a matter of hours, the solicitation is proactively sent to all BSS subscribers at the same time and in the same manner as recipients on GPO's rotation list for that solicitation. Because there is no requirement under the Proposed Rule either (i) to make small purchases under the \$2,500 GPE threshold available to anyone (other than the sole source recipient of the job) or (ii) to furnish solicitations over \$2,500 to private sector retailers in a comprehensive and timely manner, there is virtually no likelihood that the Proposed Rule will foster a system that produces the quick turnaround times so common at GPO.

F. Impact On Agency In-Plant Facilities

The most encouraging aspect of the Proposed Rule is its cost accounting requirements, which are designed to limit in-house printing operations. The proposed regulation would allow agencies to send work to in-plant facilities, "but only where such executive branch operations demonstrate, based upon a full account of all costs" that, in competition with GPO and the private sector, the in-plant facility offers the "best combination of quality, cost, and delivery" (i.e. "best value") or lowest price where the award is based solely on cost or price-related factors. 67 Fed. Reg. 68917.

In theory, this aspect of the Proposed Rule should create a systemic bias in favor of outsourcing work to the private sector, either directly or through GPO, particularly since there is no exemption from the new cost accounting rule based on dollar value, even for jobs under \$2,500.¹⁰ Agency print officials will still have the option of going to an in-house facility, but when they do so, a cost accounting will have to be done showing that the in-plant facility can provide “best value” or, where applicable, the lowest price in competition with the private sector or GPO’s own in-plant operation. Given the tens of thousands of federal printing contracts awarded each year, as well as the extremely short time-frames in which most print jobs must be awarded and produced, it is unlikely that agency purchasing officials will want to take the time or make the effort to prepare the requisite cost-accounting findings and evaluate the result against the “best value” offered by GPO or the private sector – unless of course the FAR’s notice and response requirements give them no choice but to go in-house.

A number of issues, however, still need clarification. Since the Proposed Rule specifically calls for a “public-private competition” in draft FAR § 8.801(a)(3), the clear implication is that losers in this competition will be allowed to protest the outcome if they believe that there are legal grounds for doing so. In that event, the cost accounting findings made by the agency must be made available to GPO and private sector competitors as a matter of course; otherwise neither GPO nor the printers can know whether there are legitimate grounds for challenging the in-house cost-accounting

¹⁰ Such a systemic bias may be particularly important for print jobs in the \$2,500-\$100,000 range, which contracting officers will be more inclined to send to in-house facilities to avoid the cumbersome notice and response requirements discussed in the preceding section.

analysis. The draft regulation should make this disclosure requirement explicit. Similarly, the phrase “full account of all costs” is so broad as to be nebulous. Will agencies just be computing the marginal costs of each print job or will overhead costs be included, and if so, how will they be computed? Guidance is needed on such issues to ensure that agencies make their cost-accounting findings on a legitimate basis using consistent methodologies.

G. Utilizing Objective Standards for Best Value Awards

One of the most important changes in the Proposed Rule is the automatic application of “best value” criteria for the award of printing contracts that do not exceed the simplified acquisition threshold (\$100,000). This policy change is in direct contrast with the GPO approach of making awards to the low responsive and responsible bidder (assuming the price is fair and reasonable) in all cases other than work awarded under GPO’s simplified purchase agreements (SPAs). The GPO policy is set out in its Printing Procurement Regulation (PPR) at Ch. VII, § 4.2(c) for small purchases and PPR Ch. XII, § 1.1 for formal jackets and term contracts. The rules governing SPAs are found at PPR Ch. VII, § 9.6(d), which require agency buyers to place SPA orders “on the basis of best value” as determined by “price and other factors” including “responsiveness, business practices, convenience, courtesy, attention to detail and elements of past performance including work quality, reliability, and schedule compliance.”

The Proposed Rule would now allow agency buyers to award print jobs up to \$100,000 using the same criteria as GPO’s SPA program. Specifically, FAR § 13.106-2(b) gives contracting officers “broad discretion” to establish the most suitable

evaluation procedures, which may use “price and other factors” such as past performance as award criteria. Formal evaluations are not required, and the contracting officer may rely on personal knowledge and prior experience to select the winning vendor, although under FAR § 13.106-3(b)(3)(ii) the officer must prepare a written statement supporting the award decision if non-price factors are considered. In contrast, for printing contracts valued above \$100,000, the award will be made using either the sealed bid procedures under FAR Part 14 or the negotiated acquisition procedures under FAR Part 15. If sealed bids are used, the award must be based on “price and the price-related factors included in the invitation.” FAR §§ 14.101(e) and 14.408-1(a). If a negotiated contract is awarded, the “agency can obtain best value ... by using any one or a combination of source selection approaches” – also referred to the “best value continuum”. FAR § 15.101. Consequently, this new “best value” policy will have its greatest impact on print jobs not exceeding \$100,000.

Complaints about the GPO “lowest bid wins” system derive from its rigidity. Agencies are justifiably frustrated when vendors with poor performance records (but not so poor as to be declared non-responsible) win out over competitors with excellent performance records just because they have submitted a bid that might be \$10 or even 10¢ lower. Their frustration is heightened by the fact that agencies have little or no control over the vendor base that is bidding on their work, and the vendors themselves have little incentive to provide excellent service when any service short of default will be enough to ensure that they can bid for the same job next year. The transition to a “best value” standard should address each of these complaints.

In this regard, the Proposed Rule represents a unique opportunity to demonstrate how “best value” can be utilized with greatest effect. Given the fact that printing is a form of customized manufacturing in which tens of thousands of jobs are typically procured in small dollar amounts under tight time deadlines, agency buyers will have great difficulty in evaluating the quality and past performance records of each bidder each time a printing contract is outsourced. Indeed, it is common for GPO to receive dozens of bids on small purchase jobs, even though it has purposefully refrained from posting such jobs on the Internet, fearful of the added administrative burden and loss of quality control that such a step would entail. Imagine the result once small purchase jobs over \$2,500 are posted on the GPE for tens of thousands of printers to see and bid on. Agencies will need some way of pre-qualifying potential bidders for quality level and past performance, but the FAR provides no tools or procedures for accomplishing such tasks, and few purchasing officials will have personal knowledge of the dozens of printers that will now be submitting bids.

Even if agencies maintained up-to-date databases on the quality ratings, performance histories, and customer service records of potential print vendors, purchasing officials would have no time to make “best value” comparisons on dozens of incoming bids, particularly given the large number and quick turn-around speeds of small purchase print jobs.

The GPO system is rigid, but also maintains a high degree of openness in which printers know the criteria on which awards are based and full bid results are released to the public. Moreover, GPO is unique in the knowledge and performance records that it

maintains on active GPO contractors. This knowledge could be used to make the type of “best value” judgments that would assure agencies that its work is only being awarded to high quality vendors. What is needed to eliminate the rigidity in the current GPO system is an objective methodology for factoring past performance and customer service into the price comparison that is made in determining the lowest responsive bid. GPO has previously developed comparable methodologies in promulgating its QATAP standards, and OMB should be pressing GPO to do the same for “best value”. An electronic commerce system with the features and capabilities recommended in the Booz•Allen Management Audit is the only viable solution to these problems.

H. Capturing Fugitive Documents By Electronic Means

Under the Proposed Rule, agencies for the first time must comply with a FAR mandate to “ensure” that copies of all Government publications are provided to the GPO Superintendent of Documents (“SuDocs”) for distribution to the Federal Depositories Libraries (“FDL”). 67 Fed. Reg. 68918 (proposed FAR § 8.801(d)). While this new mandate, together with the tightened restrictions on in-house print production, are important steps towards lessening the “fugitive document” problem, the Proposed Rule does not spell out how agencies are to implement this mandate. It only states that, once the publication is produced for the agency, a copy must be transmitted to GPO “using electronic means unless such means are unavailable”, *id.*, at which time GPO presumably would produce its own set of printed FDL distribution copies either at its in-plant shop or by outsourcing to the private sector.

Of course, at that point the Government would receive none of the cost efficiencies that would accrue from including the FDL copies as “riders” in the agency’s original production order. It is true that the Proposed Rule further requires the agency to “consult” with GPO about the number of FDL copies that GPO wishes to obtain and “take reasonable and appropriate steps to assist GPO” in purchasing FDL copies under the agency’s awarded printing contract, but this requirement only applies if such consultation is “feasible” under the circumstances. 67 Fed. Reg. 68918 (proposed FAR § 8.801(e)). Missing from the Proposed Rule is any sort of established procedure whereby the SuDocs office is assured of having the opportunity to *participate* in the agency’s outsourced printing contract or in-house production.

The answer to this problem is not simply to have the publication sent to GPO in electronic format, but rather to use an available web-based interface that assures all stakeholders in the publication – agency purchasing officials, SuDocs personnel, and the private sector contractor – of automatic notification and participation in the procurement process itself. To accomplish this goal, the Proposed Rule should encourage government print buyers to acquire electronic commerce solutions that are presently available in the private sector.

I. Why Private Sector E-Commerce Solutions Are Needed

OMB has identified as its three primary goals the need “to induce competition, save taxpayer money, and promote small business opportunities.” 67 Fed. Reg. 68914. As demonstrated above, these goals in turn require that any new federal print procurement system incorporate all of the following elements: (1) the ability to handle

small purchases in a cost-effective and timely manner that maximizes job opportunities for small business printers; (2) the ability to offer “best value” and workflow transparency to agency print buyers; and (3) the ability to discourage agency reliance on in-house print production and direct purchasing in a way that diminishes the number of “fugitive documents”. The Proposed Rule can foster the creation of such a print procurement system, but only if it encourages the use of private sector electronic commerce solutions.

1. The Small Purchase Problem

Under the current system, the administrative costs, time, and effort involved in obtaining “full and open competition” for small purchases typically outweigh any dollar savings achieved from the competition itself, particularly if the small purchase is commercially available and/or required on a fast turnaround basis. This “small purchase problem” is greatly exacerbated for printing not only because virtually all printing jobs are under the FAR’s \$100,000 simplified acquisition threshold (with 85% under the FAR’s micro-purchase threshold), but also because printing is a customized manufacturing process that requires special procurement expertise and which necessarily adds to the costs of contract administration. How then do you simultaneously (i) make these jobs available to small business printers on a quick turnaround basis (ii) using competitive bidding to keep acquisition costs down – without (iii) losing this competitive savings to higher administrative costs?

GPO has historically been able to accomplish only the first two of these tasks, using its Bid Subscription Service to partner with the private sector in disseminating

small purchase solicitations on a full cost-recovery basis to hundreds of interested small business concerns. The savings to the taxpayer has been consistent and substantial over the past two decades, and agencies have long recognized GPO's ability to get the lowest market prices for print jobs over \$500.¹¹ While this competitive savings is passed onto the customer agency, however, the Booz•Allen Management Audit clearly showed that GPO cannot manage this process without incurring an administrative loss that must then be subsidized by the taxpayer.

With a properly deployed Internet-based electronic procurement system, this tension between competitive cost-savings and offsetting administrative costs dissipates. An e-commerce solution could manage the GPO's entire vendor base of 12,000+ printers, create and archive job specifications, disseminate solicitations, receive bids, issue purchase orders, track production milestones, and handle accounting and invoicing tasks for a fraction of the cost associated with GPO's current manual system.

Such a system can be set up using automatic bid rotation lists matching particular jobs with pre-qualified printers, while making solicitations available to interested parties for redistribution by the private sector in much the same manner as GPO does now with its Bid Subscription Service. Since electronic distribution would assure the receipt of numerous bids within hours or even minutes of the solicitation being issued, a de facto system of "full and open competition" would be maintained within the short turnaround parameters that typically apply to small purchases.

¹¹ A GAO study in 1995, for example, concluded that GPO's prices for jobs over \$500 were 21% less than comparable prices obtained by the Defense Printing Service (now Defense Automated Production Service). See *Government Printing: Comparison of DOD and GPO Prices for Printing and Duplicating Work*, GAO/NSIAD 95-65 at 5 (February 1995).

Similarly, with instantaneous and transparent Internet workflow communications, such a system would greatly reduce the administrative costs associated with managing the small purchase after award.

2. The Best Value Problem

Even if high administrative costs were not an issue for small purchases, a policy of “full and open competition” creates the unintended consequence of allowing unqualified or poor performing vendors to bid on agency work (both small purchases and formal jobs). Customer agencies are clearly dissatisfied with GPO’s rigid “low bid wins” policy because it is not accompanied by an effective means of weeding out vendors who have done low quality work and/or missed delivery dates for agencies in the past. The solution, in theory, is a policy of awarding work based on “best value”, so that past performance can be taken into account in making a final decision. However, in practice “best value” can mean “personal preference”, especially for the 85% of jobs under the FAR \$2,500 micro-purchase threshold, which in turn will greatly undermine the cost-saving benefits of “full and open competition”. This problem is understandable when one considers the time involved in doing a “best value” analysis of 3-5 low range bidders on a \$500 print job!

With proper e-commerce technology, each bidder’s production quality, timeliness of delivery, and ability to meet production milestones could be weighted using the bidder’s past performance in these areas. The initial bid submissions would then be ranked according to the weighted figures produced by the “best value” comparison to generate a final low bidder, who would be identified as the suggested winner. The final

award decision would still be left to the contracting officer, but the time-consuming and costly analysis of “best value” comparisons would be automatically and electronically performed. Executive agencies and GPO could acquire the necessary electronic commerce technology and build their own printer databases for use in making “best value” judgments according to their own objective rating standards. It is for this reason that we are suggesting the Proposed Rule allow an agency to buy its printing directly if it acquires a properly certified electronic commerce system. Such a certification process could be modeled on the earlier FACNET certification process, whereby agencies with certified full FACNET capability would be entitled to use the \$100,000 (rather than \$50,000) simplified acquisition threshold. See former FAR §4.505 (archived as FAC 90-29; July 3, 1995); and former FAR § 13.103(b) (archived as FAC 90-45; January 2, 1997). In this instance, however, the Office of Federal Procurement Policy would be certifying agency use of a private sector electronic commerce system that meets the goals and objectives of the OMB Memo.

3. The Fugitive Document Problem

We strongly support the FAR Council’s efforts to diminish the “fugitive document” problem and ensure agency compliance with the Federal Depository Library Program requirements set forth in 44 U.S.C. § 1901 et seq. However, to supplement the proposed transmitting of the final publication electronically to GPO for reproduction purposes, as the Proposed Rule currently mandates (unless “such [electronic] means are unavailable”), 67 Fed. Reg. 68918, an electronic commerce solution is needed to tie SuDocs personnel into the procurement process itself so that GPO can participate in

whatever cost-savings are available from FDL publication “riders” on the agency’s original print acquisition. Electronic commerce solutions that would accomplish this task are readily available in the private sector. It should further be noted that the Proposed Rule helps to minimize the “fugitive document” problem through its new cost-accounting rule to discourage in-house publications. An electronic commerce solution will also make outsourcing to the private sector (and notification to SuDocs) more convenient and cost-effective than in-house production. Thus, to the extent that agency officials prefer the convenience of an e-commerce solution, even fewer publications will escape the Federal Depository Library Program.

4. OMB Reporting and Oversight

As a final note, it should be mentioned that the Proposed Rule does not include any OMB reporting provisions as requested by Director Daniels in the OMB Memo. Specifically, Director Daniels indicated that:

Departments and agencies are to provide an annual report to the Director of the Office of Management and Budget on the overall cost of their printing and duplicating operations. Reports are to include a full accounting of all costs of work performed by GPO, work performed in-house, and work contracted directed to the private sector.

OMB Memorandum M-02-07 at 3 (May 3, 2002).¹² The most efficient, comprehensive, and cost-effective way for agencies to provide OMB not only with annual reports, but with full reporting capability and transparency into what agencies are spending on printing and how they are accounting for these monies, is to encourage agencies to utilize electronic commerce technology that is currently available in the private sector.

¹² Rather than propose specific language as to this missing provision in Attachment 1, we simply reserve a provision in the Proposed Rule for the FAR Council to address on its own.

Such technology can link OMB personnel to the information and database compiled by such a system. For this reason and the other reasons stated above, the Proposed Rule should require the certification procedure proposed in these comments for agencies wishing to acquire full electronic print procurement capability.

J. Suggested Revisions to the Proposed Rule

In light of the foregoing, we suggest that the Proposed Rule be revised to (1) implement the cost-accounting restrictions on in-house agency print operations as soon as possible, with only a minor change to ensure disclosure of the agency's cost accounting finding; (2) maintain the current policy of voluntary compliance at least through September 30, 2003; and (3) beginning with Fiscal Year 2004, institute a certification process whereby agencies can acquired private sector web-based electronic commerce solutions that demonstrate all of the following capabilities:

- the ability to create solicitations on all outsourced print jobs, including small and micro-purchases, and make them available to the private sector for dissemination;
- the ability to award printing contracts on a “best value” basis that maximizes the use of objective standards for rating vendor performance;
- the ability to furnish system-wide transparencys to bid results, production workflow, and delivery status;
- the ability to ensure full compliance with the distribution requirements of the Federal Depository Library Program; and
- the ability to allow robust monitoring and oversight by OMB.

Accordingly, we respectfully proposed the attached revisions to the Proposed Rule.

ATTACHMENT 1: PROPOSED REVISIONS

1. The authority citation for 48 CFR parts 6, 8, and 52 continues to read as follows:

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 6—COMPETITION REQUIREMENTS

6.302-5 [Amended]

2. Amend section 6.302-5 in paragraph (b) by removing paragraph (b)(3) and redesignating paragraphs (b)(4), (b)(5), and (b)(6) as paragraphs (b)(3), (b)(4), and (b)(5), respectively, effective October 1, 2003.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

~~8.0038.002~~ [Amended]

3. Amend section ~~8.0038.002~~ by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, effective October 1, 2003.

4. Revise subpart 8.8 to read as follows:

Subpart 8.8—Acquisition of Printing and Related Supplies

8.800 Scope of subpart.

This subpart provides policy for the acquisition of Government printing and related supplies.

8.801 Policy.

(a) Electronic Print Procurement Capability Certification. An agency is considered to have full electronic print procurement capability if, by acquiring technology that is commercially available in the private sector at the time of the agency's certification request—

(1) the agency has implemented all of the following functions by means of Internet communication:

(i) provide for vendor qualification and registration as agency approved contractors:

(ii) provide notice to the Government Printing Office (GPO) of the agency's intent to produce a Government publication by means of an in-house or other executive branch printing operations, or of the agency's intent to issue a proposed contract action for a Government publication acquisition from a private sector source, to determine the number of copies of such Government publication the GPO may wish to obtain and to furnish GPO with the capability of ordering such copies no later than the time when the agency orders its copies of the Government publication:

(iii) provide limited notice of proposed contract actions not expected to exceed \$25,000 to assure adequate competition using qualified bidder lists that are automatically rotated:

(iv) provide widespread notice of proposed contract actions expected to exceed \$25,000 by synthesizing such proposed contract actions in the GPE (see 5.101(a)(1) and subpart 5.2);

(v) provide notice of awards and issuance of orders (including price) on all contract actions to all vendors who responded to the proposed contract actions:

(vi) make available to any interested party, on a full cost-recovery basis, copies of all proposed contract actions (and any amendments thereto), no later than the time such proposed contract action (or any amendment thereto) is issued to qualified vendors or synthesized in the GPE;

(vii) make available to any interested party, on a full cost-recovery basis, the following contract action information (including but not limited to individual contract actions and print orders issued under blanket purchase agreements and indefinite-quantity and requirements contracts) in summary or abstracted form as soon as practicable after the contract award, but in no event later than twenty-four (24) hours thereafter: (A) the identification number assigned to each contract action, (ii) the name, address, phone number, and vendor registration number of each winning vendor, and (iii) the quotation, bid, or proposal price, and any prompt payment or other discount, of each contract award.

(viii) make available to any interested party, on a full cost-recovery basis, the following contract action information (including but not limited to individual contract actions and print orders issued under blanket purchase agreements and indefinite-quantity and requirements contracts) in summary or abstracted form at least once per month: (A) the identification number assigned to each contract action, (B) the bid issuance and opening date; (C) the name, address, phone number, and vendor registration number of each responding vendor, (D) the quotation, bid, or proposal price, and any prompt payment or other discount, offered by each responding vendor, and (E) the amendments acknowledged by each responding vendor.

(ix) issue solicitations, receive responses to solicitations and associated requests for information, and receive and reply to questions regarding proposed contract actions;

(x) issue contract awards and print orders based on the best combination of quality, cost, delivery, and ability to meet production milestones in accordance with objective standards established by the agency or, alternatively, the lowest overall cost in a competition based on cost or price and cost or price related factors;

(xi) track compliance with quality standards, delivery schedules, and production milestones;

(xii) prepare invoicing and make payment to contractors by purchase card, electronic funds transfer, or other automated means; and

(xiii) archive data relating to each contract action and furnish reporting capability with respect to such data.

(2) The head of the agency, with the concurrence of the Administrator of OFPP, has certified to the Director of the Office and Management and Budget that the agency implemented full electronic print procurement capability.

(b) Effective October 1, 2003, Agencies are not required to satisfy requirements for Government printing and related supplies from or through an exclusive source. Agencies may address needs for Government printing and related supplies by—

(1) Contracting with a private sector source, provided that the agency has been certified to have full electronic print procurement capability in accordance with 8.801(a);

(2) Using the Government Printing Office (GPO), in accordance with the requirements of subsection (c); or

(3) Relying on in-house or other executive branch printing operations, but only where such executive branch operations demonstrate, based upon a full account of all costs and through public-private competition (unless an exception to competition applies), that they offer the best combination of quality, cost, ~~and delivery, and ability to meet production milestones~~ or, alternatively, the lowest overall cost in a competition based on cost or price and cost or price related factors. Prior to proceeding with an in-house or other executive branch printing operation under this paragraph, the agency shall disclose its cost-account findings to the GPO, any vendor participating in the public-private competition, and any interested party requesting such information.

(b)(1) Except as provided herein, ~~in paragraph (2)~~, agencies shall make awards for Government printing in accordance with applicable parts of the FAR, including Parts 5, 6, 10, 12, 13, 14, 15, 17 and 19 and Subpart 8.4.

~~(2)(i) Synopsis and response time. Synopsizing requirements and response times currently applicable to acquisitions over \$25,000 but less than the simplified acquisition threshold (see 5.101(a)(1) and subpart 5.2) shall also apply to acquisitions for printing over \$2,500.~~

~~—(ii) Use of Federal Supply Schedules.~~

~~—(A) Notwithstanding 8.404(b)(2) and (3), all schedule contractors participating on the schedule for printing shall be given notice using the General Services Administration's electronic quote system, "e-Buy" (www.gsaAdvantage.gov) and an opportunity to compete for any order over \$2,500. Ordering offices shall ensure that—~~

~~(1) e-Buy notices are forwarded to the GPE for publication; and~~

~~(2) the forwarded notice is identified on the GPE as being provided for informational purposes only.~~

~~(B) Any blanket purchase agreement entered into pursuant to FAR 8.404(b)(4) shall not exceed one year in length.~~

~~(iii) Use of indefinite quantity contracts (other than the Federal Supply Schedules) and requirements contracts.~~

~~(A) Contracting officers shall ensure that—~~

~~(1) a notice is forwarded to the GPE for publication before an order for printing is placed under either an indefinite quantity contract or a requirements contract; and~~

~~(2) the forwarded notice is identified on the GPE as being provided for informational purposes only.~~

(B)

(2) Notwithstanding any other FAR provision, indefinite quantity and requirements contracts (see 16.5) for printing shall not exceed 1 year in length.

(c) Until January 1, 2004, October 1, 2003, agencies shall continue to utilize both the print production services and print procurement services of GPO in accordance with Title 44 of the United States Code. Beginning October 1, 2003, agencies that have been certified to have full electronic print procurement capability in accordance with 8.801(a) may elect to use the print procurement services of GPO in accordance with Title 44 of the United States Code. ~~agencies may use the services of the GPO without conducting a competition. However, agencies shall not obtain printing services from~~ utilize the print production services of GPO on or after January 1, 2004 October 1, 2003 unless GPO demonstrates through public-private competition (unless an exception to competition applies) that it offers the best combination of quality, cost, and delivery or, alternatively, the lowest overall cost in a competition based on cost or price and cost or price related factors.

(d) For each Government publication to be printed, the agency shall ensure that GPO has to opportunity to order such copies of the Government publication as it wishes to distribute to the Federal Depository Libraries and any other official use no later than the time when the agency orders its copies of the Government publication; ~~a copy of the publication is provided to the GPO's Superintendent of Documents for distribution to the Federal Depository Libraries and any other official use as may be necessary for the GPO to carry out its responsibilities. When transmitting the publication, the agency shall state that the copy is being provided so that GPO may produce however many copies the Superintendent of Documents has determined are necessary for distribution to the Federal Depository Libraries. Transmission to the Superintendent shall be made using electronic means unless such means are unavailable.~~

(e) [RESERVED FOR OMB ANNUAL REPORTING REQUIREMENT] ~~Whenever feasible, the agency should consult with the GPO's Public Printer before issuing a solicitation for a printing acquisition to determine the number of copies of a Government publication the GPO may wish to obtain and the agency shall take reasonable and appropriate steps to assist GPO if GPO wishes to purchase copies from a private contractor employed by the agency.~~

8.802 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 52.208-XX, Purchases by GPO, in all solicitations and contracts for Government printing of a Government publication where the GPO timely advises the agency before issuance of the solicitation that it will seek to make purchases under the contract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Add section 52.208-XX to read as follows:

52.208-XX Purchases by GPO.

As prescribed in 8.802, insert the following clause:

Purchases by GPO (Date)

As specified in the contract, the contractor, on written request from the Public Printer of the Government Printing Office (GPO), shall furnish up to [INSERT number] of the following publications [INSERT DESCRIPTION] to the GPO. Invoices for such purchases shall be submitted to the GPO's Public Printer. Payment will be made directly by the Public Printer.

(End of clause)