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FAS's Use of the 4P Tool on Contract and Option Awards Often Results in Noncompliant Price Determinations

Report Number A201045/Q/3/P22001
July 27, 2022

Executive Summary

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Why We Performed This Audit

This audit was included in our *Fiscal Year 2020 Audit Plan*. We performed this audit because Federal Acquisition Service (FAS) contracting personnel have increasingly used and relied on pricing tools to perform price analyses for Multiple Award Schedule contracts. Our audit objectives were to determine whether: (1) FAS has sufficient and appropriate policy, guidance, and internal controls related to the use of the Price Point Plus Portal tool (4P tool); (2) FAS contracting officers are using the 4P tool in accordance with federal regulations and existing FAS policy and guidance; and (3) the 4P tool provides accurate data for price analysis.

What We Found

FAS developed the 4P tool to help its contracting personnel evaluate proposed pricing on Multiple Award Schedule contracts offering products. In turn, FAS contracting personnel rely on the 4P tool when making fair and reasonable pricing determinations. However, due to a lack of sufficient guidance and oversight regarding the use of the 4P tool, FAS contracting personnel awarding contracts and options often make pricing decisions that do not comply with the Federal Acquisition Regulation, FAS policy, and the Competition in Contracting Act of 1984. As a result, federal agencies are at risk of overpaying for products on Multiple Award Schedule contracts and taxpayer dollars are at risk of being overspent.

We found that FAS contracting personnel used flawed methodologies and practices when performing analyses with the 4P tool. In doing so, FAS contracting personnel: (1) improperly relied on the 4P tool to establish price reasonableness without conducting additional price analysis; (2) awarded proposed pricing based on a 4P tool comparison to the current pricing on the same contract (self-hits); (3) awarded proposed pricing based on a 4P tool comparison to other government pricing, despite the 4P tool identifying better commercial pricing; and (4) awarded pricing that either exceeded the market thresholds established by the 4P tool or for which the 4P tool found no market research comparisons, without any further justification or analysis. We also found that FAS contracting personnel rely on the 4P tool although it often contains outdated or inaccurate pricing data that could skew price analysis results.

What We Recommend

We recommend that the FAS Commissioner:

1. Develop and implement oversight controls to ensure contracting personnel adhere to FAS Policy and Procedures 2020-02 and 2021-05, and only use the 4P tool as part of a larger negotiation strategy that seeks the lowest overall cost alternative to meet the needs of the federal government, as required by the Competition in Contracting Act of 1984.
2. Update the 4P Application User Guide to require contracting personnel to:
 - a. Conduct additional price analysis on products for which the 4P tool returns only self-hits;
 - b. Include commercial market pricing information presented in the 4P tool in price evaluations and provide justification when the awarded pricing exceeds the lowest commercial market price found;
 - c. Seek, analyze, and document justification for product pricing that exceeds the market threshold; and
 - d. Manually research an appropriate sample of products for which the 4P tool found no market research comparisons to ascertain applicable market pricing information.
3. Provide training to contracting personnel regarding the use of the 4P tool, focusing on updated 4P Application User Guide requirements.
4. Develop and implement oversight controls to ensure contracting personnel are following the updated 4P Application User Guide.
5. Include commercial market pricing research on the 4P tool overview tab.
6. Include “no competitive research found” flags and a competitive research rate in 4P reports, exclusive of self-hits.
7. Design and implement procedures to ensure only accurate, current pricing is included in 4P reports.

The FAS Commissioner largely concurred with our recommendations, but contends that the methodology used to derive these recommendations does not substantiate the conclusion that 4P often contains outdated or inaccurate pricing data. In addition, the FAS Commissioner disagrees with our recommendation that contracting personnel should use commercial market pricing information presented in the 4P tool to evaluate GSA schedule pricing and provide justification when the awarded pricing exceeds the lowest commercial market price found.

FAS’s written comments are included in their entirety in **Appendix B**.

Table of Contents

Introduction	1
Results	
<i>Finding 1 – FAS contracting personnel used flawed methodologies and practices when performing price analyses with the 4P tool.</i>	<i>7</i>
<i>Finding 2 – FAS contracting personnel rely on the 4P tool for price reasonableness determinations although it often contains outdated or inaccurate pricing data.</i>	<i>12</i>
Conclusion.....	14
<i>Recommendations</i>	<i>14</i>
<i>GSA Comments.....</i>	<i>15</i>
<i>OIG Response</i>	<i>15</i>
Appendixes	
Appendix A – Objectives, Scope, and Methodology.....	A-1
Appendix B – GSA Comments	B-1
Appendix C – Report Distribution.....	C-1

Introduction

We performed an audit of the Federal Acquisition Service's (FAS) Price Point Plus Portal tool (4P tool) for products offered on Multiple Award Schedule (MAS) contracts to assess whether FAS is using it in accordance with federal regulations and FAS policy and guidance and if the 4P tool is a reliable source to determine price reasonableness when awarding contracts and option extensions.

Purpose

This audit was included in our *Fiscal Year 2020 Audit Plan*. We performed this audit because FAS contracting personnel have increasingly used and relied on pricing tools to perform price analyses for MAS contracts.

Objectives

Our audit objectives were to determine if: (1) FAS has sufficient and appropriate policy, guidance, and internal controls related to the use of the 4P tool; (2) FAS contracting officers are using the 4P tool in accordance with federal regulations and existing FAS policy and guidance; and (3) the 4P tool provides accurate data for price analysis.

See **Appendix A** – Objectives, Scope, and Methodology for additional details.

Background

GSA's MAS contracts are long-term, government-wide contracts with commercial contractors that provide federal, state, and local government buyers access to more than 11 million commercial products and services at volume discount pricing. Awarded contracts include pre-negotiated prices, delivery terms, warranties, and other terms and conditions intended to streamline the acquisition process. MAS contracts are indefinite-delivery, indefinite-quantity and are typically awarded with a 5-year base period and three 5-year option extensions, totaling 20 years.

Two statutes authorize the MAS Program: Title III of the Federal Property and Administrative Services Act of 1949; and 40 U.S.C. 501, *Services for executive agencies*. MAS Program acquisitions are governed by the following documents:

- Federal Acquisition Regulation (FAR), which provides regulatory guidance;
- General Services Administration Acquisition Regulation (GSAR), which contains Agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors; and
- General Services Administration Acquisition Manual (GSAM), which contains the GSAR and non-regulatory agency acquisition guidance.

According to GSA's *Multiple Award Schedule Desk Reference*, the intent of the MAS Program is to leverage the government's buying power to provide customer agencies with competitive, market-based pricing. The Competition in Contracting Act of 1984 (41 U.S.C. 152) (CICA) states that procedures established under the MAS Program are competitive as long as MAS orders and contracts result in the lowest overall cost alternative to meet the government's needs. In order to ensure MAS contracts met the competitive and lowest overall cost alternative requirements of CICA, GSA established in the GSAR that the government will seek to obtain the offeror's best price, or in other words, the best price given to the most favored customer (MFC).

Before awarding MAS contracts, GSA contracting officers must make a determination that the prices are fair and reasonable. As explained in FAR 8.404(d), *Use of Federal Supply Schedules*, since GSA has already determined the prices of supplies and services under MAS contracts to be fair and reasonable, ordering activities are not required to make a separate determination of fair and reasonable pricing. Consequently, by placing an order against an MAS contract, the ordering activity has concluded that the order represents the best value and results in the lowest overall cost alternative to meet the government's needs.

With the implementation of the Transactional Data Reporting (TDR) pilot, the GSAM provides contracting officers with different requirements and evaluation methods to determine fair and reasonable pricing for offers without access to transactional data and with access to transactional data. They are as follows:

- GSAR 538.270-1, *Evaluation of offers without access to transactional data*, provides that the government is required to seek the offeror's best price (i.e., the MFC's price) and outlines methods that contracting officers should use to compare the terms and conditions of the MAS solicitation with those of the offeror's commercial customers.
- GSAR 538.270-2, *Evaluation of offers with access to transactional data*, also known as the TDR pilot, does not require Commercial Sales Practices (CSP) information. Instead, it establishes an order of preference that prioritizes prices paid information as the primary basis to determine price reasonableness. When a price reasonableness determination cannot be made using prices paid information, FAS contracting personnel are advised to use contract-level pricing information from other MAS and government-wide contract vehicles for same or similar items to determine price reasonableness.

Purpose and Development of the 4P Tool

In 2011, GSA's Office of General Supplies and Services piloted the Price Point Solution (Price Point). Price Point was a commercial off-the-shelf market research tool developed by XSB, Inc. (XSB). Price Point allowed contracting personnel to automate market research by using XSB to research pricing from other government and commercial suppliers for identical item(s) offered under an MAS contract. The following year, FAS expanded its usage by granting broader access across the MAS Program, and issued Procurement Information Notice 2013-02, *Evaluating*

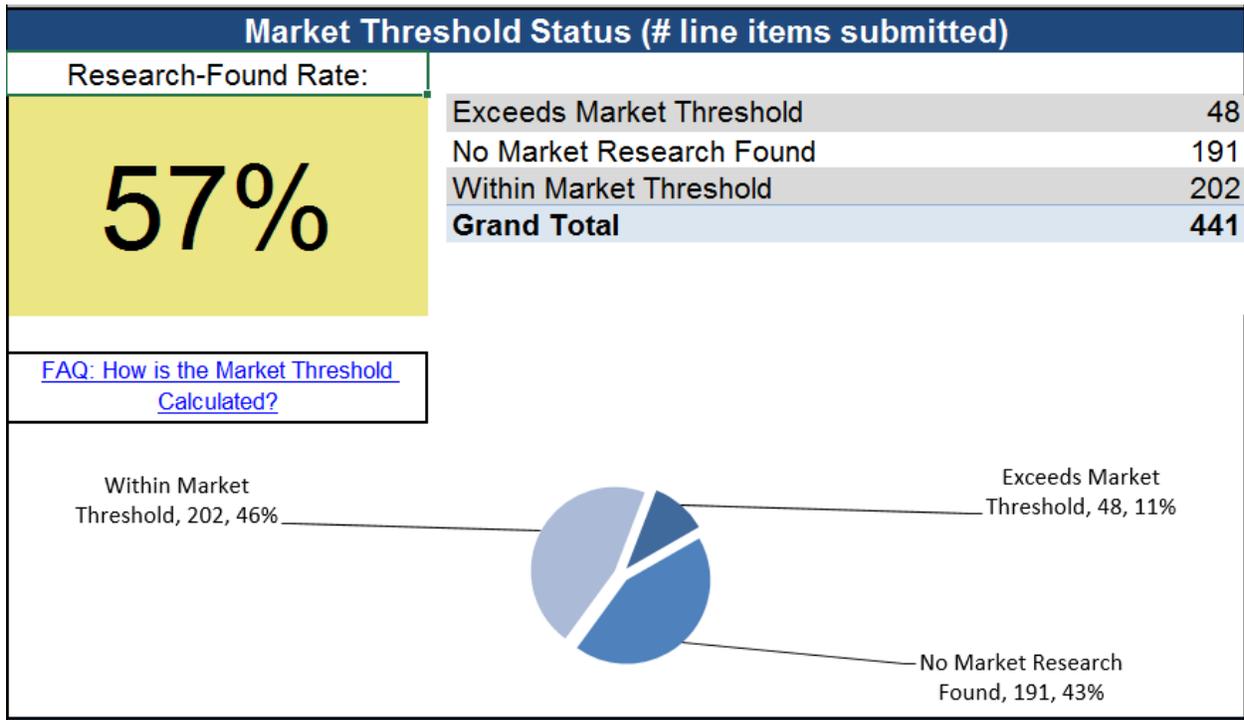
Federal Supply Schedules with Price Point (later cancelled by FAS Policy and Procedure [PAP] 2016-10, *Implementation of the Formatted Product Tool under the Federal Supply Schedule Program*), to provide guidance to contracting personnel on the use of XSB's Price Point tool when evaluating MAS offers and modification requests.

FAS used Price Point through Fiscal Year 2016, before transitioning to its more enhanced 4P tool, which also uses XSB market research data services. The 4P tool was intended to fill FAS's automated market research needs until the Formatted Product Tool (FPT), a second product tool that FAS was developing to incorporate XSB's market research data service, was completed and implemented. After FPT's initial implementation, FAS determined that the desired outcomes were not being achieved. As a result, FAS issued PAP 2019-01, *Rollback of the Formatted Product Tool (FPT) under the Federal Supply Schedule Program*, in November 2018 to stop the use of FPT. This left the 4P tool as the remaining solution for FAS contracting personnel to access XSB's market research data services.

According to the 4P Application User Guide (4P user guide), the 4P tool delivers on-demand market research and analysis to FAS contracting personnel in response to a vendor-initiated contract modification or offer. As it relates to pricing, 4P reports also provide additional information about the offered items in a contractor's proposal based on how identical products are represented through government and commercial marketplaces. For example, 4P reports provide flagging for missing or invalid information about product(s), duplicate item(s), product prohibition status, supplier authorization status, potential Made in America misrepresentation(s), and green attributes.

For offers and modifications, FAS contracting personnel submit a contractor's proposed pricing to XSB, which processes the information and returns a 4P report identifying how the proposed pricing compares to pricing on GSA *Advantage!*, Defense Logistics Agency FedMall, NASA Solutions for Enterprise-wide Procurement, and government-wide acquisition contracts. *Figure 1*, on the next page, is an example of the first tab in a 4P report (also known as the overview tab) run during Calendar Year 2020, which summarizes the government market research information XSB found related to a contractor's proposed pricing. If XSB finds pricing available from commercial sources (e.g., www.amazon.com or www.bestbuy.com) for the same items as proposed, it does not provide information on how the contractor's proposed pricing compares to commercial sources on the 4P report overview tab.

Figure 1 – 4P Report Overview Tab Screenshot



The following are definitions for the terms included in the overview tab:

- Research-Found Rate:** XSB searches *GSA Advantage!*, Defense Logistics Agency FedMall, NASA Solutions for Enterprise-Wide Procurement, and government-wide acquisition contracts for items with identical part numbers as those proposed. When a comparable item is found from these sources, it is identified as either “Within Market Threshold” or “Exceeds Market Threshold.” The 4P tool then calculates a “Research-Found Rate” as the sum of those products “Within Market Threshold” and “Exceeds Market Threshold” compared to the total number of proposed items. In the above example, XSB researched 441 proposed products and found comparable information on 250 products: 48 products that exceeded the market threshold and 202 products within the market threshold. This equates to a Research-Found Rate of 57 percent on the 441 proposed products.
- Market Threshold:** XSB scans the government marketplace and establishes a baseline price equal to the lowest government price found, excluding extreme low outlier pricing. FAS’s price-proportional variability model is then applied to the baseline price to establish a market threshold. According to the 4P user guide, the market threshold is the maximum price contracting personnel should consider without further justification. When commercial market research is found, this same model is applied to the commercially available baseline price and reported as the commercial market threshold.

FAS’s price-proportional variability model establishes the market threshold by applying a percentage to the baseline price that decreases proportionately with the increase of the baseline price from \$1 to \$5,000. *Figure 2* below contains several examples FAS provided to demonstrate how the market threshold is calculated by the price-proportional variability model for different baseline prices.

Figure 2 – Price-Proportional Variability Model

When the Baseline Price is:	Market Threshold is:	Price Variability Threshold
\$ 1	\$ 1.50	150%
\$ 5	\$ 7.40	148%
\$ 25	\$ 35.00	140%
\$ 50	\$ 65.00	130%
\$ 100	\$ 129.47	129%
\$ 300	\$ 382.11	127%
\$ 500	\$ 626.32	125%
\$ 750	\$ 919.74	123%
\$ 1,000	\$ 1,200.00	120%
\$ 1,500	\$ 1,781.25	119%
\$ 3,500	\$ 3,981.25	114%
\$ 5,000	\$ 5,500.00	110%
\$ 7,500	\$ 8,250.00	110%

For example (as shown in *Figure 2*), if a contractor proposes a product and XSB searches its government marketplace sources and identifies the lowest price that item is offered for is \$50, then that price becomes the baseline price and the market threshold price is determined to be 130 percent of the baseline price, or \$65.

- **Within Market Threshold:** The proposed price is below the market threshold established by the price-proportional variability model. Continuing the above example, if the item’s proposed price was \$65 or less, the 4P tool would report the item as “Within Market Threshold.”
- **Exceeds Market Threshold:** The proposed price is higher than market threshold established by the price-proportional variability model. Again using the previous example, if the proposed item’s price was greater than \$65, the 4P tool would report the item as “Exceeds Market Threshold.”

The 4P user guide reminds FAS contracting personnel that pricing tools should be used only as part of a larger evaluation process, which seeks to obtain fair and reasonable pricing. Furthermore, FAS contracting personnel can rely on the 4P report to provide an order in which

to prioritize price negotiations, but should not rely on the 4P report to take the place of price negotiations and associated analysis.

Prior OIG Comments and Report Related to FAS Pricing Tools

With regard to FAS's pricing tools, on December 23, 2019, the GSA Office of Inspector General issued Report Number A180068/Q/3/P20002, *FAS's Use of Pricing Tools Results in Insufficient Price Determinations* (pricing tools audit report). The report found that FAS contracting personnel used flawed methodologies and practices when performing analyses with the pricing tools. It also found that when the pricing tools are the sole or primary basis for evaluating pricing, FAS contracting personnel are not leveraging the collective buying power of the government or providing assurance that prices reflect the lowest overall cost alternative to meet the government's needs. FAS agreed with the report findings and agreed that its pricing tools are to be used only as part of a larger negotiation strategy that seeks the lowest overall cost alternative to meet the needs of the federal government, as required by CICA.

Results

FAS developed the 4P tool to help its contracting personnel evaluate proposed pricing on MAS contracts offering products. In turn, FAS contracting personnel rely on the 4P tool when making fair and reasonable pricing determinations. However, due to a lack of sufficient guidance and oversight regarding the use of the 4P tool, FAS contracting personnel awarding contracts and options often make pricing decisions that do not comply with the FAR, FAS policy, and CICA. As a result, federal agencies are at risk of overpaying for products on MAS contracts and taxpayer dollars are at risk of being overspent.

We found that FAS contracting personnel used flawed methodologies and practices when performing analyses with the 4P tool. In doing so, FAS contracting personnel: (1) improperly relied on the 4P tool to establish price reasonableness without conducting additional price analysis; (2) awarded proposed pricing based on a 4P tool comparison to the current pricing on the same contract (self-hits); (3) awarded proposed pricing based on a 4P tool comparison to other government pricing, despite the 4P tool identifying better commercial pricing; and (4) awarded pricing that either exceeded the market thresholds established by the 4P tool or for which the 4P tool found no market research comparisons, without any further justification or analysis. We also found that FAS contracting personnel rely on the 4P tool although it often contains outdated or inaccurate pricing data that could skew price analysis results.

Finding 1 – FAS contracting personnel used flawed methodologies and practices when performing price analyses with the 4P tool.

FAS's use of the 4P tool results in pricing decisions that do not comply with the FAR, FAS policy, and CICA. In particular, FAS contracting personnel used flawed methodologies and practices when performing price analyses with the 4P tool, which led to these deficiencies. This occurred because FAS does not have sufficient guidance and oversight regarding the use of the 4P tool. As a result, federal agencies are at risk of overpaying for products and taxpayer dollars are at risk of being overspent.

We identified four flawed methodologies and practices regarding the use of the 4P tool in price analyses. A detailed discussion of each follows.

Reliance on Pricing Tools without Additional Analysis

FAS contracting personnel improperly relied on the 4P tool to establish price reasonableness without conducting additional price analysis for both contracts with CSP information and those participating in the TDR pilot.

For contracts using CSP information, FAS contracting personnel follow GSAR 538.270-1 to establish price reasonableness. According to GSAR 538.270-1, when offerors have commercial catalogs, FAS contracting personnel should negotiate concessions from established catalogs and

seek to obtain the offeror's best price given to the MFC. Achieving an offeror's MFC price is how the GSA schedule meets the CICA requirements of orders and contracts resulting in the lowest overall cost alternative to meet the needs of the federal government.

However, in many cases, FAS contracting personnel using the 4P tool have not sought the contractor's best commercial price. We sampled 25 contract and option awards requiring CSP information. For 18 of those 25, FAS contracting personnel relied on the 4P tool to determine price reasonableness. Specifically, contracting personnel received a CSP and documented the pricing offered to GSA versus the pricing offered to commercial customers as stated in the CSP, but based the price reasonableness decision on the results of the 4P tool analysis. Price analysis based on the 4P tool does not comply with GSAR 538.270-1 because it does not provide information on an offeror's best price, but rather how an offeror's price compares to competitors' prices.

Likewise, for contracts under TDR, we found that FAS contracting personnel improperly relied on the 4P tool to establish price reasonableness without conducting any additional price analysis. Our sample included five contract and option awards participating in the TDR pilot; however, we found that transactional data was not available or used to determine price reasonableness for any of those contracts. As a result, for three of the five sampled TDR contracts, the FAS contracting personnel relied on the 4P tool as the sole source of price analysis.

Overall, we found that FAS contracting personnel relied on the 4P tool to determine price reasonableness for 21 of the 30 sampled contract and option awards. As a result, there is no assurance that contract pricing meets CICA requirements and results in the lowest overall cost alternative to meet the government's needs because the 4P tool does not provide information on offerors' best pricing.

Furthermore, the price reasonableness determinations for 12 of these contracts were made after FAS issued guidance instructing contracting officers that they should not rely on pricing tools to determine price reasonableness. PAP 2020-02, *Mandating the Use of Pre-Negotiation, Price Negotiation and Final Proposal Revision Templates for the Federal Supply Schedule (FSS) Program*, which was effective on July 10, 2020, advised contracting personnel that pricing tools should be used as a part of larger evaluation process and should be used to supplement CSP disclosures rather than relied upon to determine price reasonableness. PAP 2020-02 was drafted taking into consideration similar findings on FAS's use of pricing tools from our December 23, 2019, audit report.¹ Specifically, PAP 2020-02 states:

COs [contracting officers] are reminded that pricing tools utilized to establish negotiation objectives or determine pricing fair and reasonable should be used as part of a larger evaluation process which seeks to obtain fair and reasonable

¹ *FAS's Use of Pricing Tools Results in Insufficient Price Determinations* (Report Number A180068/Q/3/P20002, December 23, 2019).

pricing. When CSP is available (quarterly reporting), horizontal pricing tools should be utilized to supplement the CSP disclosures. If horizontal analysis supports an opportunity to achieve a better price/discount, objectives should be established to achieve a better price/discount.

In addition, FAS took the similar findings in our December 23, 2019, audit report into consideration when it reiterated this position in PAP 2021-05, *Evaluation of FSS Program Pricing*, issued on September 27, 2021. This PAP likewise stated that pricing tools are to be used only as part of a larger negotiation objective development strategy that seeks fair and reasonable pricing.

Ultimately, to ensure compliance with GSAR and CICA, FAS must institute oversight to ensure contracting personnel are using the 4P tool in conjunction with seeking the contractor's best commercial price (MFC price) through commercial sales analysis.

Reliance on Comparisons to Current Schedule Pricing (Self-Hits)

FAS contracting personnel awarded proposed pricing for 11 of the 30 sampled contracts based on a 4P tool comparison to the current pricing on the same contract (self-hits), without additional price analysis. For 7 of these 11 contracts, the 4P tool yielded only self-hits on 89 to 100 percent of the products researched.

The use of self-hits to determine price reasonableness does not comply with FAR 15.402(b), *Pricing policy*, which requires FAS contracting personnel to price each contract separately and independently. Without additional price analysis, awarded GSA schedule pricing may be overstated, putting the government at risk of overpaying for products. For example, we found that FAS personnel awarded a price of \$50.85 for an LED Emergency Exit Sign based on a 4P tool-generated self-hit; however, when we searched www.amazon.com for the same exact sign, we found it available for \$40.93.

FAS has not provided sufficient guidance to FAS contracting personnel related to self-hits in terms of determining price reasonableness. The 4P user guide does not direct FAS contracting personnel to conduct additional price analysis or provide any guidance on accounting for self-hits when making price reasonableness determinations. As a result of our audit, FAS updated its 4P Google site in October 2021 to implement additional guidance related to self-hits, but it does not specifically address how to analyze self-hits when making price reasonableness determinations based on 4P reports.

FAS officials stated that there is value in self-hits in terms of preventing the addition of duplicate items and confirming percentage increases requested via an economic price adjustment. However, FAS officials also stated that "we wholeheartedly agree that if the intent is to define a competitive market research found rate, it would be more appropriate to exclude instances where hits = self-hits."

The 4P report overview tab does not include additional information on self-hits or a “no competitive research found” flag, which would enable FAS contracting personnel to more easily determine that the comparison was invalid. FAS officials agreed, stating that “Perhaps a reasonable enhancement would be to include a ‘no competitive research found’ flag at the item level, and also include an overall competitive market research found figure in the report.” FAS should include a “no competitive research found” flag and develop robust guidance and policy on how to address “no competitive research found” flags, including oversight to ensure contracting personnel are complying with updated policy and guidance.

Reliance on Government Comparisons When Lower Priced Commercial Comparisons Exist

FAS contracting personnel awarded proposed pricing for 4 of the 30 sampled contracts based on a 4P tool comparison to current government pricing, despite the 4P tool identifying better pricing from commercially available sources.

For example, on one of the contracts we sampled, the 4P tool identified commercial baseline prices lower than the proposed prices on 177 of the 652 proposed items, or 27 percent of the proposed products. This better commercial pricing came from publically available sources, such as www.cdwg.com and www.bhphotovideo.com, and was up to 44 percent less than proposed GSA pricing. However, contracting personnel did not consider the better commercial pricing and awarded the proposed pricing for all 652 proposed products because the 4P report overview tab, which only contains government price comparison data, identified that almost all proposed products were within the market threshold.

CICA states that the procedures established under the MAS Program are competitive as long as MAS orders and contracts result in the lowest overall cost alternative to meet the government’s needs. When contracting personnel do not consider commercial pricing, they cannot assure the awarded pricing results in the lowest cost alternative to the government and thus place taxpayer dollars at risk of being overspent.

The 4P user guide mentions that commercial market research is included in 4P reports (if the tool finds commercial pricing). However, FAS does not require contracting personnel to review the commercial pricing identified by the 4P tool or provide guidance on what contracting personnel should do if that pricing is lower than the proposed pricing. In addition, the overview tab of the 4P reports contracting personnel receive shows no indication of whether the report contains commercial pricing. Contracting personnel would have to proactively review the 4P report results in full to determine if commercial pricing was available and better than the proposed pricing. We found contracting personnel relied heavily on the 4P report overview tab, and did not use commercial pricing information when it was available.

FAS stated it does not include commercial pricing information on the 4P report overview tab for the following reasons:

- Commercial pricing information is not as comprehensive as government marketplace data. XSB sources data from roughly 40 commercial websites, as compared to thousands of available commercial websites;
- The commercial hit rate is on average significantly lower than the government hit rate and it is common that a minority share of the products presented will have a commercial hit; and
- Commercial market prices change more rapidly than government market pricing due to lower barriers to change, whereas government marketplace prices tend to change via a contractual action (review and approval by contracting personnel).

None of these reasons justify why, when commercial pricing information is available and is better than what is being offered to GSA, it is not included in the 4P tool overview tab or used by contracting personnel in pricing decisions. In order to provide assurance that awarded pricing meets the lowest overall cost alternative to the government, FAS must include commercial market research information in the 4P tool overview tab and develop guidance and oversight to ensure price analyses include commercial pricing research.

Lack of Justification for Items That Exceed Market Threshold or Have No Market Research

FAS contracting personnel awarded pricing that either exceeded the market threshold established by the 4P report, or for which the 4P tool found no market research comparisons, without further justification or analysis. As such, there is no assurance that FAS contracting personnel are awarding pricing that is fair and reasonable, or represents the lowest overall cost alternative to the government.

In the 4P user guide, FAS contracting personnel are encouraged to seek justification for a contractor's proposed price when it exceeds the market threshold. If no reasonable justification is provided, FAS contracting personnel should negotiate a lower price or, if the proposed price cannot be determined fair and reasonable, not award the item. We determined that the 4P reports for 9 of the 30 sampled contracts included products with proposed pricing that exceeded the market threshold. FAS contracting personnel relied on the results from the 4P report for seven of those nine contracts without seeking justification or negotiating a lower price.

The current 4P user guide also encourages FAS contracting personnel to manually research an appropriately sized sample of products when no market research comparisons are found. We determined that the 4P reports for 16 of the 30 sampled contracts included products with no market research comparisons. FAS contracting personnel did not conduct additional manual research or further justification for 11 of those 16 contracts. As such, there is no assurance that the contracting officer is awarding pricing that is fair and reasonable or represents the lowest overall cost alternative to the government.

FAS launched required 4P tool training for all contracting personnel in July 2021. This training more strongly states that contracting personnel should seek justification before accepting proposed pricing that exceeds the market threshold; however, it does not state that contracting personnel are required to seek justification before making a price determination. Moreover, the 4P user guide still states that contracting personnel are “encouraged” to seek justification for prices exceeding the market threshold, thereby leaving whether to seek justification to the discretion of individual contracting personnel. Thus, although the new training is an improvement, FAS must strengthen the current guidance and implement oversight to ensure price analyses comply with CICA.

Finding 2 – FAS contracting personnel rely on the 4P tool for price reasonableness determinations although it often contains outdated or inaccurate pricing data.

FAS contracting personnel rely on the 4P tool for making price reasonableness determinations although it often contains outdated or inaccurate pricing data that could skew price analysis results. Specifically, FAS contracting personnel use market baseline data presented in 4P reports to make price reasonableness determinations. However, the 4P tool uses pricing data from *GSA Advantage!*, which can be outdated and inaccurate, to establish the market baseline. According to FAS, it relies on contractors to update their pricing data in *GSA Advantage!*, making the contractors responsible for the outdated and inaccurate pricing information.

We examined a sample of 113 products and determined that for 24 products (21 percent), the market baseline price in the 4P report did not reflect the current price approved in the respective contract price list. According to FAS officials, these inaccuracies are caused by the timing difference between when pricing information is updated in the 4P tool and when 4P reports are run. Specifically, FAS officials stated that “4P’s underlying data set (both Government and Commercial Marketplace) is updated six times per year.... As such, the primary pricing data is at worst a few months old.”

While this may explain some of the pricing inaccuracies, other sampled products have more significant issues due to FAS’s reliance on contractors to update *GSA Advantage!*. According to I-FSS-600, *CONTRACT PRICE LISTS (OCT 2020)*, the contractor’s electronic files must be complete and correct. According to FAS officials, this means that contractors are responsible for updating pricing in *GSA Advantage!*; however, this does not always occur. For example, we found one product’s price changed in July 2014, but it was not updated in *GSA Advantage!*. As a result, the outdated price was used to establish the market baseline price in a 4P report in October 2020.

In addition, we also found some inaccurate market baseline pricing coming from *GSA Advantage!*. For example, a 4P report listed one product’s market baseline price as \$22.56; however, when we reviewed the respective contractor’s MAS price list, the product’s price was \$11.02 on the date of the 4P report. We could not find the \$22.56 price in any previous contract price lists.

These inaccuracies are problematic because the market baseline price drives the market threshold, which is used by FAS contracting personnel to make price reasonableness determinations. While most of the outdated and inaccurate prices were lower than the actual prices, several were higher and put the government at risk of missing opportunities to save money or leverage its buying power.

FAS officials stated that they were aware, even prior to our audit, that *GSA Advantage!* is not always updated in a timely manner due to its reliance on contractors to update awarded pricing. However, according to FAS officials, the issue will be corrected with the release of the Common Catalog Platform, which will automatically update awarded pricing on *GSA Advantage!*. According to GSA, the Common Catalog Platform is a modern platform designed to keep *GSA Advantage!* and other catalogs up-to-date with reliable and accurate information about the products and services offered to the federal marketplace. Unfortunately, the Common Catalog Platform implementation is not anticipated until the first quarter of Fiscal Year 2023.

Currently, FAS contracting personnel are using outdated and inaccurate market baseline data from the 4P tool to make price reasonableness determinations when awarding contracts and modifications. FAS, as the system owner, has a responsibility to ensure the accuracy of the data contained in *GSA Advantage!* and subsequently, in the 4P tool. Therefore, FAS should take immediate steps to ensure pricing information is updated in a timely accurate manner in *GSA Advantage!*.

Conclusion

FAS developed the 4P tool to help its contracting personnel evaluate proposed pricing on MAS contracts offering products. In turn, FAS contracting personnel rely on the 4P tool when making fair and reasonable pricing determinations. However, due to a lack of sufficient guidance and oversight regarding the use of the 4P tool, FAS contracting personnel awarding contracts and options often make pricing decisions that do not comply with the FAR, FAS policy, and CICA. As a result, federal agencies are at risk of overpaying for products on MAS contracts and taxpayer dollars are at risk of being overspent.

We found that FAS contracting personnel used flawed methodologies and practices when performing analyses with the 4P tool. In doing so, FAS contracting personnel: (1) improperly relied on the 4P tool to establish price reasonableness without conducting additional price analysis; (2) awarded proposed pricing based on a 4P tool comparison to the current pricing on the same contract (self-hits); (3) awarded proposed pricing based on a 4P tool comparison to other government pricing, despite the 4P tool identifying better commercial pricing; and (4) awarded pricing that either exceeded the market thresholds established by the 4P tool or for which the 4P tool found no market research comparisons, without any further justification or analysis. We also found that FAS contracting personnel rely on the 4P tool although it often contains outdated or inaccurate pricing data that could skew price analysis results.

Recommendations

We recommend that the FAS Commissioner:

1. Develop and implement oversight controls to ensure contracting personnel adhere to FAS Policy and Procedures 2020-02 and 2021-05, and only use the 4P tool as part of a larger negotiation strategy that seeks the lowest overall cost alternative to meet the needs of the federal government, as required by the Competition in Contracting Act of 1984.
2. Update the 4P Application User Guide to require contracting personnel to:
 - a. Conduct additional price analysis on products for which the 4P tool returns only self-hits;
 - b. Include commercial market pricing information presented in the 4P tool in price evaluations and provide justification when the awarded pricing exceeds the lowest commercial market price found;
 - c. Seek, analyze, and document justification for product pricing that exceeds the market threshold; and
 - d. Manually research an appropriate sample of products for which the 4P tool found no market research comparisons to ascertain applicable market pricing information.

3. Provide training to contracting personnel regarding the use of the 4P tool, focusing on updated 4P Application User Guide requirements.
4. Develop and implement oversight controls to ensure contracting personnel are following the updated 4P Application User Guide.
5. Include commercial market pricing research on the 4P tool overview tab.
6. Include “no competitive research found” flags and a competitive research rate in 4P reports, exclusive of self-hits.
7. Design and implement procedures to ensure only accurate, current pricing is included in 4P reports.

GSA Comments

The FAS Commissioner largely concurred with our recommendations, but contends that the methodology used to derive these recommendations does not substantiate the conclusion that 4P often contains outdated or inaccurate pricing data. In addition, the FAS Commissioner disagrees with our recommendation that contracting personnel should use commercial market pricing information presented in the 4P tool to evaluate GSA schedule pricing and provide justification when the awarded pricing exceeds the lowest commercial market price found.

FAS’s written comments are included in their entirety in ***Appendix B***.

OIG Response

In response to our draft report, the FAS Commissioner stated that the sample size of 113 products that we used to determine that the 4P tool often contains outdated or inaccurate pricing does not provide a “statistically significant analysis.” While we did not use a statistical sample, in our professional judgment the sampling methodology provided the audit team with sufficient and appropriate evidence to support the findings and conclusions about the 4P data.

Due to the manual process of reviewing MAS contract files, which are often missing contract documentation, to find contract pricing information, we limited our sample to 144 products from the 30 4P reports we sampled. For 16 of those products we could not find contract pricing information in FAS’s Electronic Content Management System to even make a determination. For another 15 of the sampled products there was no market research to verify. For the remaining 113 products we found 24 products, or 21 percent of the products examined, where the market baseline price in the 4P report did not reflect the current price approved in the respective contract price list. These products were not chosen with any bias or prior knowledge as to whether they may contain inaccurate pricing information in the 4P tool. Finding 24 inaccurate prices when reviewing 113 products in this manner is a significant issue that FAS

should not dismiss as simply not being a “statistically significant analysis.” FAS should be addressing any opportunity to ensure that pricing data in the 4P tool is accurate.

Also, there is no support for the FAS Commissioner’s statement that some data discrepancies were actually temporary sale pricing in *GSA Advantage!*. In particular, the FAS Commissioner stated “the contention that 21% of the sampled products did not match the current price at the time the report was run, ignores the fact that the majority of these instances were a direct result of the intentional inclusion of *GSA Advantage!* sale pricing that was lower than the contract ceiling price.” As FAS management and contracting personnel had not identified this possibility when the audit results were discussed prior to issuance of the draft report, we requested support for this statement. However, FAS officials were unable to provide support or otherwise demonstrate that the 4P tool intentionally included *GSA Advantage!* sale pricing rather than just incorrect or outdated pricing. In addition, this does not explain instances when the 4P tool price was greater than the actual contract price.

Further, FAS guidance does not support the FAS Commissioner’s statement. According to FAS’s May 2021 Modification Guide, temporary price reductions or sale prices may be immediately loaded to *GSA Advantage!*, after submission of a modification request. The 4P prices that we determined to be inaccurate were determined so because they could not be found on an effective modification. FAS officials assert that, due to prior system constraints, temporary price reductions could have occurred without contract modifications. However, FAS did not provide any support that this occurred.

In addition, while largely agreeing with our recommended user guide updates in Recommendation 2, the FAS Commissioner disagrees that contracting officers should provide justification when the awarded GSA schedule pricing exceeds the lowest commercial market price found.

However, if contracting personnel do not consider commercial pricing and justify why commercial customers, which in this case is the general public, pay a lower price, FAS cannot ensure that the awarded GSA schedule pricing results in contracts and orders that represent the lowest cost alternative to meet the government’s needs. When commercial pricing information is available and is better than what is being offered to GSA, it should be used by contracting personnel in making pricing decisions. In order to provide assurance that awarded GSA schedule pricing results in contracts and orders that meet the lowest overall cost alternative to the government, FAS must include commercial market research information in the 4P tool overview tab and develop guidance and oversight to ensure price analyses include commercial pricing research.

We urge the FAS Commissioner to: (1) reconsider our recommendations that they do not concur with and (2) develop corrective actions to address the related findings.

Audit Team

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

Thomas Tripple	Regional Inspector General for Auditing
Kevin Monaghan	Audit Manager
Heather Schwegler	Auditor-In-Charge
Nicole Day	Auditor

Appendix A – Objectives, Scope, and Methodology

Objectives

This audit was included in our *Fiscal Year 2020 Audit Plan*. We performed this audit because FAS contracting personnel have increasingly used and relied on pricing tools to perform price analyses for MAS contracts.

Our audit objectives were to determine whether:

1. FAS has sufficient and appropriate policy, guidance, and internal controls related to the use of the 4P tool;
2. FAS contracting officers are using the 4P tool in accordance with federal regulations and existing FAS policy and guidance; and
3. The 4P tool provides accurate data for price analysis.

Scope and Methodology

We assessed FAS's use of the 4P tool. All fieldwork was conducted virtually from March 2021 to October 2021.

To accomplish our objectives, we:

- Reviewed the FAR, GSAM, GSAR, and FAS policies and guidance related to pricing tools and negotiations;
- Reviewed two prior audit reports that are significant to the audit objectives;
- Reviewed and analyzed documentation from FAS's Electronic Content Management System for the contracts included in our audit samples;
- Interviewed FAS contracting personnel to determine how the 4P tool is used in making pricing determinations; and
- Interviewed FAS officials to gain an understanding of FAS policies pertinent to our audit objectives.

Sampling

We selected a judgmental sample of 30 contracts out of a population of 204 contracts that used the 4P tool for contract or option awards during the period January 1, 2020, to December 31, 2020. We used the sampled contracts to determine if contracting personnel used the 4P tool in accordance with federal regulations and existing FAS policy and guidance, and if the 4P tool provides accurate data for price analysis. Our sample included both contracts with CSP information and those participating in the TDR pilot with Fiscal Year 2020 sales ranging from approximately \$24,000 to \$102 million.

We also judgmentally sampled 144 products from the 4P reports run for the 30 sampled contracts to determine the accuracy of data within the 4P reports. However, we only completed testing on 113 products because there was no market research for 15 of the sampled products and we could not locate price lists in FAS's Electronic Content Management System for 16 of the sampled products.

Our judgmental samples did not include sample sizes that would allow for projection to the population; however, they allowed us to sufficiently address our audit objectives.

Internal Controls

We assessed internal controls significant within the context of our audit objectives against GAO-14-704G, *Standards for Internal Control in the Federal Government*. The methodology above describes the scope of our assessment and the report findings include any internal control deficiencies we identified. Our assessment is not intended to provide assurance on GSA's internal control structure as a whole. GSA management is responsible for establishing and maintaining internal controls.

Compliance Statement

We conducted the audit between September 2020 and October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B – GSA Comments

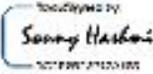
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Federal Acquisition Service

June 21, 2022

MEMORANDUM FOR: Thomas Tripple
Regional Inspector General for Auditing
GSA, Office of Inspector General

FROM: Sonny Hashmi
Commissioner
Federal Acquisition Service (Q) 

SUBJECT: Response to Draft Report FAS's Use of the 4P Tool on Contract and Option Awards Often Results in Noncompliant Price Determinations Report Number (A201045)

Thank you for the opportunity to comment on the referenced draft report FAS's Use of the 4P Tool on Contract and Option Awards Often Results in Noncompliant Price Determinations, Report Number A201045, dated May 25, 2022. The Federal Acquisition Service (FAS) provides its response to the recommendation below.

With over 70M awarded items on MAS contracts, the FAS Acquisition Workforce faces enormous challenges of scale in ensuring regulatory compliance and conducting price analysis at the line-item level. This is a challenge that is faced by any agency or company dealing with large product offerings. To this end the world at large has started to use data intelligence to augment price analysis, rather than leverage out of date manual processes. To address these concerns, FAS created the 4P Market Research tool. Since its inception, more than 410M line items have been analyzed across nearly 40K individual 4P reports. This has provided the MAS program, a feasible solution to move away from hundreds of thousands of hours of manual review of each line item; further allowing Contracting Officers the ability to focus on regulatory compliance and leverage data in price analysis to determine fair and reasonable pricing. Accordingly, FAS has worked diligently to develop automated capabilities, vis-a-vis the 4P application, to provide regulatory compliance flags and market-driven pricing statistics that empower our Acquisition Workforce with the tools that they need to effectively manage MAS contracts.

The challenges of scale extend to the development of this audit report. The sample size used in the development of this report does not provide a statistically significant analysis. 113 items were selected from a narrow set of contract and option awards, pulled from more than 410M line items on nearly 40K individual reports evaluated by the 4P application in the support of offers, modifications, and options. Due to the magnitude of data associated with the 4P tool, the report relied on a statistically insignificant sample size. As detailed below, FAS largely concurs with the recommendations laid out in this report. However, FAS contends that the methodology followed in deriving these recommendations does not substantiate the conclusion that 4P "often" contains outdated or inaccurate pricing data.

U.S. General Services Administration
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Washington, DC 20405

In addition, FAS has already taken a number of actions to strengthen internal controls that were implemented based upon previous management audits conducted by the GSA Office of Inspector General that took place after samples of contract actions were reviewed.

Lastly, many of these recommendations have already been self identified and are in progress of being addressed by FAS through our Catalog Management Initiative.

OIG Recommendation 001

Develop and implement oversight controls to ensure contracting personnel adhere to FAS Policy and Procedures 2020-02 and 2021-05 and only use the 4P tool as part of a larger negotiation strategy that seeks the lowest overall cost alternative to meet the needs of the federal government, as required by the Competition in Contracting Act of 1984.

FAS concurs with this recommendation. FAS views the 4P tool as an efficient way to provide FAS Contracting Officers (COs) actionable data, enabling COs to make better pricing and compliance decisions. FAS CO's also use the 4P tool to support achievement of multiple other public policy objectives including missing or invalid product information; duplicate item(s); product prohibition status; supplier authorization status; potential Made in America misrepresentation(s); as well as sustainability attributes. The market research and pricing data that is available for each line item provides more insight than an individual CO could obtain without using the tool, saving hundreds of thousands of hours of conducting this analysis manually.

As previously noted, FAS has taken actions to strengthen internal controls since the sample contract actions were reviewed, to include:

- Developing new policies and procedures mandating the use of certain templates when awarding MAS offers and mods, and providing specific guidance on contract files to assist COs/CSs with how and where to document 4P utilization. Without knowing which contract files the OIG included in their findings, many of the 4P jobs that were audited may have used templates and documentation prior to the issuance of this additional guidance:
 - [PAP 2020-20](#) Mandating the Use of Pre-Negotiation, Price Negotiation and Final Proposal Revision Templates for the Federal Supply Schedule (FSS) Program (issued 7/20/2020)
 - [PAP 2020-04](#) FAS Contract File Standards (issued 9/28/2020)
 - [PAP 2021-05](#) Evaluation of FSS Program Pricing (issued 9/27/2021)
- Updating the 4P Google Site to expand self-hit guidance in October 2021.
- Launching the "Maximizing Your 4P Utilization" live training in GSA's Online University on 7/16/2021, which is mandatory for the acquisition workforce, and addresses the need to conduct additional pricing analysis in addition to using the 4P tool. To date, 515 individuals have completed the course.

FAS agrees that it should continue to implement additional oversight controls to ensure contracting personnel adhere to FAS Policy and Procedures 2020-02 and 2021-05.

OIG Recommendation 002

Update the 4P Application User Guide to require contracting personnel to:

- a. Conduct additional price analysis on products for which the 4P tool returns only self-hits;
- b. Include commercial market pricing information presented in the 4P tool in price evaluations and provide justification when the awarded pricing exceeds the lowest commercial market price found;
- c. Seek, analyze, and document justification for product pricing that exceeds the market threshold; and
- d. Manually research an appropriate sample of products for which the 4P tool found no market research comparisons to ascertain applicable market pricing information.

FAS partially concurs with this recommendation.

While largely agreeing with recommended user guide updates, FAS disagrees that COs should provide justification when the awarded pricing exceeds the lowest commercial market price found. Commercial market pricing regularly fluctuates in response to specific conditions, and it is not necessary for GSA COs to justify not obtaining the lowest commercial price at a given point in time in addition to the extensive, existing documentation requirements (see PAP 2021-05). In many circumstances it may not be reasonable for COs to obtain the lowest commercial market price found, particularly given current market conditions and inflationary pressures. GSA COs leverage the collective buying power of the government to obtain competitive, market-based pricing. The Competition in Contracting Act (CICA) of 1984 (41 U.S.C. 253) provides that procedures established under the FSS program are competitive as long as orders and contracts result in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the needs of the Federal Government. Therefore, COs aim to negotiate the best possible prices and terms for both customers and taxpayers.

OIG Recommendation 003

Provide training to contracting personnel regarding the use of the 4P tool, focusing on updated 4P Application User Guide requirements.

FAS concurs with this recommendation and will provide additional training regarding the use of the 4P tool. FAS currently plans to decommission the 4P application in FY23 and replace it with the upcoming Common Catalog Platform (CCP), and a separate, externally hosted web portal. Accordingly, FAS will also develop and conduct appropriate training for its next generation of regulatory compliance and price analysis tools.

OIG Recommendation 004

Develop and implement oversight controls to ensure contracting personnel are following the updated 4P Application User Guide.

FAS concurs with this recommendation. FAS has taken action to provide the MAS acquisition workforce with appropriate guidance on the usage of the 4P tool (see response to [OIG Recommendation 001](#) above). FAS will proactively share this guidance with the MAS acquisition workforce through expanded training and messaging. FAS has existing MAS pricing oversight controls such as those delineated in FAS Policy (PAP 2021-06, [FAS Acquisition Oversight Reviews](#)). FAS will emphasize compliance with the 4P User Guide and other 4P guidance in these controls.

OIG Recommendation 005

Include commercial market pricing research on the 4P tool overview tab.

FAS concurs with this recommendation. FAS currently plans to decommission the 4P application in FY23 and replace it with the upcoming Common Catalog Platform (CCP) and a separate, externally hosted web portal. Accordingly, FAS proposes that the commercial market pricing research be included in the overview tab of the next generation reporting tools that are actively under development.

OIG Recommendation 006

Include "no competitive research found" flags and a competitive research rate in 4P reports, exclusive of self-hits.

FAS concurs with this recommendation. FAS currently plans to decommission the 4P application in FY23 and replace it with the upcoming Common Catalog Platform (CCP) and a separate, externally hosted web portal. Accordingly, FAS proposes that the "no competitive research found" flags and a "competitive market research rate" be included in the overview tab of the next generation reporting tools that are currently under development.

OIG Recommendation 007

Design and implement procedures to ensure only accurate, current pricing is included in 4P reports.

FAS partially concurs with this recommendation but has significant concerns on numerous conclusions and statistics cited in the report. For example, the contention that 21% of the sampled products did not match the current price at the time the report was run, ignores the fact that the majority of these instances were a direct result of the intentional inclusion of GSAA Advantage sale pricing that was lower than the contract ceiling price. This decision on inclusion led to the establishment of more competitive pricing targets. Additionally, FAS continues to have concerns on the significance of the sample size used to develop these recommendations. FAS concedes that in rare instances, inaccurate data was used as a direct result of contractors failing to adhere to the requirement that they update their GSAA Advantage price list to reflect the current contract price list in a timely manner. FAS is developing the Common Catalog Platform (CCP) to secure and automate the chain of data custody from the award of a contracting action through eCommerce publication. Specifically, the CCP will ensure that catalog & contractual data is integrated, with catalogs posted to GSAA Advantage matching what has been contractually negotiated and awarded.

Upon issuance of the final audit report, FAS will establish a Corrective Action Plan which will outline the specific actions to be taken in support of the implementation as well as the estimated dates for completion of those actions.

Thank you for the opportunity to review this draft report. If you have any questions, please contact Michael Shepherd from the Catalog Management Office (CMO) in the Office of the Regional Commissioner, Mid-Atlantic Region at Michael.Shepherd@gsa.gov.

Appendix C – Report Distribution

GSA Administrator (A)

GSA Deputy Administrator (AD)

Commissioner (Q)

Deputy Commissioner (Q1)

Deputy Commissioner (TTS)

Chief of Staff (Q0A)

Regional Commissioner for FAS (3Q)

Chief Financial Officer (B)

Deputy Chief Financial Officer (B)

Office of Audit Management and Accountability (BA)

Assistant Inspector General for Auditing (JA)

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