

Contract Consolidation Under GSA Could Hurt Innovation

By **Daniel Wilson**

Law360 (March 24, 2025, 9:40 PM EDT) -- The pending consolidation of more than \$490 billion in annual federal procurement under the General Services Administration could exacerbate the ongoing shrinking of the federal contracting base and stymie contracting innovation, undercutting its stated efficiency goal.

President Donald Trump in an executive order Thursday mandated that "domestic procurement" for "common goods and services" purchased by agencies across the government be handled solely by the GSA. He said the aim is to reduce waste and duplication and improve contracting efficiency for the government.

Consolidation of governmentwide acquisition contracts, or GWACs, and other common purchases under the GSA could also bring efficiency benefits for contractors, as they no longer have to try to win slots on multiple contracts across different agencies to make sure they're selling to as wide a government audience as possible.

But by effectively ramping up the government's ongoing category management program — bundling common requirements into large, long-term acquisition contracts to leverage federal buying power — the consolidation process could also exacerbate contractors' ongoing concerns about GWACs, such as the typically high-value, long-term, winner-take-all nature of those deals that leads to a high volume of bid protests and associated delays.

"It is easy to be left out when these GWACs are established and you don't win one and you have to wait five years, or 10 years, before they re-compete," said David Black, co-chair of Holland & Knight LLP's government contracts group.

For small business contractors in particular, a group that according to the Small Business Administration and U.S. Department of Defense has been shrinking for years, being left out of a GWAC can pose an existential risk, potentially forcing them out of business or at least out of federal contracting.

The new order risks accelerating the supplier base shrinkage unless the GSA finds ways to mitigate the ongoing issues with GWACs, for example by making sure there are regular opportunities for new contractors to join existing contracts.

The GSA might also need to take a holistic view of what "efficiency" means, balancing the desire for the

lowest possible price against other considerations such as the ability to maintain a large, robust — and potentially more innovative — supplier base over the longer term, said Stinson LLP government contracts and investigations practice co-chair Susan Ebner.

"That's going to be the devil in the details, right?" she said. "How do we try to accomplish all the purposes of the government? ... I don't think it's going to be easy, but I think that if they work at it, they could do some good stuff."

Leaving those common contracts to a single agency may also hamper innovation and cut against the administration's stated efficiency goal, Black said.

One goal of category management is to ensure contracts use best practices, but with agencies outside the GSA no longer having GWACs to manage, the GSA will not be able to draw on related lessons from those agencies.

"The environment of GWAC contracting is going to lose the dynamic that can result in innovation as different agencies experiment and learn how to do things more efficiently," Black said. "When GSA gets into a certain way of doing business, it's a longer process for it to realize that there may be better ways of doing business ... you lose that type of dynamic putting pressure on the GSA to make changes themselves."

The executive order's effect on contracting efficiency could also change significantly depending on how two key terms are interpreted by agencies. One is the term "domestic," which is not defined in the order.

That term could include, for example, all common items purchased within the U.S. wherever and however they are intended to be used. Or it could exclude products and services with any connection to work done outside the U.S., or purchases made by specific agencies that conduct a significant portion of their work outside the U.S., such as the State or Defense departments.

"This all goes back to, 'what is the true scope of the executive order?'" Maynard Nexsen PC shareholder Josh Duvall said. "Were they thinking of specific agencies when they were using the term 'domestic'? Because a procurement could be mostly domestic, but you could argue that it sometimes has an impact on, let's say, the war fighter overseas. Does that automatically take it out [of the scope of the order]?"

Another murky question is what will fall under "common goods and services."

The executive order refers to 10 specific categories of items that the interagency Category Management Leadership Council has determined warrant governmentwide purchasing, such as travel services, office products, professional services, medical products and information technology.

Some items within those categories are clearly common purchases, such as off-the-shelf Microsoft Office software, an example used by the White House as part of its explanation for seeking a consolidated approach to purchasing. The price of that software "could vary between agencies by more than \$200 per license," the White House said.

But the GSA and specific agencies could differ on whether certain purchases, such as IT or professional services derived from a commercial product, are a common purchase or a custom product best handled by the agency's in-house acquisition staff.

"I think there's a challenge with services," said Crowell & Moring LLP partner Lorraine Campos. "For common goods, we can all agree that the reams of paper and the computer purchasing across agencies typically can be done by the GSA. I do wonder if, for specialized services, [common contracting] will be as efficient as it's thought to be."

The order sets out various steps the GSA and other federal agencies need to take to implement the order over the next 90 days, and the Office of Management and Budget is expected to release related guidance within 14 days of the issuance of the order, which could clarify some of those lingering questions.

"It will be interesting to see how granular the OMB memorandum is," Duvall said. "Will the memorandum provide additional context as to what exactly [the government] is going to do? What do you mean by 'domestic'? Is the Defense Logistics Agency still going to be a thing? Will some of the DLA's [current scope of work] come off the DLA and back into GSA?"

--Editing by Brian Baresch and Kelly Duncan.