

GENERAL SERVICES ADMINISTRATION

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PROCUREMENT THROUGH COMMERCIAL
e-COMMERCE PORTALS

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PUBLIC MEETING

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TUESDAY
JANUARY 9, 2018

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The Public Meeting convened in the GSA Auditorium, 1800 F Street, NW, Washington, D.C., at 8:30 a.m.

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1 P-R-O-C-E-E-D-I-N-G-S

2 8:41 a.m.

3 MR. MEIRON: Good morning everyone.

4 My name's Tom Meiron, the Deputy Assistant
5 Commissioner for the Office of Enterprise
6 Strategy Management within the Federal
7 Acquisition Service.

8 I would like to thank you all for
9 braving our continuing challenging weather to
10 attend.

11 Most of you have a copy of the agenda
12 already provided to you. Just a couple of
13 momentary comments.

14 The restrooms are actually located out
15 the front door either to the left or the right in
16 the corridors.

17 And, during the break, if you prefer
18 a refreshment or something, go out the front door
19 all the way to the end of the building in the lot
20 and there's a small area where you can purchase
21 coffee, tea, et cetera.

22 In the event of an emergency and we

1 need to evacuate, the fire access are the ones we
2 came into, those are blocked and there are two on
3 the other side of the stage.

4 As we start this, I'll introduce Laura
5 Stanton, our Assistant Commissioner for the
6 Enterprise Strategy Management providing opening
7 remarks.

8 MS. STANTON: Thank you, Tom.

9 Good morning everybody. It's a
10 pleasure to see so many familiar faces in the
11 audience as well as a number of new ones as we
12 embark upon the implementation of the National
13 Defense Authorization Act Section 846.

14 So, one of the things that -- and Alan
15 Holt will be here today and he'll be looking to
16 see if he can join us later in the afternoon but
17 on behalf of the Federal Acquisition Service, I
18 would like to welcome everybody.

19 And also for reference, saying this
20 reference as the beginning and not the end, but
21 the start of a dialogue on how we can move
22 forward on the improvement of acquisition of cost

1 items.

2 And, really, how do we look at making
3 acquisition better and how do we begin to
4 implement some of the technologies that are
5 becoming very prevalent in our private lives and
6 begin moving those into sort of the government
7 buyers can see and may take advantage of those
8 and begin to use them on behalf of -- with
9 perspective of the government.

10 So, we'll really be looking to hear
11 today, as I said, this is the start of the
12 dialogue where the government is planning on
13 listening.

14 And, I'm the program executive tasked
15 with implementation of this across the Federal
16 Acquisition Service. And, we're really looking
17 to how we complete the first phase of the
18 deliverable.

19 So, for those of you who have had a
20 chance to look at the legislation, you know the
21 legislation is played out in three
22 implementations.

1 Phase I in the first 90 days, what
2 we're looking at really is developing an
3 implementation plan and recommendations on
4 changes to laws and policies that we're looking
5 at to best be able to implement to the most
6 effective use.

7 Phase II is the first year. And, that
8 consists of market research and consultation with
9 the agencies. So, really understanding what the
10 commercial landscape looks like and understanding
11 how federal agencies might be using commercial
12 platforms to improve their buying experiences and
13 to also be able to shift workload off contracting
14 officers and really look at how we best use the
15 workforce that we have.

16 And, in Phase III, two years out is
17 looking at implementation guidance.

18 So, for Phase I, we're really focused
19 on that at the moment and we're starting that out
20 by looking for feedback from industry and from
21 federal agencies to best understand what we want
22 to be putting forward as the implementation plan,

1 the time line and those recommendations to
2 Congress.

3 This is a joint deliverable that's
4 coming from the Office of Management and Budget.
5 And, today, we're co-hosted with Office of
6 Management and Budget and GSA are your two hosts.

7 And, I also want to talk about the
8 overall program principles and initiatives.

9 So, we're looking at this not just as
10 a way to bring in new technology, but really as a
11 way to modernize the entire customer, supplier
12 and acquisition workforce experience when it
13 comes to buying COTS products, really not
14 limiting that.

15 And, we want to be able to put this on
16 including that user experience. We know that the
17 challenge of buying products is really has been
18 challenging. And, we want to be able to provide
19 to Congress platforms that are really on par with
20 your consumer experience across the government.

21 We also want to be able to use systems
22 to make simple purchases and shift away from some

1 of the legacy systems that the government's been
2 using and look to improve how we can really get
3 the best value for the government buyer.

4 And, have transparency and best value
5 encompasses any number of factors across the
6 government. We want to be able to make sure
7 that, as a buyer is looking at what they need and
8 what they need to complete their mission, they
9 have full transparency in the tradeoffs that they
10 might can make in order to get that.

11 And, also, the government plans to
12 continue to strategically source commodities
13 where we can add value. And, looking for
14 compliant channels for purchasing commodities.

15 How we can continue to benefit where
16 it makes sense for the government to buy as a
17 single unit and as a single buyer.

18 On the industry side, we're really
19 looking to offer more competitive environment.
20 And, that's one of the things that we're looking
21 to hear from you guys is how we or what do we
22 need to do in order to offer that environment and

1 then implement it successfully.

2 All this is -- the whole point of
3 today's dialogue is to be able to hear directly
4 from industry what needs to -- what we need to be
5 able to do in order to make this successful, what
6 considerations we need to take into under -- into
7 account and what tradeoffs we're going to be
8 expected to make.

9 And, the more that we understand those
10 and the more that you're able to share those with
11 us, the better off that we're going to be in
12 being able to come up with thoughtful and
13 implementible and successful solution across the
14 board.

15 So, we also are offering the
16 opportunity for those of you who didn't have the
17 opportunity to speak on today's panel to submit
18 written comments through your Federal Register
19 Notice through regulations.gov.

20 And, I believe that the date for those
21 is January 16th. So, as you walk off here today
22 and you feel that there's more information that

1 you'd like to be sharing with us, we absolutely
2 can pass -- use those -- take the opportunity and
3 use those written comments as a way to pass that
4 on to us and continue dialogue.

5 But, let me move quickly into today's
6 agenda before I pass the microphone over to
7 Matthew Blum.

8 We planned a series of panel
9 discussions today to focus on the following
10 topics, we begin looking at the general program
11 design, buying practices and implementations of
12 buying practices so that we best understand how
13 commercial platforms -- what standard commercial
14 practices are for those platforms.

15 And, ultimately, what we need to think
16 about as we move into implementation.

17 Each panel is expected to run about 90
18 minutes. And the way -- the format for the panel
19 is that each panelist will have approximately 6
20 to 8 minutes to make an opening statement.

21 The government panelists will then ask
22 questions of the industry panelists and then

1 we'll be opening it up to the audience for the
2 audience to ask questions of the industry
3 panelists as well to generate a dialogue.

4 GSA and OMB are going to be asking
5 questions in today's event, but we will not be
6 making any presentations today or answering
7 questions.

8 This is really that opportunity for us
9 to listen, take the information and begin to
10 formulate how we want to move forward on this.

11 And then, the final session, if you're
12 wanting to join our panels and you want to make a
13 statement, the final session of the afternoon is
14 open for dialogue so that anybody can promulgate
15 and make a statement at that point.

16 So, with that in mind, let me go ahead
17 and pass this over to Matthew Blum and offer his
18 opening remarks from OMB.

19 MR. BLUM: Thanks for that very much.

20 And for those that don't know me, I'm
21 Matthew Blum, Associate Administrator of the
22 Office of Federal Procurement Policy.

1 And we join our GSA colleagues and FAS
2 and OMB and welcome to this public meeting to
3 discuss use of e-commerce portals including
4 acquisition of commercial off-the-shelf items.

5 As many of you, if not all of you,
6 know, much of the government's thinking on COTS
7 was jump started more than two decades ago now
8 when the Clinger-Cohen Act provided a statutory
9 definition for COTS as well as mechanisms that
10 were designed to minimize application of
11 government need requirements when agencies buy
12 and send products in the same form as they are
13 sold to commercial customers.

14 It's actually quite heartening. I'm
15 looking out at the audience to see that many of
16 the authors of the Clinger-Cohen Act are actually
17 here today, almost like a family reunion, so
18 that's heartwarming.

19 When we asked agencies and contractors
20 recently about their perspective on what we've
21 accomplished over the past couple decades, using
22 this authority, both communities have had some

1 similarity in expression of thought.

2 And, you saw some of this included in
3 the Federal Register from desire for shorter
4 delivery times, reduced administrative costs, the
5 design for the contractors as well as for the
6 acquisition workforce.

7 Simpler rules, many people commenting
8 that our system model has different rules for
9 buying commercial items and government need of
10 items that our system has become too monolithic.

11 And, better use of technology.

12 And, we see Section 846 as really
13 providing a pathway to attacking all of these
14 issues.

15 And, aforementioned 846 tasked OMB and
16 GSA with developing the implementation plan by
17 the middle of March. And, we undertake this
18 process, we very much want to get as much input
19 as we can from the community and we appreciate
20 GSA setting this up today as a town hall session
21 to get as much feedback and dialogue going as we
22 can.

1 Now, aforementioned, we're going to be
2 in listening mode this morning and that's
3 primarily so that we don't prejudge. We don't
4 want to prejudge any approach.

5 That said, if you had a chance to look
6 at the Federal Register Notice, which will guide
7 today's conversation, hopefully that has provided
8 with some initial insight into a number of the
9 issues that we have already been -- begun to
10 think about from the role of the platform
11 providers to the relationship of this new program
12 to existing programs that we used to buy COTS
13 schedules and others.

14 To the role of compensation, how we
15 should think about that when we are buying this
16 particular type of product. I mentioned a minute
17 ago that we've gotten a lot of feedback that our
18 system is too monolithic and many people feel
19 that our rules are too driven by the price of
20 acquisitions and don't give enough consideration
21 to the nature of the product that we're buying.

22 So, the role of compensation is

1 certainly one of those considerations.

2 And also, how we might shape a pilot
3 to do some testing to inform the final shape of
4 the program.

5 So, we hope as you are absorbing this
6 morning's dialogue and conversation, and
7 hopefully participating in it, that you think
8 about whether we're hitting the right issues and
9 particularly important, are there any critical
10 issues that are missing from the conversation
11 that you would be interested in hearing that as
12 well.

13 So, again, thank you for coming.
14 We're looking at Section 846 really as an
15 opportunity to truly transform how the government
16 buys COTS and we look forward to working with all
17 of our buying agencies, with the members of
18 industry, with Congress and other stakeholders as
19 we undertake this important journey together.

20 So, thank you again for being here.

21 MR. MEIRON: Thank you very much.

22 The point we're at right now with the

1 panel, so I'm going to ask them to take the stage
2 and proceed at this point in time.

3 We've had Mark Lee join us. Mark is
4 in the Office of Policy and Compliance.

5 We also have Mr. Jeff Koses who'll be
6 joining us from the Office of Governmentwide
7 Policy.

8 Matthew Blum, we've already heard
9 speak.

10 And, this session will actually be
11 moderated by Laura Stanton.

12 If at any point in time you have
13 questions that you'd like to be raised, please
14 raise your hand. We have two mics that we'll be
15 putting out for follow up.

16 MS. STANTON: All right, good morning
17 again.

18 We're going to go ahead and introduce
19 the government -- or the -- we're going to go
20 ahead and introduce the panelists for this
21 session. And then, we'll take a pause while our
22 GSA administrator is able to join us and make

1 some opening remarks about her commitment to this
2 initiative as well.

3 So, let me go ahead and introduce our
4 first set of panelists.

5 Brock Lyle with -- who is representing
6 Overstock.com.

7 Jonathan Aronie from Sheppard and
8 Mullin.

9 Rob Bohn from Amazon Business.

10 And, Todd Tiahrt representing the
11 National Association for the Employment of People
12 who are Blind.

13 So, as we said -- as I said in my
14 opening remarks, we're going to be starting out
15 and giving every -- giving each of the panelists
16 six to eight minutes to be able to make an
17 opening statement.

18 Then, we'll be transitioning into the
19 government panel to ask questions and then open
20 it up to the audience to ask questions.

21 I think Matthew did an excellent job
22 of describing the expectations and really

1 encouraging you to engage in that dialogue across
2 the board about how we want to view and to raise
3 both -- and dig into the issues that are raised
4 by the panelists.

5 But then, also to be able to raise
6 other -- to be able to ask questions and raise
7 issues that perhaps we didn't address in the
8 discussion.

9 So, with that, let's go -- I'm just
10 pausing for a moment so that we're not -- and do
11 opening statements.

12 Did either of -- did Jeff or Mark, did
13 you want me to comment?

14 (OFF MICROPHONE COMMENTS)

15 MR. KOSES: Good morning, I'm Jeff
16 Koses, GSA's Senior Procurement Executive. I
17 would like to thank everybody for joining us
18 today.

19 As Laura stated in her opening
20 comments very much intended to be the start of a
21 dialogue.

22 During the course of the day, we're

1 going to hear from three different panels.

2 You'll see across those panels, there's a whole
3 host of viewpoints being represented.

4 We are going to be hearing from portal
5 operators and providers. We're going to be
6 hearing from large business, from small business,
7 from optic business, socioeconomic community.

8 We're going to be hearing from some of
9 the industry associations.

10 We're going to be hearing from some of
11 the procurement attorneys.

12 We're very much we're after that wide
13 range of diversity of viewpoints.

14 Today, you're also going to hear this
15 panel as a number of questions based on the
16 things that were outlined in the Federal Register
17 Notice based on the comments that the panelists
18 provide.

19 As this program moves forward, look
20 for additional envoy opportunities for dialogue.
21 We think that the only way we can build a
22 successful program is through extensive dialogue

1 with the industry community, with the federal
2 agencies.

3 With that, again, we thank you for the
4 participation today. We look forward to many
5 opportunities to talk to you as this program does
6 move towards implementation.

7 MS. STANTON: All right. Great, thank
8 you very much.

9 And, with that, let me just go ahead
10 and say that there are seats down in the front so
11 that you are not expected to stand for the
12 duration of the morning, and encourage people to
13 come down and squeeze in before we get started.

14 There's a number of seats in the front
15 row which I know is always the preferred seating
16 arrangement.

17 (LAUGHTER)

18 MS. STANTON: All right. With that,
19 let me go ahead and get started and offer the
20 opportunity to our panelists to begin making
21 their opening remarks.

22 With that, let me ask Jonathan, please

1 go ahead and start and --

2 MR. ARONIE: Sure.

3 MS. STANTON: -- I think you just need
4 to turn the microphone on.

5 MR. ARONIE: Thank you and thank you
6 for having me here.

7 So, for years, GSA has been promoting
8 the schedules program and some of its other
9 programs as mirroring commercial buying
10 practices. But, as we all know, the schedules
11 program and many of the other programs are
12 anything but commercial.

13 Since 1997 or so, GSA has struggled
14 mightily to make the schedules program as
15 commercial as possible, consistent with its
16 enhanced needs for contract compliance and
17 auditing and the pressures of competing national
18 priorities.

19 But, that well-balanced goal has
20 remained elusive and notwithstanding the
21 impressive efforts of some very smart and highly
22 dedicated people, the schedules program continues

1 to incorporate some very non-commercial
2 components.

3 The program has played a key role in
4 securing government purchases a wide selection of
5 products at a fair price, but the requirements
6 for doing business with the government still
7 remain costly. And, those costs ultimately are
8 passed on to government buyers.

9 Now, GSA has taken a lot of heat for
10 this over the years and, I concede, I'm one of
11 the folks who have given them a lot of heat.

12 While there is much I like about GSA
13 contract vehicles, I admit I'm a frequent critic
14 of the agency's failure to fully embrace
15 commercial practices.

16 But, in fairness to GSA, we need to
17 remember that federal government is not a
18 commercial entity and should not be expected to
19 adopt purely commercial buying practices.

20 Unlike the commercial buyer, each time
21 the United States purchase a product, it's
22 reinforcing important policy considerations from

1 treaty commitments to Buy, Hire American
2 obligations to small business initiatives to
3 environmental priorities.

4 The U.S. has to balance all of these
5 priorities which, frankly, I don't have to do
6 when I go out and make a purchase of a statement
7 or an office chair or a laptop computer.

8 No matter how much we wish the
9 government could purchase the exact same way I
10 do, the U.S. can't. And, because when the U.S.
11 government purchases using taxpayer money, it has
12 requirements for procurement integrity and
13 auditing, et cetera that frankly go well beyond
14 what I need to think about when I purchase.

15 Now, what this means is that federal
16 purchasers and federal contractors always have to
17 think about compliance issues in a way that I
18 don't.

19 But, within this reality, the
20 government can and should strive to get as close
21 to commercial purchasing practices as possible
22 while being mindful of its other competing

1 priorities.

2 To me, that's the most complicated
3 task facing GSA and OMB at this moment, how to
4 leverage commercial buying practices to the
5 maximum extent possible without abandoning the
6 country's other national priorities and the need
7 to assure that taxpayer money is spent wisely and
8 appropriately.

9 And to do so in a manner that treats
10 all businesses fairly, maximizes competition,
11 respects existing statutes and treaty obligations
12 to the extent they make sense and secures fair
13 and reasonable pricing for the government.

14 I applaud GSA and OMB for hosting this
15 important meeting. But, frankly, I think we have
16 a long walk ahead of us. My experience tells me
17 that finding that right balance is not quite as
18 easy as some people think.

19 And, I thank you for allowing me to be
20 here to participate.

21 MS. STANTON: Thank you very much,
22 Jonathan.

1 With that, let's call for a brief
2 pause and invite Emily Murphy to join us on the -
3 - and to make opening remarks.

4 MR. MEIRON: Emily just got called
5 away real quickly. She will be joining us after
6 10:00. So we will continue, please.

7 MS. STANTON: All right.

8 Well, with that, we will continue to
9 let the tension build on that one.

10 (LAUGHTER)

11 MS. STANTON: And, let me pass it over
12 to Rob Bohn from Amazon Business.

13 (OFF MICROPHONE COMMENTS)

14 MS. STANTON: Let me pass it over to
15 Rob to make the comments on behalf of Amazon
16 Business.

17 MR. BOHN: Great, thank you.

18 And, thank you for having me here
19 today. I think it's a really great event and
20 we're looking forward to participating.

21 So, in my opening remarks, I wanted to
22 be rather brief and just focus on three main

1 topics.

2 First, I want to introduce everyone to
3 Amazon Business because I don't think a lot of
4 people really understand what Amazon Business is
5 or what we're focused on.

6 Second, I wanted to talk about
7 marketplaces, and specifically about the Amazon
8 Business Marketplace and how we believe it
9 champions competition.

10 And, third and finally, I wanted to
11 talk a little bit about 846 and our position that
12 commercial items should be bought using
13 prevailing commercial terms and conditions and
14 commercial practices.

15 So, first, Amazon Business. Amazon
16 likes to think of itself as the world's most
17 customer obsessed company. And, what that means
18 is, every day, we start our days by thinking of
19 the customer and working backwards.

20 And, that's very much how Amazon
21 Business was born. We have this great consumer
22 side with tons of features that delight and

1 enhance the consumers very much.

2 And, by talking to our customers, we
3 found out that there were businesses buying from
4 amazon.com, the same amazon.com that hopefully
5 all of you go and visit and shop from and enjoy.

6 And, these businesses said, you know,
7 Amazon's really great, but we'd love it if there
8 were some extra features that would help us with
9 transparency and help us find new and diverse
10 suppliers and that could help us increase
11 competition.

12 And so, Amazon Business was
13 purposefully built for these business customers
14 that launched in 2015.

15 And, one of the things that really
16 pleasantly surprised us is how quickly the public
17 sector adopted Amazon Business.

18 And so, today, I'm pleased to report
19 that we have tens of thousands of government
20 customers on the state, local and even federal
21 level who are using Amazon Business.

22 And, they're using us to gain

1 transparency, discover new and diverse suppliers
2 and to save taxpayer money. And, we think that's
3 a great thing.

4 The second thing I'd like to touch on
5 briefly is the fact that Amazon Business, just
6 like amazon.com, is a marketplace.

7 And, for us, the core feature in the
8 marketplace is the ability for customers to
9 easily search and chose between competing offers.

10 This competition is so essential and
11 so important and we think it's different and sets
12 marketplaces apart from different forms.

13 A very important part of the
14 marketplace is that our sellers are our
15 customers, too. And, just as we obsess over our
16 line customers, we obsess over our selling
17 customers.

18 We're constant innovating on that and
19 act to bring them more value and new
20 opportunities to compete for every purchase that
21 happens.

22 We're proud of the fact that we have

1 millions of sellers on our marketplace who
2 account for over 50 percent of our sales. And,
3 I'm going to say that again because that's really
4 huge.

5 So, within amazon.com and Amazon
6 Business, there are millions of sellers who are
7 participating and they're responsible for over 50
8 percent of our sales.

9 And, that's really worth to us, it's
10 really worth to the model that we provide.

11 And, finally, just briefly, because
12 I'm really looking to 846, we believe quite
13 simply that commercial items should be purchased
14 using prevailing commercial terms and conditions
15 and commercial practices.

16 I'm happy to detail that in the
17 question section, but we believe that that
18 promotes transparency, efficiency and ultimately
19 competition.

20 Thank you.

21 MS. STANTON: Thank you, Rob.

22 Moving on, Brock, please?

1 MR. LYLE: Sure.

2 Well, good morning everyone. My
3 name's Brock Lyle. I'm with overstock.com.

4 Overstock is an online retailer based
5 near Salt Lake City, Utah. It sells a broad
6 range of consumer and business products like
7 office supplies, furniture, electronics and decor
8 at low prices.

9 Overstock also has a marketplace where
10 customers can connect with third-party vendors.

11 Forbes has ranked Overstock among the
12 top 100 most trustworthy companies.

13 In addition, Overstock's a large
14 supporter of the Special Operations Warrior
15 Foundation, a charity that funds education for
16 Gold Star families.

17 You may have also seen Overstock in
18 the news regarding its innovations on block chain
19 technology.

20 We're enthusiastic like my fellow
21 panelists, we're enthusiastic about the
22 implementation of Section 846. We thank

1 Representative Thornberry, we thank the GSA, OMB,
2 FAS, the other procurement agencies for having
3 the foresight to push this forward and for
4 hosting this event.

5 As we understand it, this provision is
6 intended to increase competition and decrease
7 prices by allowing government agencies to
8 purchase commercial off-the-shelf goods online,
9 except it won't, at least not the way it's
10 currently drafted.

11 It won't increase competition or
12 decrease prices very much if the GSA picks two or
13 three favorite vendors to create portals and
14 orders only from them.

15 That would essentially create a new
16 duopoly where vendors might compete only
17 initially to become a portal host. Once portal
18 hosts are selected, no further competition is
19 required and the portals we disconnected from the
20 free market.

21 They'd also be difficult to compare to
22 the free market because few other business

1 purchasers would be buying in the quantities that
2 government agencies will.

3 So, the agencies would end up right
4 back where they began, with prices hovering above
5 market and with no point of reference to know
6 where the market should be.

7 We recommend opening the portal system
8 up to the free market at large. Of course, there
9 can be basic qualifications to get into the
10 portals.

11 For example, to protect the security
12 of government purchases or to comply with
13 applicable laws, but it makes no sense to exclude
14 qualified vendors who might be able to provide a
15 better product, a less expensive one or both.

16 It also makes no sense to undermine
17 the GSA's ability to know if these agencies are
18 getting a good deal.

19 Significantly, this approach also
20 allows small businesses to compete with the
21 larger corporations.

22 And, I'm saying this representing

1 Overstock which some would consider a large
2 corporation.

3 Specialization is also an issue here.
4 The current version of Section 846 appears to
5 limit portals to those online retailers who can
6 be all things to all people, who have a huge
7 breadth of product selection.

8 For example, the House Arms Services
9 Committee summary of Section 846 lists bottled
10 water, treadmills and MRI equipment.

11 Now, those are so distinct, if you get
12 all three from the same place, it should make you
13 wonder about at least one of them.

14 (LAUGHTER)

15 MR. LYLE: By way of another example,
16 I had dinner at Shake Shack last night and you on
17 the East Coast have been holding out on us, that
18 place is great.

19 (LAUGHTER)

20 MR. LYLE: But, imagine if we ignored
21 Shake Shack because they don't make noise
22 cancelling headphones and they don't make

1 camouflage truck bed liners.

2 So, from now on, we'll just get all
3 our hamburgers at Cabela's and call it a day.

4 Requiring vendors to be all things to
5 all agencies creates a huge barrier to entry.
6 Specialization helps competition by allowing one
7 retailer to provide the best deals and quality on
8 bottled water while a different retailer competes
9 on treadmills and so on.

10 To sum it up with what Abraham Lincoln
11 said, you can fool some of the people all of the
12 time and all of the people some of the time.
13 But, you can't fool all the people all the time.

14 So, you don't want to be all things to
15 all people.

16 There is also a question of
17 certification. Certification can be handled in a
18 way to make it very simple.

19 Self-certification with GSA Oversight
20 is probably the easiest. There is also -- there
21 are examples of third-party certifications that
22 certify potential vendor portals.

1 There's precedent for that Section 508
2 disability access, sets out basic industry
3 standards and to any retailer who meets those
4 standards is qualified with a third-party
5 verification.

6 Similarly, FedRAMP, the process for
7 cloud solutions is another system that uses one
8 set of rules as a bar and then allows all vendors
9 to clear it. Both handle certification through a
10 third-party.

11 And, in closing, instead of asking
12 what kind of procurement we should have here, I
13 think it might be worthwhile to challenge the
14 assumption that we need to have a procurement at
15 all.

16 I think there's a better solution.
17 GSA can meet the stated aim of lowering prices if
18 it actually opens the marketplaces up to real
19 competition to the extent possible.

20 Set standards for certification and
21 watches as vendors compete to get prices down and
22 quality up to earn the government's business.

1 Again, thank you for letting me be
2 here.

3 MS. STANTON: Thank you very much,
4 Brock. I appreciate the comments.

5 And, for our final panelist, Todd
6 Tiahrt.

7 MR. TIAHRT: Thank you, it's Tiahrt,
8 like a tea heart.

9 MS. STANTON: My apologies.

10 MR. TIAHRT: That's all right, it
11 happens all the time. Thank you.

12 Thank you all for the opportunity to
13 be here and speak for the general program design,
14 the commercial platform at issue.

15 It was approximately 23 years ago, the
16 federal government approached nonprofits that
17 employ people who are blind and requested that
18 they take over a number of base supply centers,
19 or BSCs, primarily on military facilities so that
20 uniform personnel could be the pointy end of the
21 spear.

22 Today, there's more than 150 BSCs

1 employing people who are blind, providing
2 servicemembers with everything they need to do
3 their job on base or even for deployment as part
4 of the AbilityOne program.

5 Eight years ago, Congress created the
6 Javits-Wagner-O'Day, or JWOD, which created the
7 governmentwide program to employ people who are
8 blind and the disabled.

9 The program was the result of one of
10 the few things that Congress can agree on
11 regardless of party affiliation or geographic
12 representation.

13 It's the concept that people who are
14 blind or disabled want to work and the federal
15 government could provide jobs through purchasing
16 supplies, manufactured for the government's need
17 and delivery of services such as base supply
18 centers of BSCs.

19 A good example is right here in the
20 D.C. area. Keith Tyson, once an unemployed,
21 single, blind male without much or virtually
22 homeless now provides the troops at Andrews Air

1 Force Base with everything they need in the line
2 of duty.

3 Through technology, Keith can tell you
4 what's at the BSC, what's in inventory, how long
5 to order and he also runs the cash register.
6 Effectively, Keith is like the store manager.

7 Now, Keith is married. He has a son
8 and a career making a competitive wage with
9 benefits and opportunity for advancement. His
10 job has turned his life around.

11 For people like Keith, JWOD ensures
12 employment and to them, it's much more than a
13 job. It's independence, security and self-
14 esteem. In their world, working age people who
15 are blind face a non-employment rate of 70
16 percent.

17 As a result of their employment,
18 millions, if not billions of taxpayer dollars
19 have been saved in welfare and healthcare costs.

20 At BSCs where people are blind are
21 employed, like Keith, the federal purchasers
22 enjoy a 24/7 service on a base, same-day

1 delivery, a no hassle return policy,
2 comprehensive inventories of AbilityOne
3 commercial and off-the-shelf products
4 specifically tailored to the buy preferences and
5 requirements of each installation.

6 They provide individual equipment
7 elements and meet the needs of deployment,
8 training and disaster relief operations with some
9 even providing HAZMAT services.

10 And, as authorized dealers, DLA
11 products, something vendors are unable to do.

12 There are hundreds of examples of how
13 BSC employees went out of their way to deliver
14 necessary items after hours like cold weather
15 gear for unscheduled deployments, replacement
16 respirator masks for firefighters, and sometimes,
17 items from the HAZMAT pharmacy.

18 Frankly, today, bases couldn't meet
19 the requirements without BSCs and the people who
20 are blind like Keith Tyson.

21 Many BSC operating agencies have
22 associated e-commerce online shopping options

1 with accessible to a wide network of products
2 such as wholesalers, manufacturers, GSA, DLS and
3 small businesses to provide a comprehensive suite
4 of products.

5 In addition, they provide a critical
6 addition to security point by receiving packages
7 and delivering on base.

8 For those reasons, we believe that all
9 packages coming to a military facility should be
10 dropped at a BSC for delivery.

11 Can you image hundreds of UPS and
12 FedEx trucks lined up at the gate at Andrews Air
13 Force Base and 150 different facilities across
14 the United States?

15 The desire for Congress to upgrade
16 federal purchasing online provided much debate
17 about how the system would function.

18 One position was that the federal
19 purchasers should have the convenience of buying
20 online like everyone else in America does. It is
21 an interesting concept.

22 But, in doing so, should the

1 government ignore compliance with the law and
2 regulations? I would argue that the purchasing
3 systems can both be convenient and compliant with
4 regulations if properly designed.

5 Compliance requirements can be written
6 into the software code. Algorithms can be
7 designed for compliance in a convenient way.

8 In the Federal Register, the question
9 was asked, what relief of laws, regulations and
10 policies is necessary?

11 Certainly, existing commercial systems
12 are not subjected to the FAR or the GSA
13 Acquisition Manual or JWOD or the Trade
14 Agreements Act.

15 However, in my opinion, the statutes
16 and subject regulations should not and cannot be
17 waived.

18 We are considering the expenditure of
19 taxpayer dollars and in spending those dollars
20 comes with the responsibility to the taxpayers
21 and, therefore, subject to the laws of the land.

22 You can play checkers on the chess

1 board, but not under the rules for chess.

2 Yes, it is more complicated to spend
3 taxpayer dollars. That's because of
4 accountability demanded by the public as well as
5 their elected representatives.

6 Constitutionally, Congress writes the
7 laws and provides the funding.

8 Platform providers will properly
9 collect fees for services from taxpayer dollars
10 and following, taxpayers will properly require
11 accountability.

12 Using the example of the AbilityOne
13 procurement list which includes supplies and
14 services that satisfy FAR 8.002 purchasing
15 priorities and Subpart 8.7 acquisition from
16 nonprofit industries.

17 The regulatory compliance on a
18 commercial platform can be designed into the
19 software.

20 When a federal purchaser needs to
21 purchase an item, a properly designed algorithm
22 can provide things compliant with these

1 regulations.

2 The e-commerce system would simply
3 eliminate substandard parts and goods passed on
4 as essentially the same, or ETS, by blocking
5 those items and substituting items from the
6 procurement list.

7 Once you get the specifications right,
8 the software will provide compliance with
9 regulations and it will be convenient.

10 Algorithms can be written to solve any
11 shopping problem and you won't have to depend on
12 an 18-year-old private or any federal purchaser
13 to be well versed in federal procurement law.

14 When a federal purchaser makes the
15 decision -- a purchasing decision, the process of
16 regulatory compliance will already have occurred.
17 It will be part of the software design, but only
18 if you explicitly include compliance such as with
19 FAR 8.002 and Subpart 8.7 in the statement of
20 work and in the specifications.

21 We must remember the statutes and
22 regulations have value, have purpose and, in the

1 case of people who are blind, enhances their
2 life.

3 With respect to the number of
4 platforms, when the Pentagon looks at new weapons
5 systems, they often have a fly off or have
6 multiple systems compete and make the final
7 determination what works best.

8 Multiple e-commerce platforms can
9 serve the same purpose.

10 In phasing in the commercial platform,
11 what makes sense to those who operate the BSCs is
12 to start with the dollar value limited to the
13 micro purchase threshold and not limited by a
14 long list of specific items.

15 Once the system complies with the
16 design requirements and functions properly, the
17 dollar value can easily be adjusted which also
18 simplifies the contracting methodology.

19 With respect to relationships involved
20 with commercial platforms, it is our opinion that
21 the government has contractual privity.

22 It is the federal government that is

1 offering a contract, compliance with the contract
2 and its provision falls under the issuer of the
3 contract as does enforcement in following the
4 government would have contractual privity.

5 In summary, e-commerce platforms is
6 facilitating taxpayer dollars. That platform
7 design can and should include convenient
8 compliance by design with specifically designated
9 requirements that include the benefits of
10 socioeconomic regulations such as FAR 8.002 and
11 Subpart 8.7.

12 In broad terms, it saves the federal
13 government money, adds convenience to compliance
14 and enhances the lives of people who are blind or
15 disabled.

16 Again, thank you for the opportunity
17 to address these issues.

18 MS. STANTON: Thank you for your
19 remarks.

20 Thanks to each of you for your
21 remarks. And, we certainly hold a broad range of
22 opinions across the panel. So, given where you

1 are coming from.

2 So, with that, let me share the
3 microphone with my colleagues up here and allow
4 the questioning to begin.

5 MR. KOSES: Thank you.

6 Some really interesting opening
7 statements.

8 Brock, Rob, you both talked about the
9 third-party sellers who operate through the
10 platforms. When we're actually thinking about
11 the government relationship, it's pretty clear
12 that the full operator would be a prime
13 contractor.

14 What is the government relationship to
15 that third-party seller? Are they a prime? Are
16 they sub? Are they a supplier? Are they
17 something else?

18 And, I'd like to hear from any or all
19 of you on the panel on that.

20 MR. BOHN: Sure. So, I can talk about
21 the Amazon Business marketplace specifically.

22 So, again, like I talked about, we

1 think it's super important that the government
2 embrace the existing commercial relationship that
3 happens.

4 And so, at Amazon Business, quite
5 simply, there's an agreement between our
6 customers and Amazon Business that governs their
7 access, use and purchase from our website.

8 And then, Amazon has agreements with
9 vendors and third-party sellers.

10 And so, and our model, when a customer
11 buys something directly from a third-party
12 seller, there's a direct contract with them which
13 you would refer to as a prime contract.

14 And, when a customer buys something
15 that's actually shipped and sold by Amazon,
16 that's also a direct contract in between those
17 parties.

18 MR. LYLE: And, Overstock is similar.
19 We tend to think that being in privity of
20 contract does make it easier to track and makes
21 it more transparent.

22 And, it tends to make, you know, if

1 there are returns or other issues, that does
2 simplify things.

3 MR. KOSES: So, you're both suggesting
4 that the government would have a prime contract
5 with that third-party supplier?

6 (OFF MICROPHONE COMMENTS)

7 MR. KOSES: You're both suggesting
8 that the government would have a prime contract
9 with that third-party supplier? Am I
10 understanding you correctly?

11 MR. BOHN: Yes, so the government
12 should use prevailing commercial terms and
13 conditions. And so, the way that the marketplace
14 works is there's the contractual scenarios that
15 we talked about.

16 And, you really have to ask yourself,
17 well, what is the contract? Is there a -- is the
18 government interested in having a competition
19 rewarding a contract to one or more providers or
20 is the government interested in allowing agencies
21 and their components and users to go on to
22 multiple various platforms and the contract

1 itself is the procurement action?

2 So, I think it depends what you're
3 looking at, whether you're looking at a
4 transactional standpoint or the actual
5 relationship vis-a-vis GSA and the provider.

6 MR. LYLE: And, like you said, we are
7 fairly early on in this process. So, to say this
8 is the only way it can be done is probably a bit
9 premature.

10 If GSA and OMB decide to go down the
11 road where government is a sub versus a prime
12 contractor, I suppose we could find a way to make
13 that work. But, at present, normally, with
14 Amazon, Overstock and most commercial retailers,
15 it's a one on one direct contract type of
16 arrangement.

17 MR. ARONIE: So, Jeff, when you -- as
18 you obviously know, when you talk about privity,
19 depending on where you're situated in the chain
20 frames what you think about privity, right?

21 From the government's perspective, I
22 would think the government wants privity of

1 contract with the single qualifier or e-commerce
2 provider. They want privity with the prime
3 contractor as a general principle.

4 I would think that whoever the e-
5 commerce provider is would prefer privity with
6 the suppliers.

7 And, I would think that the suppliers
8 want privity with portal provider.

9 I mean, that makes sense.

10 There is actually a kind of an analogy
11 that GSA has today where you have privity with
12 both in a sense. I mean, think of the way GSA
13 does its CTAs now.

14 You know, it is a situation where both
15 companies are primes, right, that's the way at
16 least it works on paper. But, in practice, the
17 way it's often set up is one is in charge and one
18 is kind of the supplier.

19 So, there actually is a model where
20 the government is found to get privity with both
21 parties.

22 But, I think what's key to remember

1 here is, what you think about privacy clearly
2 depends on where you are in that chain.

3 MR. KOSES: So, the Congressman, I
4 thought, made some very interesting points on the
5 importance of the ability on program on federal
6 regulations and suggested that the answer was in
7 the core provides updating their code.

8 What's your thoughts on that?

9 (LAUGHTER)

10 MR. BOHN: Well, so, Amazon constantly
11 innovates on behalf of customers and our
12 customers include suppliers. So, we're
13 constantly looking for ways to inject value into
14 amazon.com to the Amazon Business marketplace.

15 And so, while it's certainly true that
16 state of the art commercial providers are
17 experimenting right now with additional props and
18 features around curating or guiding someone
19 through their procurement on an online
20 marketplace, I don't want to say that's
21 established commercial privacy on practice.

22 You know, for Amazon Business, it's

1 really just day one, that's what we like to say
2 at Amazon, constantly being day one or constantly
3 looking to innovate and develop new solutions for
4 customers.

5 And so, we think AbilityOne is a
6 fantastic program and we think that there are
7 ways for government buyers to find AbilityOne
8 products on our website.

9 And, we think that the transparency
10 that comes sort of part and parcel with a multi
11 user Amazon Business account where customers are
12 provided near real time feedback of what exactly
13 is being purchased and whom it's being purchased
14 from provides a level of transparency that goes
15 along way towards what Todd's talking about.

16 MR. ARONIE: If I can add to that,
17 too.

18 So, Todd mentioned a lot about the
19 FAR. But, I think what we all have to remember
20 here is part of our collective job is to look at
21 what's written in the regulations and decide
22 whether it makes sense or not.

1 I think we -- what's currently written
2 in any of the regs, whether it's the regs that
3 protect this group of people or that group of
4 people or this group of purchasers or that group
5 of purchasers, that they're kind of all on the
6 table here.

7 And so, the answer can't be, well,
8 something is a reg and, therefore, it should
9 stay. I mean, we have to think broadly about
10 what will make this program more commercial while
11 still protecting the government's core
12 priorities.

13 MR. TIAHRT: We often like to think
14 regulations is optional, and in some cases, they
15 could be optional structured in that direction.

16 But, at the law of the land is still
17 the law of the land. Those regulations were
18 driven by a piece of legislation that was signed
19 into law. And, it has been verified year over
20 year by funding. So, it's not going away.

21 There are purchasing priorities that
22 were laid out by the Javits-Wagner-O'Day. It's

1 not just FAR 8.002 and 8.7. It's the law that
2 drives them, too.

3 So, I think there are some areas you
4 can have some flexibility because regulations are
5 an interpretation of the law and subject to
6 interpretation.

7 But, when it comes to -- there's going
8 to have to be some kind of software adjustment
9 because you can't have an 18-year-old private at
10 Fort Carson ordering marijuana cookies and a
11 bottle of wine with his government credit card.

12 I'm a taxpayer. As a parent, I
13 wouldn't be happy with that and, as a taxpayer,
14 I'm more unhappy with that.

15 So, you're going to write some kind of
16 code to adjust to spending taxpayer dollars. You
17 may have built in compliance convenient and not
18 have a buyer have to search through several
19 websites to find the AbilityOne provider. It
20 should be in the software.

21 So, in these pens, there are middle
22 pins that have core codes that can withstand the

1 temperatures of Iraq or Alaska, it'll pop up in
2 front of you and that's where you're file.

3 Because when a guy is a supply
4 sergeant sits down in front of a computer, he
5 doesn't spend a lot of time searching around, he
6 buys what's in front of him. So, what's in front
7 of him has to be compliant and it can be
8 convenient in that way.

9 So, you will be designing some
10 software because there's accountability to
11 spending taxpayer dollars. You want to make it
12 convenient and I think that's my argument.

13 MR. BOHN: Yes, so just to follow on
14 that, I don't think we necessarily disagree with
15 the idea that we should use technology to further
16 effectuate the intent of procurement policy,
17 whether it's the government and their procurement
18 objectives or a commercial company who also has
19 important procurement objectives.

20 That's why we have a great program at
21 Amazon Business where we allow diverse businesses
22 to actually claim and present their credentials.

1 We make it super and easy and super transparent
2 for buyers to go out and search these diverse
3 businesses, source to them and then, with the
4 Amazon Business analytics tools, go and print
5 easy reports to constantly monitor and update
6 their goal.

7 We think we can do the same thing for
8 AbilityOne or for any diverse group.

9 But, I would encourage the government
10 here not to issue a design specification. And,
11 if they're interested in this area, say what are
12 the current -- what is the performance
13 requirement?

14 And so, I think there is that language
15 in 846. There's certainly a predecessor or a
16 long provision that says, you know, online
17 marketplace providers or commerce portals to
18 provide mechanisms for vendor screening. They
19 should provide a technology that eases the
20 government's implementation of procurement policy
21 and intent.

22 And, we think that's the way to go.

1 MR. LEE: Good morning, Rob, I just
2 wanted to follow up on some of your remarks.

3 You talked about that you -- existing
4 Amazon Business does business with state and
5 local government.

6 State and local governments have, you
7 know, state laws and regulations that they follow
8 in doing their procured actions. So, can you
9 describe a little bit about how that works and
10 maybe if there's now Amazon Business
11 accommodates, you know, those unique requirements
12 that state and local law?

13 MR. BOHN: Sure. Well, the -- instead
14 of focusing on the things that makes government
15 buyers different from our commercial buyers, we
16 focus on the things that they haven't done.

17 We find that all buyers want greater
18 transparency. They want efficiency and they want
19 to save money.

20 And so, that's what we found with
21 state, local and even some federal government
22 customers on boarded. They were already buying

1 from amazon.com, some of them were new and the
2 features that we launched, the business features
3 of Amazon Business like multi user accounts and
4 workflow where you can set up an account for a
5 100 users gives each person a procurement
6 threshold at which they can shop at.

7 If they buy something over that
8 threshold, an email goes to their administrator
9 for approval.

10 All these sorts of tools and
11 enhancements for businesses, the government
12 really loves and values.

13 And so, again, it's early days. It's
14 day one for us at Amazon Business and we're
15 working with a lot of government constituents at
16 sort of lower tiered levels, they're elements of
17 micro.

18 But, we do have some innovative state
19 and local institutions and some public education
20 institutions that are all in on at Amazon
21 Business and are working through pilots and
22 programs right now to buy their own laws and

1 applicable thresholds.

2 MR. TIAHRT: Yes, this is probably a
3 \$40 billion business of taxpayer dollars running
4 through the system. I'm guessing that a
5 government leader to back that up.

6 But, and I can appreciate a vendor
7 wanting to play checkers on a chess board, but
8 the rules are different for federal taxpayer
9 dollars. You're playing chess, it's more
10 complicated.

11 You can't have an 18-year-old buying
12 marijuana cookies. And there are some metrics
13 you just have to limit because of regulatory
14 requirements, statutes, but also create this is
15 done in the federal marketplace.

16 So, I think it is important to know
17 that whatever we're talking about some
18 adjustments to software just in order to do
19 business with the federal government.

20 Why not make it right? Why not make
21 it complaint? Why not make it chess?

22 It is more complicated, but it's

1 algorithm. It's a software design. It's a way
2 of complying with these very important issues
3 that have been driven by popular demand are
4 funded every year, confirmed every year by
5 Congress.

6 So, I think that if you're going to
7 make the system, make it right. It will save
8 money and will be compliant.

9 MR. BLUM: So, one of the -- so, we've
10 been talking about customization and, obviously
11 that is --

12 (OFF MICROPHONE COMMENTS)

13 MR. BLUM: And, we've been talking
14 about customization and, as you know, the statute
15 specifically expects -- anticipates that we will
16 look at the degree of customization that can
17 occur without creating a government unique
18 portal.

19 And so, you've made some helpful
20 comments with respect to compliance.

21 I'd like to look a little bit on the
22 business side, on some of our -- on the business

1 rule side. I know that the second panel will
2 also get into that, but would be interested in
3 some initial thoughts and perspectives you might
4 have in terms of where you would draw the line?

5 You know, what sort of things would
6 you expect to see in the government's use -- the
7 federal government's use of e-commerce portals
8 and what sort of things should we avoid?

9 That's just one question, for example,
10 you mentioned, you know, customary commercial
11 terms and conditions. Do you allow, in your
12 existing V2V relationships for third-party
13 vendors for folks to negotiate any terms with
14 those vendors or what sort of expectations do you
15 have on how they negotiate prices?

16 MR. BOHN: I assume that's for me?
17 Okay, well, I'll take it first.

18 So, again, we think that the
19 government's best served when they buy commercial
20 items particularly in this case, high items,
21 below sat using prevailing commercial terms and
22 conditions and commercial practices.

1 And, we have a large marketplace that
2 operates at scale. And, to do so, we rely on
3 standard contracts that promotes efficiency,
4 transparency and ultimately competition.

5 And, while we do have business focus
6 features like business owner pricing, so there's
7 actually a separate business prices that are
8 lower for Amazon Business customers or we have
9 bulk discounts. Again, if you're going to buy a
10 large volume of things, our vendors and sellers
11 have agreed to offer those for lower discounted
12 prices.

13 These are things that work at scale
14 and they work for all vendors, we don't
15 discriminate on all star customers.

16 And so, as the government looks to try
17 to entice new suppliers and vendors in the area,
18 we can't say enough about how the government
19 should look to how commercial businesses are
20 currently doing business. And, that's with
21 standard terms and conditions that scale.

22 MS. STANTON: Brock, do you want to

1 add anything on and sort of on to how Overstock
2 handles the standard terms and conditions?

3 MR. LYLE: Sure.

4 Overstock also has standard terms and
5 conditions that it uses between third-party
6 marketplace and customers in general.

7 With that said, one of the things I
8 talked about today is opening this up to
9 competition. And, if the government wants to
10 compete and wants to look at companies with
11 different terms and conditions, then it should be
12 free to do that.

13 And, if there are some terms and
14 conditions that it finds more appealing than
15 others, you know, I think that's a reasonable
16 thing to look at.

17 MS. STANTON: Actually, I'd like to
18 build on that a little bit and ask you what
19 factors should GSA and the government take into
20 account when they're looking at expanding the
21 number of portal providers?

22 You made a very strong case in your

1 opening remarks that we want to have a number of
2 portal providers and that we would be well served
3 to have some that are targeted to different
4 commodities, different markets.

5 Can you go deeper into that and
6 explain how you can see that actually being
7 operationalized or thinking through in the
8 existing landscape how that would function?

9 MR. LYLE: Sure.

10 One of the things that I think could
11 simplify this is for the government getting deals
12 based on a per product competition versus a per
13 vendor competition. That will ensure you're
14 getting the best price for a product.

15 Instead of just awarding a contract to
16 a vendor and then competition goes away.

17 With regard to implementation, like we
18 said, we're probably fairly early on in the
19 process and I think there are other people who
20 will probably talk about how specifically to land
21 the plane.

22 But, with regard to some of the things

1 that have been said by the panel as well, there
2 are ways to set up a system where you can have
3 compliance with law, with existing regulations
4 and you can still have compliance with standard
5 terms or new standard terms.

6 And, you can still have a broad array
7 of competition amongst multiple providers.

8 And then, the government gets to
9 decide, okay, what's the best price? What's the
10 best product? What's the best shipment time?
11 What are all of these options that I have that
12 people in the commercial market have every day?

13 And, this will bring you closer to
14 that system. And, it seems to me that is the
15 intent of Section 846.

16 MR. LEE: Yes, and I just wanted to
17 follow up on your remarks and the commercial
18 buyer has in every day purchasing experience, you
19 have -- you look at travel.

20 You know, there are systems like kayak
21 that serves as an aggregator and we talked about
22 competition on a per product basis versus vendor.

1 What role could you see potentially of
2 the kayak like aggregator model?

3 MR. ARONIE: I'll take that.

4 Just an initial thought, I also want
5 to respond briefly to the question about the
6 commercial terms as well.

7 So, I think one thing GSA and OMB have
8 to be very careful about here is something that
9 we've seen happening over the past X number of
10 years and that price has taken the place of
11 value.

12 And, a lot of people have criticized
13 GSA, and I, for one, have criticized GSA for the
14 push toward price over value.

15 When you talk to the government
16 purchasers, the actual users of the things people
17 are purchasing, they're very quick to say that
18 value matters to them.

19 And, I think that one of the problems
20 you see with some of the aggregators out there is
21 that suggestive of price. That's been one of the
22 main criticisms about GSA's purchasing program,

1 one of the main criticisms about GSA's TDR
2 program.

3 And so, I just want to constantly
4 remind all of us that we all purchase based on
5 value. Right? That matters to us whenever we
6 make a purchase.

7 And so, be careful with the
8 aggregators, in my view on that topic.

9 The only other thing I wanted to
10 mention about the standard terms and conditions,
11 so, as I said in my opening, I am all about
12 maximizing use of standard terms and conditions.

13 But, the reality is that there are
14 some standard terms and conditions that the
15 government just can't live with for a number of
16 reasons. And, that's the priorities you talked
17 about, maybe it's other reasons.

18 But, GSA has actually a pretty good
19 model of how they've handled this in the past.
20 When GSA enters into software contracts, there
21 are end user license agreements. Right? There
22 are EULAs out there that contain a number of

1 standard terms and conditions.

2 The U.S. government recognize that it
3 could not comply with all those terms and
4 conditions. So, through the higher arch of
5 launch product and others, you came up with what
6 we all know as the sale list.

7 And, companies that can accommodate
8 the sale list are able to sell software to the
9 U.S. government.

10 I think that recognition that we want
11 to maximize commercial standard terms and
12 conditions, but there were some we just can't
13 quite or don't want to deal with, there are ways
14 to handle that.

15 MR. KOSES: A clear part of the value
16 behind this concept is we're relieving officers
17 of a huge workload, presumably once this is stood
18 up, you don't need a contracting officer to place
19 the order through this one or multiple portals,
20 that any ordering official should have that
21 ability.

22 At the same time, they are not trained

1 in the intricacies of many of the federal law
2 requirements in and around government purchasing.

3 So, to some extent, that moves the
4 conversation to one of risk allocation and
5 assignment. How much is the core provider
6 responsible for complying with federal law, how
7 much is the product provider, how much is the
8 ordering official?

9 With what does all the panel on --
10 where should that line be and how do we think
11 through that issue?

12 MR. BOHN: Sure, I can start here, if
13 that's all right.

14 So, we don't think the government
15 should be seeking to shift its unique
16 responsibilities and obligations to the
17 commercial portal providers.

18 What we think is that technology can
19 assist the government in effectuating its
20 procurement policy intent.

21 And so, I think it's a fair statement
22 that a warranted contracting officer using this

1 type of technology hopefully has a great fully
2 reduced workload that they can actually focus on
3 their priorities of, and you know, improving the
4 mission and hopefully for their agency.

5 And, technology helps that. But,
6 technology doesn't replace that. And so, we
7 don't think it's appropriate to say, you know, a
8 company like Amazon Business should make sure
9 that no bought or suspended contract is ever able
10 to make an offer or offer an item for purchase on
11 its marketplace.

12 Rather, we think it's a better idea
13 for the government to make information available
14 on who is to bar or suspend as the government has
15 and to aid marketplace and e-commerce provide us
16 the service that information during the shopping
17 and buying experience.

18 To carry that transparency through
19 reform process and to make it easier for that
20 federal procurement executive to actually see
21 what his buyers and users are buying and making
22 sure that they're complying with that.

1 And, more importantly, effectuating
2 the intent of the agency, whatever it may be.

3 MR. ARONIE: I'll just add a point to
4 that.

5 So, for years, I have seen, and I
6 think many of the industry reps in here have seen
7 the government shift a lot of its responsibility
8 to industry.

9 And, sometimes I think that's
10 appropriate, sometimes industry is in the best
11 situation, the best position to handle some
12 compliance issues.

13 But, sometimes, the government is in
14 the better position to handle some compliance
15 issues.

16 So, we've -- just one quick example,
17 we see, frankly, I see contractors get in trouble
18 where the government purchasers splits orders.
19 Or, I've seen contractors get in trouble where
20 the government purchaser wants to make an advance
21 payment.

22 And, you know, in my view, that's the

1 government's responsibility to police itself.

2 So, I think where ever we come out on
3 this, I think it is unfair to think the question
4 is just about the portal providers and suppliers.
5 I mean, the question has to be about the portal
6 providers, the suppliers and the government
7 purchasers.

8 And, I think each one of those
9 entities has a role to play in compliance, risk
10 reduction, et cetera.

11 MR. TIAHRT: I think if I was in Rob's
12 position, I would be wanting to play checkers.
13 It's easier, you just, you know, you have your
14 credit card, log on and buy whatever you want.

15 And, I think there's some value to
16 that. Certainly, if my kids do it, I do it, it
17 is common.

18 But, there is a responsibility and a
19 concern that I have as a taxpayer that certainly
20 makes much more thought.

21 And, in a private life, I work as a
22 proposal and program manager for a large military

1 provider for the federal government, employing
2 company.

3 When we make a proposal to the federal
4 government, they provide a statement of work and
5 specifications. It wasn't an option if we wanted
6 to -- it was a negotiation. So, if you didn't
7 want to comply with the statement of work, you
8 had to negotiate some element forever.

9 And, I think that could apply in this
10 situation. If you want to provide a software,
11 have some common ground.

12 But, it was up to the contractor to
13 meet the specifications and the statement of
14 work. That was the chess board. You couldn't
15 play checkers on that board. You had to play
16 chess.

17 And, I think in this environment where
18 we're talking about a whole lot of people buying
19 and a whole lot of taxpayer dollars, there is
20 going to be scrutiny on how this money is spent.
21 And, somebody is going to be held accountable.

22 Now, I mean, contractual privity I

1 think the government has the final say, they
2 certainly have enforcement. But, there is
3 responsibility that can be passed on to the
4 contractor to provide a system that is compliant,
5 to write the software so that when that 18-year-
6 old sits down with his federal credit card, he
7 buys the right stuff and doesn't order those
8 marijuana options.

9 (LAUGHTER)

10 MR. TIAHRT: There has to be a
11 responsibility with this. There has to be chess
12 on this board and I think it's based on how the
13 federal government writes these specifications
14 and statements of work.

15 (OFF MICROPHONE COMMENTS)

16 (LAUGHTER)

17 MR. BOHN: So, to be clear, I don't
18 think we sell marijuana muffins.

19 (LAUGHTER)

20 MR. BOHN: So, listen, I understand
21 what you're saying and I think that the point
22 that I really wanted to make is that commercial

1 entities and governments, we often like to think
2 that they're very dissimilar. They're very much
3 alike.

4 Commercial entities, particularly
5 large commercial entities, have preferences and
6 they execute those preferences through their
7 purchasing every day.

8 And so, providers like Amazon Business
9 and I'm sure Overstock want to be able to help
10 customers effectuate their procurement intent.

11 And, the government's no different.
12 We're interested in innovating on behalf of the
13 customers and providing them avenues to discover,
14 search and select from vendors that meet their
15 needs. And, that includes whatever level of
16 commodities they're interested in.

17 We have tens of thousands of
18 government users. We have over a million
19 customers within Amazon Business.

20 You know, I've talked about the fact
21 that we have millions of sellers. And so, what
22 we provide is choice. And, at the end of the

1 day, the person making the choice needs to be
2 responsible for the choices they're making.

3 MR. KOSES: So, I'd like to follow up
4 on that last round of answers.

5 And, to me, the excluded part of this
6 is probably a really good example to walk
7 through.

8 Part of why we want -- built a
9 government in existence is to ensure that we are
10 not buying from an excluded party.

11 If, indeed, we're saying that the
12 portal provider is not going to have a
13 responsibility for doing a validation against on
14 that EPOS, so I -- so, where is the value to the
15 federal buyer?

16 Because that starts taking me down a
17 road I now need only contracting officers to use
18 the system and to do additional checks.

19 So, how do we maximize our value to
20 that -- to the federal entity, not force us to
21 only use contracting officers for a program of
22 this sort?

1 MR. BOHN: Well, so as I understand it
2 right now, the responsibility lies with the
3 government to check excluded party listing system
4 and checks them to make sure that they're not
5 buying from a bar or suspended contractor.

6 Only, the government might do a one-
7 time check at the time of award and then take --
8 print it off and put it in their file and don't
9 revisit it. It's not the best system.

10 And so, what we think the best system
11 is, is for the government to actually invest in
12 an open data architecture and to make the
13 information that it deems important when making
14 procurement decisions readily available to the
15 commercial industry so commercial industry can
16 take that information and service it right back
17 to federal buyers during the procurement process.

18 Because that's the point in time when
19 they should have access to this information.
20 And, they should be able to make the decision.

21 So, it may not be the best use case,
22 but remember, as I understand the law, government

1 users can actually buy from an excluded party
2 under certain circumstances.

3 And, what I'd hate to see the
4 government do is over regulate what's currently
5 available on the commercial marketplace and in
6 doing so, trying to shift the burden of
7 compliance to the commercial marketplace instead
8 of keeping it with the government where it
9 belongs.

10 And so, we think the key here actually
11 is information and data. And, if the government
12 provides that information and makes it easy to
13 use, make sure it's up to date, I think that the
14 commercial marketplace will take that information
15 and present it in a very reasonable manner to
16 government buyers.

17 MR. ARONIE: Yes, I think that's a
18 very important point. And, the legislation seems
19 to contemplate precisely that. The legislation
20 seems to contemplate that GSA is going to come up
21 with a way to make all these data available to
22 the multiple commercial portal providers and that

1 they, then, will use that information to
2 facilitate the purchases.

3 I mean, that's what in a sense you're
4 buying from the providers. Right? You're buying
5 that the providers will take on this burden for
6 you so long as you come up with a way to get
7 those data to the portal providers.

8 But, and it's not just, you know, the
9 suspended environment, it's trade agreements and
10 active -- Buy American Act, it's whatever
11 statutes and the statutes and regulations, you
12 know, remain after this process of figuring out
13 what's necessary and what isn't, all those
14 things.

15 The government has to do its part to
16 provide those data and the portal provide has its
17 part to facilitate the use of those data.

18 MR. TIAHRT: We're talking about the
19 purchaser in the whole line here, we want the
20 purchaser to make the decision on how to be
21 compliant, to make the search, to find the things
22 that will satisfy the regulations.

1 And, I'm here to tell you, that
2 doesn't work today. When the young seaman gets
3 off the submarine and sits down in front of a
4 computer terminal, he doesn't want to buy the
5 right stuff, he buys what he needs, but it's not
6 always complaint with TAA or the JWOD or some
7 other regulation because he's not well versed in
8 federal procurement law.

9 An algorithm can make that decision
10 for him. It's a software change. And, I know it
11 would be easiest for us to think that we could
12 just get on, you know, log on at Amazon and start
13 and account and use our government credit card,
14 but there is a process that can be put into the
15 software.

16 You're going to have to have some
17 software design anyway, make it compliant with
18 current regulations. It's not that difficult,
19 it's an algorithm.

20 And, that 18-year-old seaman or the
21 18-year-old private at Fort Carson's ordering
22 marijuana muffins, they don't make that mistake.

1 They will have -- it will be compliant with the -
2 - when they make that purchase, the decision will
3 already be made to be compliant.

4 MR. BLUM: I'm going to shift a little
5 bit and ask a question on metrics and probably
6 this is good for all the panelists and we keep
7 coming back to this.

8 But, I'm going to ask you what's --
9 how we should measure what success looks like in
10 this program?

11 And, I'll stipulate that I think --
12 I'm guessing that everybody would say value,
13 better value for the taxpayer.

14 MR. BOHN: I'd say that.

15 MR. BLUM: But, if we can be a little
16 bit more precise for the purpose of this question
17 and, if you can, maybe pick one or two that come
18 to mind immediately.

19 So, for example, is it price? And, I
20 think a couple of you said, it probably should
21 not be price, it shouldn't be at least a
22 comparable list in terms of the most important

1 measure of success.

2 Is it speed? Is it ease? Is it
3 transparency? Is it compliance with laws? We
4 talked a lot about that. Is it increasing the
5 number of participations in the federal
6 marketplace? Is it improved small business
7 participation and improved use of our AbilityOne
8 program?

9 What are one or two things that come
10 to mind that, from your perspective, would
11 demonstrate success as a measure that we should
12 use to demonstrate success?

13 MR. BOHN: So, those are all great
14 objectives.

15 For us, at Amazon, we think that 846
16 and this whole dialogue is really about
17 competition. It's really about enticing new
18 vendors and suppliers into the federal government
19 space.

20 You know, I have a staff that we're
21 very proud of a million sellers and that account
22 for over 50 percent of our business.

1 And, the majority of them are small
2 and medium businesses. So, we think that there's
3 a tremendous opportunity here for the government
4 to really open things up and let new non-
5 traditional vendors and sellers enter and
6 participate in the federal market space.

7 MR. LYLE: I would agree. You list it
8 on several things that are very important. The
9 considered answer, which is most important, I
10 guess it's up to that particular government
11 agency to determine.

12 I think we've talked about price and
13 value as they're not exactly interchangeable.
14 There is a difference between the two of them.

15 But one of the statistics I saw in the
16 House Armed Services Committee report is that on
17 IT products alone, the Government was \$13 above
18 market. Now, with competition, you can
19 conceivably get to \$13 below market.

20 But adding in that aspect of
21 competition where you have multiple vendors,
22 multiple portals competing for an agency's

1 business, then you would see a significant shift
2 in the way that works, both in terms of small
3 business participation, in terms of quality, in
4 terms of value, in terms of price.

5 All of a sudden, the government would
6 be, for lack of a better term, in the captain's
7 seat. You would be driving things and allow
8 companies to compete for that business. And that
9 would give a significant amount of leverage.

10 MR. ARONIE: So, obviously there's
11 been talk about price and value and competition,
12 I want to hit on two other ones that I think are
13 important to the success of the program.

14 And one is accountability. But we
15 talk about accountability with the government
16 contractor and I want to talk about, for a
17 second, accountability with the government
18 purchaser.

19 So right now, depending on how you
20 want to read the statistics, government
21 purchasers get it wrong to some extent 30 to 50
22 percent of the time. That's an exaggerated

1 statistic based on GAO bid protest data.

2 The number of times an agency has to
3 take corrective action, either on its own or
4 because the government tells it to, because it
5 made a mistake in the procurement. So you can
6 quibble about what number it is, but it's a
7 number.

8 And right now, we have a protest
9 process that actually holds the government
10 accountable. Some people like the protest
11 process some people don't. But there's no
12 questioning, it holds purchasers accountable.

13 So I think when we think about the
14 success of this program, we have to think about
15 holding the government accountable for the
16 correctness and reasonableness of its decision.

17 The other thing I think, now, this one
18 clearly comes from 25 years or so defending
19 government contractors, but we need to find a way
20 to have less unfair risk to contractors.

21 I mean, right now if you're a
22 government contractor, mistakes, good faith

1 mistakes, are very easily translated into major
2 federal investigations, false claim type cases.
3 And in fact, in my view, the risk of that
4 translation of a good faith mistake into a false
5 claim type case is one of the number one
6 inhibitors to why some companies don't want to
7 deal with the U.S. Government.

8 Now, there's obviously a place for a
9 False Claims Act, there's a place for audits and
10 investigations. But I think we have to think
11 hard about whether it has kind of run so amuck
12 that you are eliminating very good companies who
13 otherwise would want to play in a government
14 space for whoever wanted to.

15 MR. TIAHRT: Thank you. I was
16 beginning to think that an hour and a half up
17 here would have been way too long but now I'm
18 thinking it may be too short. So many questions.

19 This can't be solely about price or a
20 race to the bottom on price. If you're buying
21 brass fittings for the hydraulic system of your
22 airplane that you're going to fly home on this

1 weekend, or tonight, you don't want to buy
2 something made by prison Chinese labor. You
3 don't want a substandard part.

4 When the Boeing Company buys fittings,
5 they have a quality insurance program to ensure
6 that they don't get a defective part. But if
7 you're basing your decision solely on price, you
8 can buy a lot of cheap ones that are made in
9 Vietnam or made in China.

10 They're made by substandard, no
11 quality oversight vendors. And you can buy them
12 on the internet for cheap. They're the bottom
13 price.

14 But you don't want to run your
15 airplane because if that's holding the hydraulic
16 system and it goes out and all of a sudden, the
17 control system is gone and you can't laid
18 properly, your life is at risk. Now, that's
19 probably the extreme example because some of the
20 goods we're talking about are pens and paper,
21 okay.

22 But the point is the same. Is that

1 there are substandards we have to maintain, and
2 if you're based purely on price, you cannot do
3 that.

4 You cannot rely on the federal
5 purchaser to make that decision because he
6 doesn't have the time to do the background
7 checks, he doesn't have the legal aspect, he
8 doesn't have any of the compliance aspects with
9 all of this, he just wants to buy something
10 because he's got to fulfill an order. That's all
11 he wants to do.

12 So when he makes that decision, all
13 that has to already happen. The compliance, the
14 quality, the assurance that we need that these
15 tax payer dollars are spent properly and
16 accurately. And in a nutshell, that makes us
17 safe.

18 So, I think you can't just rely solely
19 on playing checkers, it's still chess. And so
20 there's going to have to be some compliance
21 that's going to have to be written in the
22 software.

1 MS. STANTON: Thank you. And with
2 this I wanted to transition to offer the audience
3 an opportunity to ask questions of the Panelists.

4 We have a couple of microphones out in
5 the audience, so if you have a question please
6 raise your hand and a microphone will be brought
7 over to you. And please identify yourself with
8 your name and who you're representing.

9 PARTICIPANT: My name is (inaudible)
10 I'm from (inaudible) This question is for the
11 gentleman from Amazon.

12 You mentioned that you have state
13 agencies, local governments and federal
14 governments that buy products currently from
15 Amazon Marketplace. I was wondering if, given
16 that a lot of these states and the federal
17 government if they have mandatory items,
18 specifically procurement guidance on the federal
19 side, I'm not sure how you know that the
20 customers are not buying essentially the same
21 products when they're supposed to be buying the
22 PONs.

1 MR. BOHN: Thank you for the question,
2 it's a good question. So, this again sort of
3 harkens back to my point that commercial
4 companies and government entities are alike in
5 that they all have preference programs that they
6 execute upon.

7 Understand in the federal's place
8 there are some mandatory preference programs.
9 And really, it's the government's responsibility
10 to make sure that they are effectuating the
11 intent of that program.

12 And so, Amazon is not taking the fact
13 that this is the need of our customers likely and
14 we're constantly emanating on their behalf. And
15 so what we are doing is we're enabling customers,
16 federal, state and local, to onboard their
17 diverse or preference branded providers and to
18 make it easy for them to search, discover and buy
19 from them.

20 But one of the things that we do
21 that's foundational is we provide transparency
22 into what's actually being prepared. And so if

1 the concern is I don't know how big the problem
2 is, I don't know what my users are actually
3 buying in a low dollar value from sites like
4 Amazon. We're fixing that problem by providing
5 real-time transparency into what people are
6 actually shopping for.

7 And from that transparency that the
8 government can make more informed decisions about
9 how to actually effectuate the intent of their
10 mandatory source of other reference programs.

11 MS. STANTON: All right, thank you.
12 Any other questions from the audience? All
13 right. While you continue to think about that --

14 MR. LYLE: We're more likely to answer
15 them if you offer us marijuana branding.

16 (Laughter)

17 MS. STANTON: On that note --

18 (Laughter)

19 PARTICIPANT: Right, right.

20 MS. STANTON: Let me actually
21 transition into a question that I had, which is
22 really getting to the fundamentals to this. One

1 of the things that we need to have in order to
2 make this program a success, is we actually need
3 to have important providers willing to contract
4 with GSA to be able to operate these portals.

5 And one of the things that we were
6 looking at as we were going through Section 846
7 is, what factors would incentivize or
8 disincentivize portal providers from being
9 interested in participating in this program.

10 And so while the audience takes the
11 opportunity to think of some further questions, I
12 would like to explore sort of how would we really
13 make this program, as we think about how do we
14 make this a success, how do we think about what
15 factors would make it encouraging to enter into a
16 contract to do this.

17 So, Brock, Rob, let me start with the
18 two of you and then offer it up to John and Todd
19 as well.

20 MR. LYLE: Sure. So, I think it's
21 reasonable for GSA and for other government
22 entities to have regulations and to comply with

1 federal regulations to set, here are some rules
2 if you want to play, to use the metaphor, if you
3 want to play chess on our chessboard, here are
4 some rules you have to comply with. That's
5 reasonable.

6 And you will see, if you open it up to
7 multiple portals, you'll see small business,
8 large business, competing to play on that
9 chessboard.

10 The more regulations you have in
11 addition to that those are required by American
12 trade all, all of the required, the more
13 regulations, the more rules, the more impediments
14 and the more strictures you place on commerce,
15 the harder it's going to be for small business,
16 large business for that matter, to come in and
17 compete.

18 And also the more you allow
19 specialization I think the more companies you
20 will see.

21 MR. BOHN: I'd say keep it simple.
22 Keep it really, really simple. Use prevailing

1 commercial terms and conditions, use commercial
2 practices.

3 And so, what do I mean by that? I
4 mean, standard commercial parties, particularly
5 e-commerce providers, marketplaces, have click
6 through agreements. And I'm sure the government
7 has seen and reviewed those click through
8 agreements.

9 You've probably looked at the Amazon
10 Business agreement. And those click through
11 agreements are really important because they
12 allow us standard mechanism to contract with
13 buyers.

14 Our services operate the same way for
15 everyone. Again, we don't discriminate amongst
16 our customers. And so, that allows us to achieve
17 scale and efficiency, transparency and
18 competition.

19 And so we think it's really important
20 that when the government goes and works with
21 different commercial providers it looks at their
22 commercial terms and conditions and their

1 commercial practices and it doesn't try to change
2 them.

3 One of the reasons we have an online
4 click through is because we constantly innovate
5 on behalf of customers and sellers. And so we're
6 updating our terms and conditions.

7 We just launched something in Amazon
8 business called supplier management portal. It
9 makes it really easy to search for and find those
10 diverse sellers, it makes it easy to manage them
11 and manage your relationship with them.

12 And to launch that feature we needed
13 to put a few sentences into our terms and
14 conditions to effectuate the new program.

15 If we had a traditional government
16 contract it probably would have taken months of
17 negotiations to mock the contract, bring this new
18 benefit that was instantly available to our
19 commercial customers to government customers.
20 And we don't think that's right.

21 So we don't think the government
22 should try to arbitrarily or artificially over

1 regulate, they should keep it super simple and
2 accept commercial terms, conditions and practices
3 as they define them.

4 MR. ARONIE: I don't think that we
5 much dispute about what it would take to maximize
6 the use of commercial core providers. I think
7 companies generally want a level playing field.

8 I think they want roughly to maximize
9 commercial practices within the confines of the
10 national priority. They want to make sure it's
11 not a race to the bottom in terms of price.

12 They want to make sure that the
13 government lives up to its obligation to give
14 useable and actionable data so that the core
15 provider can do what's expected of it to help the
16 government. And I think everyone wants to reduce
17 unfair risk.

18 Everyone understands there's risk in
19 selling to the government, but it's unfair risk.
20 You want the reduction of that.

21 I think I'm hard pressed to find
22 people that would disagree that those five things

1 would increase a company's interest in wanting to
2 play the role of a provider.

3 MR. TIAHRT: I want to make the
4 argument that we need more regulations. But
5 that's not who I am.

6 PARTICIPANT: You're finally proud.

7 MR. TIAHRT: Yes. I think there is a
8 simple way to apply it by existing regulations.
9 And I think that as a platform provider, you want
10 to keep business as simple as possible. You
11 don't play checkers.

12 But there are obligations to spending
13 federal tax dollars. And it's not just a few
14 dollars we're talking about this is like a \$40
15 billion market.

16 If you build it they will come. If
17 you say you're going to have to put your
18 software, but you have to be compliant with
19 socioeconomic regulations, that's not really a
20 new regulation, just say you're going to be
21 compliant.

22 That can be written in a code. You

1 can hire, for \$130,000 a year, you get a software
2 engineer that's experienced. For \$80,000 you can
3 get one just out of college and let them learn.

4 It's not that big of an investment for
5 a \$40 billion market. So I think that you can
6 have these socioeconomic regulations complaint
7 periods.

8 You can do it conveniently or you can
9 do it so that the 18-year-old with a federal
10 credit card doesn't have to do all the quality
11 control, doesn't have to do all the federal
12 procurement background on all.

13 It will be something that will prevent
14 them from buying a part that could endanger other
15 lives. It will make them, a decision very simple
16 for them, and it will be a competitive open
17 marketplace, for the government buyer, on their
18 rules.

19 If you build it, they will come. It's
20 a \$40 billion market.

21 MS. STANTON: Thank you. I'll open it
22 up, I see a hand being raised over to the side

1 here. There's a microphone heading in your
2 direction. Please identify yourself and who
3 you're representing.

4 PARTICIPANT: Steve Sellentin, the
5 Government Scientific Source. I listen to you as
6 you're talking about your programs today, about
7 e-commerce. But in other segments of the federal
8 government, the Department of Defense, the
9 Department of Energy, they are moving rapidly
10 away from utilizing a credit card as a money
11 mover.

12 So, under this program that I'm
13 hearing you gentlemen talk about today, how do
14 you plan on moving money, is it by plastic, ACH?

15 Because in other segments of the
16 government they already are moving past credit
17 cards so they can bring quality assurance
18 programs into their procurement practices, very
19 much to the gentleman's credit on the end,
20 talking about how to bring qualified products
21 into the process.

22 MR. BOHN: Yes, I think it's a great

1 question and thank you for it. So, for Amazon
2 Business we found very early on that one of the
3 issues our customers were having, particularly
4 our government customers with using credit cards,
5 centrally managed purchase cards or p-cards, is
6 that they weren't getting the data they needed.

7 They weren't getting the visibility of
8 transparency they wanted to be able to do their
9 important role. Which is to look into
10 compliance, to make sure that they're preferences
11 were being executed upon, to make sure that
12 people were complying with buying from mandatory
13 sources.

14 And so this is, again, one of those
15 innovations that we worked on, on behalf of
16 customers. And we started working with the
17 issuers and the networks to pass enhanced data
18 directly through the credit card platforms.

19 And so if you're an Amazon business
20 customer using a Visa credit card that's issued
21 by one of the participating banks, you can now
22 get an additional 30 lines of detail, Level 3

1 data for your sheet.

2 Excuse me, I think through your
3 financial system or your preferred financial
4 provider. And that provides instant
5 transparency, it provides a tip to people who are
6 used to receiving it and looking at it.

7 Another great thing for people who
8 aren't using a purchasing card or a p-card, is
9 that that same capability exists in what we call
10 the Amazon Business data analytics service. And
11 so it's super easy to go in and run a report of
12 what you bought that day, what you bought that
13 week, to sort it by 30 to 40 different line
14 items.

15 And a third thing that we've done,
16 that we've launched, is an Amazon Business line
17 of credit. And so we have preferred partners
18 that underwrite credit and we also underwrite
19 credit ourselves. And we make it easy with an
20 Amazon Business invoicing solution for bars of
21 all types and sizes to buy in payment terms.

22 MR. LYLE: Overstock works in a

1 similar way. We are very flexible on kinds of
2 payment.

3 You may have heard that Overstock also
4 accepts lots of different kinds of currency,
5 cryptocurrency. There has been a push toward
6 blockchain technology which is, it's more
7 transparent technology because it's
8 decentralized.

9 So, in terms of payment there are
10 many, many options. And we've been one of the
11 leaders in terms of lots of different kinds of
12 payment that Overstock looks at.

13 MS. STANTON: All right, other, I see
14 another hand being raised, towards the back on
15 the left.

16 PARTICIPANT: So as a schedule holder,
17 the GSA schedule is often required to abide by
18 TAA requirements. And the deal with the
19 government for the past 25 years, I know that the
20 government customer is going to choose the least
21 expensive product.

22 Are we truly considering opening the

1 marketplace up to Chinese products, and if we
2 are, then it is truly a game changer. It's just
3 something I'm curious about.

4 MR. LYLE: It sounds like it's more
5 for you than us.

6 MS. STANTON: Right. Yes. At this
7 point we're in the listening mode so we're not,
8 the Government is not responding to questions at
9 this time.

10 So we're understanding sort of what
11 these marketplaces offer and what opportunities
12 exist and how we would take advantage of that and
13 what constraints should be kept in place as we
14 think through how to appropriately do that. And
15 I think we've heard a wide spectrum of views
16 today from this morning's Panel on that.

17 MR. ARONIE: Right. But as a starting
18 principle, the NDA makes it clear that those
19 statutes don't go away.

20 I mean, the TAA is there. And unless
21 GSA is going to be putting in an awful lot of
22 work, and there's a very strong support for this

1 piece, it's not only changing its data, it's
2 changing US treaty obligations as well, I'd be
3 very surprise if the TAA goes away here.

4 But, I mean, if those are the
5 questions we're all supposed to be answering,
6 then that one I can't see going away, but who
7 knows.

8 MS. STANTON: I see there's another
9 question in the audience.

10 PARTICIPANT: I have a question for
11 the portal providers here, but for a lot of
12 discussion about transparency and I think that's
13 obviously one of the core interests of the
14 government as well in some concern about any one
15 total provider having too dominant of place in
16 this federal marketplace.

17 As a consumer, if I Google for an
18 item, I often see competitive pricing across
19 multiple portal providers in the spirit of Kayak
20 from a purchasing perspective. But some consumer
21 marketplaces don't actually expose pricing in
22 environments like that.

1 And I imagine the GSA is going to want
2 that ability if there are multiple portal
3 providers that provide the same items, to be able
4 to cross compare without having the authority to
5 go into each of these portals.

6 Are you guys open to that kind of
7 transparency, vis-a-vis your competitors in that
8 market?

9 MR. LYLE: I think it depends on how
10 the systems are structured, the portals are
11 structured. I know in other instances there have
12 been third party entities that will act as sort
13 of a bar for all companies to clear in order to
14 qualify to be portal providers.

15 That could conceivable be one of the
16 requirements. But again, to echo what has been
17 said up here, I think the fewer requirements and
18 the simpler it is the better.

19 MR. BOHN: Yes, I'll agree with that.
20 Just a few general remarks. We do think
21 transparency is super important.

22 And one of the great things about

1 Amazon is any one of us can go and log on to
2 Amazon and see all the multiply offers under
3 price. So if you want to see how much this water
4 is or the Cisco star phone, you can go on and see
5 that. And that real-time price transparency we
6 think is important.

7 The idea you mentioned I think is an
8 interesting one. I think government buyers and
9 commercial buyers alike look at price. But I
10 think it's important to note some of the
11 Panelists that price is just one aspect of a
12 consideration that goes into a decision to buy.

13 And so, sometimes when those
14 applicators of information provide only price, it
15 doesn't convey the full picture of actually who's
16 selling the product or what are the delivery
17 terms of the product or what's the warranty that
18 goes with the product. And so I say that those
19 are important elements to consider too.

20 MR. LYLE: And just one follow-up
21 point on that. I agree with Rob here.

22 A lot of times when you're buying a

1 product you don't just look at price. And when
2 you do have a Kayak, to go with the example we
3 had earlier, you are limited in terms of what
4 other elements you're looking at, whereas when
5 you're buying on Overstock you're buying on other
6 commercial providers.

7 You're going to see reviews, you're
8 going to see what people thought of these
9 products, you're going to see the delivery terms,
10 you're going to see who made them, you're going
11 to get a lot more information. And that will
12 inform the decision you make. It's not just
13 price.

14 MS. STANTON: Thank you. There's a
15 question in the audience. Let me take the
16 gentleman over here and then pass it over to you
17 on the left.

18 PARTICIPANT: We're talking about
19 transparency when other transactional data has
20 been an issue over the years, we know transaction
21 costs for funding things have been exposed.

22 In the interest of transparency world,

1 does it make sense also to understand what the
2 transaction of these associated with each product
3 on any given platform are, and should they be
4 published and understood by the government buyer?

5 MR. BOHN: Yes. I mean, in the case
6 Amazon, our sellers fees are clear. But I think
7 when people look at the types of fees --

8 PARTICIPANT: No, no, clear to the
9 buyers. To the buyers.

10 MR. BOHN: Yes. So, anyone can go and
11 look at our seller fees. And I think it's
12 important that for a buyer, is making a decision
13 based upon the type of fees that are being paid.
14 They look at the actual services that are being
15 performed.

16 And what I mean here is, there's lots
17 of different vehicles for government buyers to
18 buy commercial off the shelf items. Some of them
19 come with funding fees, some of them have
20 different other types of pricing scenarios.

21 Amazon provides a tremendous amount of
22 value to sellers. And we're constantly looking

1 to provide more value to them.

2 We provide services like payment
3 processing, marketing, advertising. And so I
4 think it's important that if buyers are going to
5 be concerned about what fees are, that they're
6 actually looking at the value that's derived from
7 those fees and comparing them.

8 And again, it's just this price is
9 important. I think the overall concept of value
10 is really important.

11 What does that person need, how is it
12 going to help them achieve their mission and how
13 often will it help the agency at issue achieve
14 their procurement policy objectives.

15 PARTICIPANT: So are you saying that
16 the portal provides a transaction fee should also
17 be available to the government purchaser?

18 MR. BOHN: Yes, I think I've clearly
19 indicated that the fees are available.

20 PARTICIPANT: Well, essentially, it
21 sounded like you said the seller.

22 MS. STANTON: All right, thank you

1 very much. We're going to take --

2 PARTICIPANT: We had one other
3 gentleman.

4 MS. STANTON: -- one last question and
5 then we'll be wrapping up this Panel and allow
6 our GSA Administrator to offer some welcoming
7 remarks.

8 PARTICIPANT: Yes, my name is
9 (inaudible) distribution. I wanted to ask, you
10 talk about you instituted a credit card program
11 that gives you Level 3 data at 30 line item, that
12 increases the credit card processing fee by at
13 least one and a half percent based on cards that
14 don't have a Level 3 processing.

15 And right now, we provide to the
16 government kicking off transactional data
17 reporting. And once we go through the e-commerce
18 portal, who will do that reporting, does that
19 remain the seller's responsibility which the
20 numbers would have been magnified or would that
21 be the reporting parties responsibility?

22 MR. BOHN: So, I think part of that is

1 a question for the Government and it doesn't
2 sound like they're answering questions today.
3 But what I can tell you is that I don't
4 necessarily understand or agree with the increase
5 of fees from the enhanced data program.

6 For Amazon Business, there is no
7 increased cost to our customers or to our sellers
8 from that program.

9 And what I can say is what we envision
10 is a scenario where these e-commerce providers
11 are providing new real-time transparency. And so
12 the obligations of TDR are sort of, reporting
13 requirements can be eliminated for the use of
14 prevailing commercial practices.

15 MS. STANTON: All right. I'd like to,
16 please join me in a round of applause in thanking
17 our Panel Members.

18 (Applause)

19 MS. STANTON: So, please stay up here
20 for just one moment. And with that, I will pass
21 the microphone on to Emily Murphy, our GSA
22 administrator who was recently confirmed last

1 month. So, please.

2 (Applause)

3 MS. MURPHY: Thank you all very much
4 for allowing me to be here with you today, it's a
5 privilege to speak with you all. It's like my
6 first public speaking event since I joined, or
7 this confirms the GSA administrator, so it's
8 really a testament of how much this opportunity
9 means to GSA and how really embracing an
10 opportunity to use e-commerce tools in the
11 appropriate manner, because it's a great
12 opportunity for GSA and hopefully the tax payers.

13 My remarks this morning are going to
14 be short for three reasons. First, everyone
15 likes short remarks.

16 Second, GSA's role today is really to
17 be here to listen. And I think you've seen a lot
18 of that happening already.

19 And third, I understand I am what's
20 keeping everyone from their break. So --

21 (Laughter)

22 MS. MURPHY: Today is the first

1 opportunity for us to hear from the community,
2 not the last, and I want to make that absolutely
3 clear. This is going to be an ongoing dialogue.

4 We look forward to working with all of
5 you to address the issue, to learn what your
6 needs are, how can you address those and so that
7 the invitation of the e-commerce platform,
8 whatever that looks like, is a smooth and
9 productive adoption.

10 I think I mentioned earlier this
11 morning that administrator I've got four
12 priorities. Active leadership, reducing
13 duplication, increasing competition and improving
14 transparency.

15 I believe that these guiding
16 principles can be applied to every facet of GSA's
17 mission and I'm excited to apply for this
18 opportunity as well.

19 I'd like to do that by ensuring that
20 we actively solicit feedback from all
21 stakeholders, directing the communication
22 process. Including events like the one we're

1 having today.

2 We focus on reducing the burden that
3 we placed on industry by addressing duplicative
4 and outdated regulations and processes which
5 ultimately end of driving up costs for the tax
6 payers.

7 Producing barriers to entry,
8 protecting small businesses whose innovations are
9 incredibly important to us in the marketplace.
10 And increasing the competition by focusing on the
11 prices paid by the agency is not just if it's a
12 certain price.

13 The slim price is important to us as
14 prices paid. Still focusing a lot of emphasis on
15 those prices.

16 We're excited here at GSA about the
17 opportunities that Section 846 created. And I
18 think it's important that our first big step as
19 an agency is seeking feedback from all of you.

20 Incorporating e-commerce will enhance
21 GSA's role as a mission enabler for other federal
22 agencies by providing opportunities for them to

1 transfer the weight that the federal acquisition
2 service and GSA do business.

3 In unlocking the potential of
4 successful implementation of the arms portal in
5 federal acquisition could lead to more options
6 for agencies to require the products they need to
7 carry out their missions.

8 The more focus on the user experience
9 and more freedom for acquisition professionals to
10 invest their time and energy in creating a value
11 in streamlining processes. Ultimately all of
12 this means a greater return on investment for our
13 most important customer, the American tax payer.

14 So I want to, as I promised I would be
15 brief, I want to thank you all again for being
16 here today. And I will turn it back over to
17 Laura. I think, is everyone getting their break
18 now?

19 MS. STANTON: They are.

20 MS. MURPHY: So thank you all for
21 being here today and I look forward to continuing
22 this dialogue with you all.

1 (Applause)

2 MS. STANTON: Thank you very much,
3 Emily. And with that we are on break. Please
4 join us back here at 10:45 for the second Panel
5 on Buying Practices.

6 (Whereupon, the above-entitled matter
7 went off the record at 10:30 a.m. and resumed at
8 10:49 a.m.)

9 MR. MEIRON: Good morning and welcome
10 back. We've had some very good dialogue during
11 our first Panel, so I assume that we look forward
12 to similar dialogue during our second half.

13 Panel 2, on Buying Practices, will be
14 moderated by Virginia Huth of Office of
15 Governmentwide Policy.

16 MS. HUTH: Thank you. All right, good
17 morning. Hopefully everyone got their break and
18 are ready for another excited session.

19 We're looking to introduce, please
20 come up, Matthew Cromar, the senior director with
21 SAP Ariba.

22 I would also like to introduce to you

1 Stephanie Lambert, the vice president, associate
2 general counsel at Staples.

3 And Raj Sharma, Public Spend Forum.

4 Thank you. All right, I'll be handing it off to
5 our illustrious questionnaire commentaries.

6 MS. STANTON: All right, we're back.
7 We want to give the, before we launch into we
8 wanted to give the opportunity to each one of you
9 to make an opening statement of approximately six
10 to eight minutes and give us your thoughts on the
11 basic, on the commercial buying practices of the
12 e-commerce portals.

13 So with that, let me hand it over to,
14 in the alphabetical way, Matthew Cromar.

15 MR. CROMAR: Thank you very much,
16 thanks for having me here today. I'll share the
17 distinction, I think, of being one of the few
18 people who is not a lawyer in this room or on
19 these panels. I'm a software guy, so I'll give
20 you a little bit of my background and then talk a
21 little bit about our experiences at SAP Ariba.

22 Again, my name is Matthew Cromar, I'm

1 a senior director of product for SAP's Ariba
2 product innovation group. I'm responsible for
3 SAP Ariba content strategy and product management
4 based in Palo Alto.

5 For over 20 years I've helped some of
6 the largest and most complex companies in the
7 world transform their procurement practices.

8 While in Ariba I've built out our core
9 set of software services, in both our business
10 network and our applications, to allow for true
11 collaboration between buyers and suppliers, as
12 well as developing the first version of Commerce
13 XML. Which today is the most widely adopted B2B
14 document standard in the world.

15 I also have patents pending for
16 simplification of better data and cloud systems.
17 Specifically to manage procurement from public
18 marketplaces.

19 Served in a variety of leadership
20 roles and startups and non-profit awards and
21 established companies over the years.

22 And today I'm joined by my colleagues

1 from Ariba, James Tucker, Tom Sisteey (phonetic),
2 Bob Cohen, Ben Schneider and Scott Vatcher.

3 Now, all of us at SAP Ariba share a
4 common goal of helping to educate the Panelists
5 and members of the public who share a common goal
6 of bringing innovation to the Government and to
7 help shape the future of procurement. And as we
8 like to say at Ariba, make procurement awesome.

9 SAP Ariba was founded in 1996 and was
10 an early innovator in B2B and first to move to
11 the Cloud for procurement. SAP acquired Ariba in
12 2012, specifically for our strength in Cloud and
13 procurement.

14 And since then we have doubled down on
15 investments to bring new solutions to market that
16 address sourcing, supplier management, guided
17 buying and contract management.

18 We operate a business network along
19 with a core set of connecting applications that
20 span across 190 countries, with over two million
21 connected companies that represent 100 percent of
22 the span between those parties on our platform.

1 And in 2017 we conducted over a trillion dollars
2 in commerce across our platform.

3 SAP Ariba Spot Buy is one such
4 innovation that we've invested in over the last
5 four years. Specifically to help simplify off
6 contract purchasing through commercial
7 marketplaces and direct to sell.

8 Now, typically our customers look to
9 rationalize their supply base when they use our
10 software. Get their contracts loaded up and
11 represented in our system and then let their end
12 users execute off those contracts.

13 Now, in some cases, up to 30 percent
14 of the searches that go on in our platform result
15 in no results. There are gaps in contracts.
16 There's just no way for many companies to fully
17 predict in contract for all the things that
18 people need to do to do their jobs.

19 So our customers really like the
20 opportunity to use marketplaces to supplement
21 gaps in their existing contracts. And in some
22 cases, to replace existing contract vendors where

1 the marketplace pricing and services is just as
2 good, if not better, than in negotiated pricing.

3 Our customers use a variety of
4 different models to manage their spending
5 processes. Both centralized, by a shared service
6 organization, outsourced by business process
7 outsourced providers or distributed amongst the
8 various legal entities, or countries that fall
9 under that corporate umbrella.

10 We've also seen a lot of success with
11 our customers in a hybrid models where there is a
12 centralized system and controls and decentralized
13 day-to-day operations of the tool set.

14 Now I believe that marketplace can
15 play a critical role in helping to drive
16 innovation, cost savings and value to end users.
17 But after four years of bringing some of the
18 largest companies in the role into the realm of
19 marketplace purchasing, I have found that there
20 are some critical components that procurement
21 systems play in putting filters on top of these
22 marketplaces.

1 Commodity controls, pricing limits,
2 approval work flows and proper cost accounting
3 and p-card reconciliation practices combine
4 together to provide a powerful solution that has
5 proven not, that has proven to improve end user
6 satisfaction and overall adoption.

7 Most importantly, not all the sellers
8 that participate in these marketplaces are worthy
9 of each of our customer's needs. So, we've built
10 in compliance controls and artificial
11 intelligence to filter to only suppliers that
12 each customer qualifies.

13 We believe the best approach is to
14 show marketplace content alongside available
15 contracted suppliers and then guide users based
16 on the predefined compliance rules of the
17 organization, to make the right buying choice.

18 I am sure the Government procurement
19 regulations probably would stack from here to the
20 top of this ceiling a couple of times. And what
21 we've decided is that the best way for people to
22 understand what those procedures are is to put

1 them into the software. And so that's what we've
2 done.

3 I also believe that it's important to
4 protect end user information when venturing
5 outside of the four walls in the company. And we
6 at Ariba have built processes to provide these
7 protections.

8 We've also found that companies want
9 a consolidated view of all of their purchasing
10 across all marketplaces and contract vendors. So
11 we've built out reports that provide what, where,
12 what people are searching for, what they're
13 buying, what they're adding to cart, where it's
14 being sent.

15 So a consolidated view from the
16 customers that we work with has been very
17 important.

18 Companies such as Hewlett Packard,
19 AIG, Westinghouse Electric Company, Pfizer and
20 many, many more have utilized their system and
21 openly testified as to the benefits that
22 marketplaces can offer.

1 Now, I'd like to point out that so
2 far, the marketplaces that have been represented
3 here today are currently available through the
4 Ariba platform. And we have our customers using
5 those solutions today and many, many more. Like
6 I said, over a trillion dollars of commerce
7 through the Ariba platform.

8 So I'm here to provide some guidance
9 and offer our ongoing assistance on behalf of SAP
10 Ariba to help make Government awesome. Thank
11 you.

12 MS. LAMBERT: Good morning. Thank you
13 very much. On behalf of Staples, we appreciate
14 the opportunity to provide input and we thank you
15 for considering our comments today.

16 My name is Stephanie Lambert. I have
17 been an attorney at Staples for 13 years. And my
18 background is primarily on the side of sourcing
19 product for sale globally.

20 I've also had experience with
21 intellectual property and I've negotiated
22 thousands of commercial contracts with all of the

1 large companies in the United States, as well as
2 those outside of the United States.

3 I'm not alone here however. I have
4 brought a team of professionals that some of you
5 may know from Staples. Joe Nagel and Judy Smith,
6 who run our government procurement area, as well
7 as Andrew Freedman who is an attorney on my team
8 that handles the government contracting
9 operations.

10 Joe recently had the pleasure of
11 accepting the supplier of the year award for
12 Staples. That was presented by AbilityOne. And
13 we're very proud of that recognition.

14 We looked at your questions very
15 seriously and my hope here today is that I can
16 address your questions adequately. We are
17 however available during the open session, and
18 obviously as you continue down this path, of
19 implementing this new system. So we're happy to
20 offer my services as well as those of folks in
21 the room and those elsewhere at Staples.

22 As we have done in the past, in prior

1 government forums, we're happy to again share our
2 leading practices here. We've been playing this
3 chess game, if you will, for a number of years.

4 And as you all may know, the federal
5 government currently uses the Staples advantage
6 platform. Which is actually where most of our
7 federal government transactions occur at Staples.

8 This platform curates and rationalizes
9 products, not only for the federal government,
10 but for our commercial customers. And we do the
11 vetting of suppliers on your behalf and we do the
12 vetting of the products that you're interested in
13 purchasing.

14 We find that this is an attractive
15 option for our customers, not only based on
16 price, but also for the quality of the products
17 and the services that we offer, many of which
18 we're discussed in a prior panel, in terms of
19 reporting and understanding what's being
20 purchased, but also for ease of use. So we think
21 that our system has many benefits for all of our
22 customers.

1 We will continue to offer that
2 platform and the federal government can continue
3 to utilize it as it sees fit. However, we are
4 willing to look at other vertical solutions and
5 to help you figure out what's best.

6 Our concerns are, as others have
7 mentioned, for a fair and transparent and
8 competitive environment.

9 So, what are our primary concerns that
10 we think you should be considering. They fall
11 into three buckets I will say. Fairness and
12 transparency, compliance and security.

13 And then, what are the consequences to
14 small business, how are we going to address that.
15 They do not have the resources that some of the
16 large companies in the room have.

17 In terms of the fairness and
18 transparency, I think the number of portals that
19 you select need to be sufficient in number to
20 ensure competition and the best value prices
21 pricing.

22 The fee structure needs to be fair and

1 reasonable and transparent to all parties and
2 factored in, up front, in your selection
3 criteria.

4 The portal provider, who may maintain
5 multiple sellers, because as you know, Staples
6 does not maintain multiplier sellers, we are the
7 seller of record. But in those cases where there
8 are multiple sellers, you should consider whether
9 or not those providers should be able to sell
10 their own products in addition to those that are
11 being sold by other sellers.

12 Commercial firms don't typically have
13 purchase that way or authorized their purchases
14 to purchase that manner.

15 In terms of compliance and security,
16 of these are quite familiar. As I have said,
17 that we've been in this business for a while.

18 Some concerns that have not been
19 mentioned are, putting the Government's
20 purchasing data into the hands of one or only a
21 few suppliers could present potential security
22 concerns for the Government. As would it for

1 other suppliers on that portal.

2 The portal provider will need to
3 handle complex secure supply chain requirements.
4 And let me give you some examples of the types of
5 things that Staples has to do every day.

6 There's a significant difference
7 between delivering to a secured location, like
8 the Government maintains, and delivering an
9 everyday consumer product to your doorstep at
10 your home.

11 For example, the IRS requires drivers
12 to pass the equivalent of an employee security
13 clearances before they can proceed to provide a
14 desktop delivery.

15 Homeland Security requires deliveries
16 to a holding address where boxes are scanned and
17 trucks are searched before delivery to the actual
18 destination.

19 And one other example would be to
20 clear a base, for example, base security, if you
21 need to deliver to a Navy ship that happens to be
22 more at a certain location and you need to meet

1 their window of delivery times. I could go on
2 and on.

3 We deliver to some of our commercial
4 suppliers who operate nuclear power plants. And
5 so as an example, you cannot have a foreign
6 national, a driver of a truck, to pull up to a
7 nuclear power plant.

8 And the reason I mention this is that
9 Staples has to have a sophisticated operation in
10 order to meet these strict government security
11 requirements. And so any portal provider will
12 need to be thinking about these things and
13 planning for them. I don't think those are aw's
14 that will be changing soon.

15 And then those longstanding compliance
16 requirements, some that date back to the new deal
17 that had been around, that support fundamental
18 American principles. These have been in place
19 for decades, and they were mentioned in the last
20 Panel, the TAA, the Buy American Act and the
21 AbilityOne programs, will need to stay in place.

22 Certainly, changes can be proposed.

1 We're not saying that, but given the nature of
2 these requirements, it's unlikely, in my opinion,
3 that the TAA countries, you'll see significant
4 changes there. That Congress would have to make
5 the changes. Or as Jonathan mentioned, treaties
6 would have to be renegotiated.

7 And so, and then finally, my last
8 point, is small business. So how will a portal,
9 in the day-to-day purchasing, how will they be
10 selected to sell to the federal government,
11 what's the criteria, who will be doing the
12 sounding and the fulfillment in that space?

13 I think the Government can certainly
14 look to its current processes to set goals and
15 objectives that would be consistent across all
16 portal platforms. Thank you.

17 MS. STANTON: All right, thank you,
18 Stephanie. And, Raj, please.

19 MR. SHARMA: Thank you. Thanks,
20 Laura. I'm Raj Sharma, I am the chairman of
21 Public Spend Forum.

22 And by just a quick way of background,

1 I'm a former consultant having worked with
2 private sector corporations, as well as
3 government in the past 15 years, on supply chain
4 procurement. And I've really looked at
5 procurement across the board, across the globe,
6 in many ways.

7 And so just recently, about a year
8 ago, started Public Spend Forum. Which is a
9 local platform for best practices, for public
10 sector markets and public procurement.

11 And so we're covering procurement
12 technology as one of our spaces. So let me just
13 jump in terms of some of comments and input.

14 I'd like to start out by first talking
15 about crux of the problem and then talk a little
16 bit about how GSA and the Government can
17 capitalize on this important initiative. As you
18 may know, the Public Spend Forums mission is to
19 help create open and efficient public sector
20 markets.

21 We have taken this mission on because
22 we generally believe public sector markets, at

1 all levels, federal, state and local, are most
2 closed or have huge barriers to entry.

3 Whether it's because of burdensome
4 rules and processes or the way government does
5 procurement on a day-to-day basis. Say writing a
6 hundred page RFQ without fair articulation of the
7 goals or outcomes.

8 The result. Many incumbent suppliers
9 who participate in the market merely go through
10 the exercise of checking the box. They're not to
11 provide any innovative ideas because that will
12 probably hurt them in the so-called evaluation
13 process.

14 Meanwhile, many other qualified
15 suppliers who have innovative solutions either
16 don't want to work with government or find it too
17 costly to.

18 So, the current predicament of course
19 hurts not only government and suppliers, but runs
20 against the interest of citizens by depriving us
21 of the solutions and innovations we need most.

22 So, from our perspective, the status

1 quo and the way this market operations does need
2 to change, so what should we do?

3 If we are going to create real
4 meaningful competition, which is really the
5 underling intent I believe, one of the objectives
6 outlined in the legislation. So if we're going
7 to create real meaningful competition, a better
8 user experience for government and suppliers and
9 better outcomes for citizens, the new business
10 models and technologies seen today, whether it's
11 e-marketplaces or e-commerce platforms, e-
12 procurement, is what can truly transform the
13 federal market.

14 We recommend a few things to get
15 started. First, we must clearly articulate the
16 problems we're trying to solve, outcomes we're
17 trying to address and specific goals we're trying
18 to meet.

19 We're not certain that's very clear in
20 the legislation, it's a good start. So, things
21 such as competition, pricing, expediting
22 procurement, those are good, but what does

1 competition really mean from a small business
2 standpoint and socioeconomic goals standpoint.

3 For instance, what does it mean from
4 a standpoint of bringing on new suppliers,
5 pricing. Is it just at the unit skew level or
6 are we talking about total spend or total costs,
7 expedited procurement.

8 So, we just need to be clear about the
9 problem statement and outcomes, because we
10 believe that will drive everything from the
11 overall strategy to processes that you must cover
12 through the procurement solution. As well as
13 compliance requirements.

14 Second, we need to be clear about what
15 we mean by e-commerce portals. I think this
16 dialogue is great, right? This is really about
17 uncovering all of that.

18 Do we mean e-procurement platforms,
19 like SAP Ariba or e-auction platforms like a
20 FedBid or e-marketplaces like Amazon Business or
21 Grainger. In some ways, government has already
22 adopted e-commerce portals, such as GSA

1 Advantage, DoD EMALL.

2 What we also need now are e-
3 marketplaces and e-procurement platforms we can
4 contend that are not encumbered with federal
5 policies and regulations, yet allow them to be
6 compliant to them and provide for a more robust
7 competition, transparency and control in a more
8 effective manner.

9 E-marketplaces specifically provide an
10 opportunity to easily ramp on and off suppliers
11 and lower the cost of doing business.

12 E-procurement platforms provide an
13 opportunity to establish the business rules and
14 controls, many of which have been discussed,
15 providing flexibility to manage the needs of
16 various groups of users. So if we laid it there
17 as a combination potentially here of e-
18 marketplaces and e-procurement places.

19 But again, before we jump to a
20 solution, I would go back to my first point,
21 let's define the problem and outcomes clearly
22 because that should drive the overall strategy.

1 Third, we must understand the
2 economics of various business models of any
3 solution provider, as well as the overall
4 strategy. This is really, at the end of the day,
5 about economics of competition and how markets
6 work.

7 All right, so we decided to go down
8 the path where we have multiple providers for a
9 certain category, we need to understand if
10 competition and better pricing is one of our
11 goals, how will that be impacted in terms of the
12 economics of the entire marketplace. That's
13 really critical because otherwise we may
14 undermine the outcome.

15 Fourth, we recommend shortening the
16 implementation timeline for the proposed
17 legislation by focusing more on prototypes in the
18 near term.

19 The time we propose in the legislation
20 is too long. After developing the strategy in 90
21 days we recommend the next two years really be
22 used to prototype and run real experiments, not

1 just study the problems and write reports.

2 We hope that happens because
3 prototyping solutions will allow the Government
4 to better understand the benefits of different
5 solutions and understand in real terms
6 implementation and change management challenges
7 that must be addressed for a full-scale rollout.

8 So, in addition to those four areas,
9 a few quick principles I'll cover -- okay, I
10 guess I'm out of time. I'll just say four things
11 really fast.

12 Open architecture, robust
13 configuration versus customization. So we
14 recommend an open architecture. Definitely
15 robust configuration for any solution versus
16 customization.

17 Because the tendency might be to think
18 about customization, but if we have a platform
19 that allows for a robust configuration, we can
20 really establish all the business rules and the
21 compliance rules.

22 Transparency and visibility, unified

1 user experience. That's really critical because
2 in order to drive change in behavior, and if this
3 is, as the legislation says, government agencies
4 may use it, we will need a world class user
5 experience to allow people to use this.

6 Two other things. Lower barriers for
7 suppliers, that's really critical. Again, if
8 competition is one of the key things to look for,
9 we need lower barriers for suppliers to enter
10 into any marketplace, enter into any other
11 platform.

12 And so we must understand the
13 economics of what supply is left to deal with, as
14 well as what the process looks like.

15 And then understanding of risk in IP
16 and data. Some of those things that have been
17 covered already. In terms of who owns the IP,
18 who owns the contractual relationship, of course,
19 who owns the data.

20 Again, I'd like to stress that we are
21 truly excited about this. And if we can just
22 start with the focus on problem statement and

1 layout the strategy that would drive everything
2 forward. Thank you.

3 MR. BLUM: Okay, great. So the House
4 passed a version of 846, including a provision
5 that said if a procurement was deemed
6 dissatisfied, statutory competition requirements,
7 if there are offers from two or more suppliers of
8 such a product or a similar product was
9 substantially the same physical, functional and
10 performance characteristics on the online
11 marketplace.

12 And I guess the question I would start
13 with, since, Raj, you had mentioned, I think all
14 of you have mentioned, the importance of
15 competition. When we think about competition in
16 the context of COTS, does the principle that the
17 House-passed version make sense as an approach
18 for buying COTS?

19 And if not, what risk do you see
20 arising from a rule that essentially would be, if
21 you will, pick and play?

22 MR. SHARMA: Sure. And, Matt, if you

1 could repeat that part of the legislation then.

2 MR. BLUM: Sure. I mean basically it
3 was saying that if you can find multiple offers,
4 sellers offering products that are similar, then
5 you don't have to do, if you will, a full-blown
6 competition.

7 You can consider that to meet the
8 competition requirements and then make a
9 selection between those competing, those
10 competing offers.

11 MR. CROMAR: Yes.

12 MR. SHARMA: Yes, and I would say
13 that's one of the underlying principles you have
14 to look at for any platform that you select.
15 Again, it goes back to some of the comments
16 around low barriers to entry and how suppliers
17 are brought in, how also their results are
18 presented, for instance, right.

19 So we believe that if it's an open
20 marketplace and the rules are such that, again,
21 we understand what the requirements are for
22 suppliers to come on and we are not creating

1 undue barriers and we are allowing like products
2 to come on and then, also, those products to be
3 presented in a manner so there is no, for
4 instance, some type of preference being placed.

5 If that is a requirement, for
6 instance, if we're talking about socioeconomic
7 programs, et cetera, of course we want that
8 preference and rules to be stipulated, but if not
9 -- so they should fall with those business rules
10 as opposed to some pre-composed requirement that
11 the marketplace may have.

12 MR. BLUM: Just as a follow-up on that
13 and a comment, so if, and assuming that our
14 socioeconomic requirements stay in place, if we
15 used a principle similar to what we used for
16 micro purchases how would you react to that and
17 is that what you are envisioning as a competition
18 process?

19 MR. SHARMA: You know, I'll let one --
20 I'll think about that, but I'll think about that
21 as others respond.

22 MS. LAMBERT: So if I understand the

1 question you are saying should micro purchasing
2 have a different requirement than other --

3 MR. BLUM: No, no, sorry. If in
4 implementing this, and, for example, maybe on a
5 pilot basis for certain, you know, certain
6 products or up to a certain dollar value, and
7 Congress just raised the micro purchase
8 threshold, would you see the type of competition
9 or considerations that we impose on buyers, which
10 is essentially gives them a lot of latitude based
11 on the fact that if you're buying commercial
12 products there are a lot to choose from, do you
13 see that type of model that gives the buyers a
14 lot of flexibility in appropriate strategy or
15 buying for this, to this authority?

16 MR. CROMAR: I think absolutely. I
17 think, you know, what I have observed over the
18 years is there is two kinds of doctrines, right.
19 There is philosophy and there is religion, right,
20 and religion being much more strict, and I think
21 different companies behave in different ways.

22 I have got tons of customers that, you

1 know, mandate three bids and a buy on everything,
2 right, down to, you know, hundred dollar
3 purchases, and I have others that, you know,
4 anything under \$25,000 and it's the end user's
5 responsibility.

6 I think one thing that we realize is
7 that there are different types of users out in
8 the community that do procurement, right.

9 You've got your category managers who
10 today you allow to make pretty significant buying
11 decisions on behalf of the government, and then
12 you've got your 18-year-old private out there in
13 the field, hopefully he's not taking up too much,
14 and he may have some different controls and some
15 different limits placed on what he is allowed to
16 do, and that's what we have built into our
17 systems.

18 I know probably some of the other e-
19 procurement platform providers have done that as
20 well. So I think you can set the rules up and
21 then you can watch the system.

22 And the nice thing about the way we

1 built these systems is that they are not set in
2 and forget it, right, they are configurable, and
3 these rules can be, like we said, a great idea,
4 calling for some pilots, start out, run through
5 the system, make some purchases, you know,
6 define, maybe only some people have access to the
7 public marketplaces for the first six months, you
8 see how it works and then you start rolling it
9 out and adjusting as you go.

10 That's been the adoption practice that
11 nearly every customer of the hundred or so that I
12 have brought into this solution have followed, so
13 definitely that's a great model.

14 MS. LAMBERT: I think generally
15 speaking and the way that commercial companies
16 would purchase would be in that vein so there
17 would be fewer requirements when you are
18 purchasing lower dollar value with quantities.

19 But as you go up the chain and
20 increasing whether it's the type of product or
21 whether it's the cost of the product then you are
22 going to have more controls in place for those

1 types of purchases and I would think that that's
2 what the government is looking for and I think
3 software is a great way to control that because
4 of the automation that is involved.

5 With any type of software procurement
6 you have to start out with your requirements, and
7 so if the requirements are only what are in that
8 statute I think that you may be doing yourself a
9 disservice.

10 I think you'd want to get a little bit
11 more granular as to what those would look like.

12 MR. SHARMA: So one thing I would just
13 add is what's really important, even if we're
14 talking about micro purchase, I think you
15 mentioned category managers and business rules.

16 It's also important that we are
17 looking at spending across the board, so
18 organizations, for instance, establish if you
19 have people looking across the spend and you have
20 a lot of micro purchases that you are looking at,
21 one, how do you pull that spend, are there
22 business rules, or at least that visibility that

1 can be provided by the system hopefully in an
2 automated way that tells you your buyers are all
3 buying the same item, micro purchase one unit at
4 a time, there is probably some efficiencies to be
5 gained by doing that, right. So there is a
6 danger of just everybody having a P card and
7 everybody buying one thing.

8 The second is I think we all know
9 that, you know, we talk about demand management,
10 which is really about, you know, are we over
11 spec'ing something, right.

12 So, again, you might have a micro
13 purchase threshold but how do you limit through
14 the business rules some limits, place some limits
15 that I buy, you know, this type of pen versus
16 say, you know, a \$100 pen, how do I limit that.

17 So those are some of the business
18 rules that should be configurable without some
19 technical developer doing it.

20 MS. LAMBERT: Yes, and one other
21 comment to think about is, you know, most
22 commercial firms are negotiating ahead of time

1 what their prices and what their product
2 attributes are going to be.

3 If you are not affordable there is no
4 negotiation unless you've done that ahead of
5 time. So if you are just soliciting offers you
6 have offers and you can select among them, but
7 you are not going to get the benefit that you
8 presumably get from negotiating and putting forth
9 the exact spec that you want.

10 Now at the micro purchasing level that
11 may not be as important, but, again, as a large
12 entity who wants to aggregate its spend, who
13 wants to make sure that folks in certain areas
14 are getting the right type of product, you want
15 to make sure you are not losing the benefit of a
16 negotiated contract or a negotiated approach to
17 your procurement.

18 MR. KOSES: So you raised a -- This
19 question is for all of you. Raj raised the
20 spectrum of multiple prototypes of moving faster.

21 Are there commodity areas that are
22 particularly good to consider or that we should

1 absolutely stay away from and are there dollar
2 values that make sense in terms of shaping and
3 thinking through prototypes or are there other
4 factors that we should be thinking about in
5 defining possible prototypes?

6 MR. CROMAR: Very good question. So
7 typically you want to stay away from highly
8 configurable products typically and those are not
9 something that generalized marketplaces can serve
10 up very well.

11 Maybe I need a large t-shirt that is
12 purple, that level of configurability, but if I
13 am building servers those are typically things
14 that you'd want to and actually go with a
15 contracting vendor.

16 So most of our customers would not use
17 public marketplaces to buy a laptops for their
18 employees. The laptop needs to come in, it needs
19 to get an asset tag, it needs to be configured a
20 certain way, it's gone through the rigors of
21 testing and security, it may have special
22 software installed on it, and those are typically

1 done in volume purchases through a trusted
2 provider.

3 So those are not areas that I would
4 start with. I would start with what I see a lot
5 of is, you know, for a lot of information
6 workers, you know, just take a look around your
7 desk, it's the stuff that's in front of you.

8 It's the keyboard for your folio, for
9 your iPad, it's maybe the lumbar cushion or the
10 ergonomic keyboard that you have a preference for
11 as an end user.

12 You know, we all kind of, some of us
13 in this room maybe grew up with paper
14 requisitions and maybe the blue screens, right,
15 back in the day, but all of the new users all
16 grew up with the internet.

17 And so they want an experience that is
18 very much like that experience that you get from
19 buying online ourselves personally. So I would
20 start with technology accessories, clearly office
21 is a very easy one to implement, discreet goods
22 that are not configurable, those types of things.

1 I think depending on, you know -- To
2 some departments probably MRO is very, very
3 strategic, right, DoD, probably very strategic,
4 but, you know, for certain other departments
5 maybe, I don't know, it's very tactical, right.

6 So you just need to decide, you know,
7 is this something that we want to maintain
8 inventory on or is this something that we are
9 happy to wait a day or two to get that purchase
10 delivered.

11 MS. LAMBERT: I think you would
12 probably want a system that would be built to
13 your largest are of spend, wouldn't you, so you
14 don't want a system that you are examining or you
15 are piloting that is narrowly tailored to one
16 aspect of the government's purchasing.

17 I think you would want to look at the
18 broadest area that would make the most, or have
19 the most synergy across the federal government.

20 So in terms of, you know, what you
21 might want to think about would be that as well
22 as the could you -- We talked a lot at the

1 earlier panel about who is ultimately responsible
2 for all of these compliance issues.

3 Could some of that be taken away, some
4 of that risk be taken away, simply by having it
5 as part of the platform. So a searchable
6 criteria, for instance, so that country of origin
7 it can be searched, for example, that is a big
8 area that we spend a lot of time on.

9 Of course, the more to my colleague's
10 point the more configurable the more things, the
11 more bells and whistles you want, and the more
12 the price may go up in terms of the how to
13 maintain the system.

14 So there has got to be a cost benefit
15 analysis done on the portal, with the portal
16 provider as well as the sellers as to what makes
17 sense.

18 MR. SHARMA: Yes, I would just add a
19 couple of things. As you formulate the strategy,
20 depending on if you are coming up with a couple
21 of different models, you'd probably want to
22 prototype a couple of different models just to

1 see, because, again, we can theorize pros, cons,
2 benefits, everything, but this way you can see in
3 practice what the real benefits are, are they
4 prudent or not.

5 Second, in terms of commodity areas,
6 et cetera, I definitely agree that some of the
7 simpler commodities, but, also, again, I think to
8 your point also you do want to look at other
9 spending areas as well, again, how would it work
10 for if you were taking say certain socioeconomic
11 categories and there was preference there.

12 So you want to lay out I think the
13 things that are going to, again, drive your
14 outcomes and the benefits that you are looking
15 for and then try to really prototype those,
16 because you're going to get a lot of proposals
17 back and a lot of demos back and we will just say
18 none of those are going to be true, nothing
19 against any of the vendors here, but until you
20 see it in practice and how it works in your
21 environment I would say it's difficult to say,
22 you know, how complex or how easy things are

1 going to be.

2 MS. LAMBERT: One other thing, you may
3 also want to benchmark against your current
4 systems. So, you know, probably not wise to
5 throw away what you had until you know where you
6 are going because that could present problems as
7 well.

8 So to the extent that you know what's
9 broke and what's not, things that you'd like to
10 keep and things that you'd like to get rid of,
11 you should be documenting that and doing the
12 benchmarking versus what you are currently doing.

13 MR. LEE: Raj, you spoke about this as
14 an opportunity to bring in innovative buyers into
15 the marketplace and then, Matt, you also talked
16 about filling contract gaps in terms of
17 suppliers, so I am wondering what considerations
18 do you think should be accounted for and designed
19 in the program to make sure that we are bringing
20 in, you know, the most suppliers into the
21 marketplace?

22 MR. CROMAR: That's a good question.

1 I would say, yes, it is tough to put your finger
2 on an exact number that would be sufficient, but
3 more than one, absolutely, and I think, you know,
4 if you could do, you know, five or so in
5 combination with, like you said, focusing on
6 areas where you have like a significant amount of
7 spend and then finding a common set of
8 commodities that are available through those
9 marketplaces that complement those would be, you
10 know, one approach.

11 MR. SHARMA: Yes, I think, you know,
12 GSA, of course, has the voice of this entire
13 survey, kudos to you all for doing that, and I
14 think some other government agencies, you, too.

15 What I would suggest is that, you
16 know, really try to understand, one, what
17 prevents right now and when to the best extent
18 possible suppliers that are not competing, right,
19 and what is a marketplace then or whatever
20 solution you are envisioning allow, prevent
21 those, or lower those barriers, right, fix rules
22 and regulations, yet allow for still compliance,

1 so really look at that.

2 And then look at the commodity area
3 where you do think that, you know, some of the
4 suppliers that are not coming into the market how
5 can we get those and then what does the
6 marketplace allow.

7 So if we are looking at a specific
8 commodity area is there something happening
9 where, you know, there is a larger supply base
10 for whatever reason within a certain solution,
11 understanding that.

12 So understanding really both what
13 prevents suppliers from competing or coming into
14 the market and then, two, what are the commodity
15 areas, et cetera, where solutions actually have a
16 larger supply base and a supply base that doesn't
17 match your own supply base.

18 So if we did some type of a venn
19 diagram we could see, right, where how much
20 overlap do we have and how many new suppliers
21 would we be bringing in.

22 MR. KOSES: Going back to the

1 prototypes, let's theorize a hypothetical
2 prototype now where we are buying IT accessories
3 but we don't want to be buying laptops or IT
4 itself.

5 From a user experience standpoint
6 would I be correct then in seeing a system where
7 the user signs into an account and then the items
8 that show up that they are able to buy to just be
9 the IT accessories or am I missing the mark?

10 MR. CROMAR: No, actually what we do
11 with our system, which was really kind of driven
12 through customer innovation, was to show the
13 things that people are searching for, because the
14 reality is is that we all have browsers, we all
15 have another tab, and we can all go out to do --
16 and I guarantee you that's what happens on a
17 daily basis when people are making buying
18 decisions and they are going to Advantage or
19 they're going to the e-mall and they are looking
20 at the pricing and then they are going out and
21 looking online and saying, wow, I can get this
22 cheaper and I could get it tomorrow for free

1 shipping, like why is that, you know, and you'd
2 probably get complaints.

3 I know some of my customers get
4 complaints in their procurement departments and
5 those start to wean off as you open up more of
6 this kind filling some of these gaps in
7 procurement.

8 So what we have taken the approach of
9 is to not, you know, treat the user like an
10 adult. This stuff exists, but let's inform them
11 about what the policies are.

12 So we have got, in our solution we
13 have built a commodity-driven guiding system that
14 essentially gives the message on the screen like,
15 hey, you know, you really can't buy laptops,
16 these are for, you know, you should be buying
17 from a preferred vendor, and the user actually
18 can't add that to cart.

19 But they could potentially create a
20 special requesting saying, hey, you know, we're
21 doing some RD and we want to, you know,
22 investigate, you know, this new laptop that's

1 coming out so we just want one, and it's from
2 someone from IT that's doing it, so we're going
3 to go ahead and approve that purchase for that
4 special request, and we get those all the time.

5 In fact, one of my customers really
6 didn't want anyone to be able to buy any products
7 from Apple, right, an Apple competitor, so we
8 were able to put in a filter that just looked for
9 the Apple keyword in the manufacturer ID and then
10 put up a simple message, you know, hey, buddy,
11 what are you thinking, you know, you can't buy
12 that.

13 So that's been fun and that's one
14 model that customers use to drive is through that
15 commodity-driven approvals or policies, so that's
16 how you get your policies for the various
17 commodity areas.

18 The other thing we use is price,
19 right. So I may feel like, you know, this
20 mechanical keyboard that, you know, is on 1000
21 desktops in this building, we got a great price,
22 but, man, we got a lot of ergonomic issues.

1 People don't like, you know, not
2 everyone likes, and hands aren't the same size
3 using the same kind of keyboard, so let's let
4 people buy their own keyboard, but, you know
5 what, I don't want to see any gold plated
6 keyboards walking around this building so let's
7 set a price tolerance for the commodity keyboard.

8 So those types of features are things
9 that our customers have asked for, but I
10 philosophically believe that if you remove the
11 stuff from the search results then you have, you
12 know, forced that person to go maybe somewhere
13 else to maybe make a purchase just on a website
14 on their own using their P card and then go and
15 expense it.

16 And for many times if you go through
17 and add up the cost of what it costs for someone
18 to search around all these different places,
19 entering their card, set up an account, submit
20 the expense report, you're talking about \$300 in
21 costs to buy a \$50 item, right.

22 It's somewhat ridiculous. So that's

1 the philosophy of show it to them but guide them
2 to make the right decision.

3 MS. LAMBERT: The answer is yes, so
4 that is Staples' Advantage is really that, is
5 that we provide a customized platform for our
6 customers.

7 They want their buyers to have a
8 certain brand at a certain price, or a selection
9 and brands or a selection in a certain category,
10 and we create that buying experience for them.
11 So that's what we do.

12 MR. SHARMA: I think just like any
13 initiative that requires change, and this is
14 definitely one, we are talking about, again, a
15 large change in behaviors.

16 So ultimately I think as you also
17 think about prototypes and decides kind of the
18 rules and the configurations of the system it's
19 referencing.

20 I think, you know, people are
21 creative. People will find ways around to get to
22 something, right, we all know that. And so it's

1 really also I think as you go through this
2 process over the next couple of years and
3 hopefully do some prototypes, et cetera, we also
4 really look at behaviors, right, incentives,
5 other things that are really going to drive the
6 value arrangement here because, you know, again,
7 and, you know, it goes back to what I mentioned
8 earlier, you need to really design your world
9 class user experience if you want people to use
10 it, and, otherwise, people are going to find ways
11 around that.

12 MR. KOSES: In the opening panel there
13 were quite a range of perspectives and views
14 articulated. Was there something that really
15 stood out from any of you that you'd like to
16 really associate yourselves with or that you
17 would like to give us a different view based on
18 what you heard?

19 MR. SHARMA: I will say one thing, and
20 I think you mentioned that there were -- so there
21 are no lawyers on this panel.

22 (Laughter)

1 MR. SHARMA: Sorry. I think there was
2 a lot of discussion about terms and conditions
3 and compliance requirements and I think that's
4 really important.

5 So, one, that, you know, any
6 marketplace, any system solution that you come up
7 with really allows you to, you know, set in and
8 build in and configure the business rules and the
9 compliance requirements.

10 At the same time I do agree with a lot
11 of the comments that were made and they are in
12 the legislation specifically that I think we want
13 to avoid the temptation to change commercial
14 terms and conditions because we should use that
15 as a default but then look at, as we are looking
16 at, you know, compliance requirements and what
17 are the laws that are in place.

18 I know that's one of the things that
19 you intend to do is how, you know, how do
20 current, how do solutions allow you to still meet
21 those and the intent of the laws, right.

22 And so we definitely think actually

1 that a lot of the socioeconomic goals can
2 actually be met or exceeded through these
3 solutions.

4 So it's not about can we, you know,
5 drive a lot of businesses away, it can be done in
6 a much smarter, much visible way. We definitely
7 need to avoid the temptation to try to impose,
8 again, government, federal-specific terms and
9 conditions because that will drive up the cost
10 and potentially have other implications on, you
11 know, supplier participation, et cetera, to the
12 exact outcomes you are looking for from a
13 standpoint of competition, better pricing.

14 You might still if you end up imposing
15 those things you'll still end up in the same
16 place.

17 MS. LAMBERT: Yes, so, you know, when
18 we do business with large companies there is
19 obviously substantial negotiation going on.

20 They are not going to accept our
21 standard terms and conditions and we're not going
22 to accept their standard terms and conditions.

1 So I built a career at Staples
2 negotiating these types of things, so the reality
3 is that there will be some negotiation but there
4 has to be, in my experience you really have to
5 pick and choose what is important to you.

6 You know, the costs go up, the more
7 you have you have to comply with certain things.
8 So, you know, are there things, low-hanging fruit
9 we would call them in business, that you can look
10 at to say those specific things are no longer
11 necessary and it's a level playing field for
12 everyone who is selling to the federal
13 government.

14 You know, Staples has had to, as I
15 said we've played this chess game a long time so
16 we can build up processes to make sure to the
17 best of our ability that we are complying with
18 the requirements that the government has set for
19 us.

20 So, yes, could there be some loosening
21 of requirements, probably. I think I mentioned
22 there are some fundamental ones that will

1 probably be very difficult to overcome, but
2 loosening of some of the compliance requirements
3 would bring some costs down I think.

4 So I think careful scrutiny of those,
5 but knowing that we have to be realistic here,
6 that the basic terms and conditions may or may
7 not always be accepted.

8 I can't think of anything else
9 specifically that I would like to call attention
10 to other than but that has been my experience.

11 MR. CROMAR: We have a term in
12 software development and it's called "Happy Path"
13 and you guys, and probably lots of other
14 industries use the Happy Path, let's focus on
15 what's going to go right before we get wrapped
16 around the axle on what's going to go wrong.

17 And when I heard a lot of the
18 discussion around terms and conditions it
19 reminded me of, you know, what do the terms and
20 conditions really do, right.

21 If everything goes fine, which is does
22 99.99 percent of the time, then why am I worried

1 about, what is it that I am worried about
2 happening after, and I know what the answer is,
3 it's liability for one, and then it's, you know,
4 a return process and, you know, renumeration of
5 dollars and refunds if something goes wrong, and
6 we've all gotten used to a pretty decent liberal
7 policy with most online marketplaces.

8 And, frankly, any retail establishment
9 that I go into I have never read their terms and
10 conditions before I bought, you know, a chainsaw,
11 or something like that, so I do understand and I
12 am not trying to belittle the discussion but I
13 think that a Happy Path if you really do look at
14 the terms and conditions there are a variety of
15 protections and as well as with most of P card
16 providers, which I think P card is a very
17 effective way to manage a lot of low dollar
18 transactions both for you and for, frankly, the
19 supplier, right.

20 No supplier in this room wants to
21 produce \$10 invoices, right. They want to send
22 you an invoice for \$25,000. I can guarantee you

1 they definitely want you to ACH them for that,
2 right, or a wire.

3 But for the \$10 orders, you know, 2
4 percent, whatever the transaction fee is that's
5 fine, but I think you also get a lot of
6 protections from your P card providers if really
7 at the end of the day you are dissatisfied and
8 you want your money back.

9 So that's kind of where I felt like,
10 you know, Happy Path, be positive. You know, I
11 had these same conversations four years ago with
12 Hewlett Packard, they showed me the door when I
13 first brought this idea to them and a year and a
14 half later they are my biggest proponent.

15 So it just sometimes takes time and I
16 think you should use that time to become
17 comfortable with these new policies. Thanks you.

18 MR. KOSES: Stephanie, you seem to
19 have a couple of terms and conditions in mind in
20 your last answer, some of the things that are
21 obvious opportunities to loosen, relax, eliminate
22 that, if you want to go further we'd love to hear

1 it.

2 MS. LAMBERT: Well, no, I haven't done
3 an exhaustive analysis of all the terms and
4 conditions. I did note that, you know, some of
5 them are very high level ones that we're probably
6 all familiar with.

7 I haven't personally done a lot,
8 Andrew is my attorney who works with the details
9 of the contracts and the details of the
10 procurement cost process, but perhaps loosening
11 some of the day-to-day, I don't know, I read you
12 have to hold out an offer for a certain period of
13 time.

14 I mean things like nuances like that
15 that require you to write a 250-page manual to
16 get folks to know how to buy products. So I
17 think looking at and maybe looking at that and
18 how detailed do you need to be on some of these
19 issues would be healthy and perhaps an
20 improvement.

21 Those are the types of things that we
22 have to deal with as a supplier, whether it's to

1 you or to our other customers, and everyone is
2 going to have a different flavor and we have an
3 expense to customize for every single person, or
4 every single company.

5 So just keeping those things in mind
6 from a supplier perspective. Ultimately what
7 happens prices go up for those types of things.
8 But I am happy to give it some thought and see
9 what we can come up with.

10 MS. STANTON: I wanted to follow up on
11 something that Raj brought up in his initial, in
12 his opening remarks when he was talking about the
13 legislation, Raj, you addressed sort of what's
14 the definition of an e-market place or a
15 commercial platform and I think one of the things
16 that we have, and I think this is one of the
17 challenges we are facing right now, which is
18 we've had Amazon business, Overstock, Staples,
19 and Ariba, each one of you has a slightly
20 different model for going from a platform where
21 you provide, where it's the Amazon model where
22 they fulfill some things and yet they have

1 millions of suppliers who also sell through their
2 platform to the Staples model where you run your
3 own platform, Staples is the only seller, to
4 Ariba where you don't fulfill anything, and you
5 are really facilitating.

6 And this is I think one of the
7 challenges we are facing which is each one of
8 these is a different has a different set of
9 commercial practices surrounding it, it has a
10 different set of terms and conditions.

11 I guess I am interested in hearing
12 your thoughts as we go forward, as the government
13 is thinking about how do we go forward in this
14 given these different models how do we navigate
15 to this, because this is I think one of the
16 biggest alternatives that we sort of need to, we
17 need to walk through and figure out what type of
18 model or models are going to really be effective.

19 So I would really be interested in
20 hearing some of your thoughts given these
21 different approaches that each of you have.

22 MR. CROMAR: Well first of all I think

1 if you implement a system where people are going
2 out to individual marketplaces, registering
3 accounts, setting up credit cards, things like
4 that, you're going to have an administrative
5 nightmare.

6 And I can tell you that no large
7 enterprise organization that spends, like what
8 was it, \$40 billion, \$50 billion a year, would
9 consider that on a scale.

10 They may have a few departments or a
11 few people that do that, but they won't
12 necessarily do that on a broad range, and
13 procurement is a problem of scale, right.

14 If I've got maybe a hundred employees
15 in a company and, you know, maybe the officer
16 manager and a few other people actually make
17 purchases, I could scale that to just kind of
18 picking a marketplace and letting everyone log
19 on.

20 But when I've got tens of thousands
21 employees, I've got complex business rules, I've
22 got cost centers that need to be charged back,

1 some, you know, work flows, and then, also, you
2 know, some products have services that need to be
3 associated with them.

4 So I think it will become very quickly
5 hard to keep track and wrangle in your data,
6 right, you know, who has my, you know, who knows
7 what my employees are searching for and what are
8 they doing with that.

9 You know, do I want my end users to be
10 subject to advertising, right, and upsell and
11 cross-sell, right, do I want that. Those are all
12 questions that I think you should answer.

13 So I mean, obviously, I am and the
14 other procurement providers are, you know,
15 slanted because we would love to provide these
16 types of services but we think that, you know,
17 our platforms can allow you to buy from all of
18 the marketplaces and have the sufficient controls
19 to be able to administer your end user base.

20 MS. LAMBERT: So the dilemma that you
21 face is not unlike the dilemma facing every
22 company that is buying these types of products,

1 right.

2 I mean they have the same solutions
3 available to them. They can go to an Ariba, they
4 can go to not only the folks that have come here
5 today to help, but there are others out there in
6 marketplace.

7 So what are those commercial entities
8 doing. I think a lot of your questions were
9 around that, so what are the common practices.
10 Well these large commercial, and I am going to
11 focus on large commercial entities because those
12 are the ones that are obviously, like the federal
13 government, with various departments, many
14 geographically are not just in one location like
15 the federal government.

16 They want typically one solution, or
17 some of them had more than one, and they conduct
18 an RFP process where they issue the RFP filled
19 with, I don't know, pages and pages, Andrew,
20 correct, of questions about their requirements
21 and they also have similar concerns with respect
22 to social accountability.

1 So these companies are asking us about
2 how we source our product. What's the -- Do you
3 have a code of conduct in your sourcing and what
4 are your contractual commitments, on and on and
5 on like that.

6 And so we are then submitting our
7 proposal along with all of the others and those
8 companies are matching their requirements to
9 those answers in the RFP process.

10 So I think it boils down to basically
11 doing what you are doing, not only talking with
12 us but talking with the folks who are doing the
13 buying I would think would be very important,
14 those are your customers.

15 What do they need from you and then
16 what in turn can you get from this community that
17 is out there and each of us obviously are going
18 to be arguing that our business model is the best
19 business model for you, so I am not going to go
20 there, but I think from looking at it objectively
21 that is how Staples would buy, that's how all
22 these large companies that we sell to buy.

1 MR. SHARMA: Yes, and I will try to
2 answer this with my kind of novice understanding
3 of this and I think -- and probably worth a
4 discussion later, but I think a couple of things.

5 As you start thinking about, you know,
6 how all of these pieces fit together, I'll just
7 give you kind of a quick definition the best I
8 understand it, but I don't know that there are
9 common definitions, but it does go back to I
10 think, one, architecting outcomes, and then what
11 are those set of -- I think one is, you know,
12 we're talking about competition product suppliers
13 finding that, right, and then there is set of
14 underlying processes, whether we are talking
15 about compliance, right, and business rules, that
16 you need to adhere to as part of that.

17 Now if you are able to, one, construct
18 that then you can start to look at kind of the
19 universe of potential solutions and the IT
20 architecture you can build around that and I
21 think my simplest explanation, and, again, based
22 on my understanding is this, one, when you think

1 about e-commerce solutions that's your
2 bestbuy.com, right.

3 Most sites nowadays have e-commerce
4 sites that they can sell from. Then you have e-
5 marketplaces where you actually have multiple
6 buyers and suppliers that can come in and out,
7 right, and that would be an Amazon, for instance.

8 And then you have e-procurement
9 platforms that are really about facilitating the
10 end-to-end process, right, everything from
11 visibility into your spending to sourcing
12 decisions, negotiations, and potentially putting
13 out RFPs, et cetera, and setting up the
14 requisitioning process, the business rules, all
15 of those things, right, to supplier management.

16 Now there is an overlap. You know,
17 you see some of the functionality that an Amazon,
18 for instance, an Amazon business is building,
19 right, starts to overlap with some of the e-
20 procurement functionality, right.

21 So I think the question then is, you
22 know, it goes back to, you know, how do you, what

1 are your requirements, what outcomes, what are
2 the business processes that you must support in
3 addition to that and then we can look at kind of
4 the myriad of solutions.

5 Not an easy answer, but that's how we
6 would look at it. And one last part I would say
7 is we are actually launching innovation labs, a
8 procurement tech innovation lab next month, and
9 we'll actually have Coupa as part of the
10 innovational labs to start.

11 And we are looking at, you know, how
12 their Amazon marketplace interacts with Coupa,
13 for instance, and we'll be bringing in other
14 providers as well because what we want to do is
15 really understand in a demonstration environment
16 as well as in a prototyping environment, you
17 know, how all of these things work because we
18 are, you know, it's a fast moving space and it is
19 a complex kind of puzzle to form.

20 MS. STANTON: Thank you. Did you want
21 to transition to the audience at this point and
22 give them the opportunity to ask some questions

1 of the panelists?

2 (No audible answer)

3 MS. HUTH: Anyone? I see over here
4 near the back.

5 PARTICIPANT: One of the things that
6 just strikes me from both of these sessions is
7 that, as you mentioned, Laura, there is many
8 options and many models and fundamentally all of
9 the sellers in this room, whether they be a
10 marketplace operator or like a Staples that, you
11 know, is the end seller, they want to sell.

12 Their goal is to sell to the
13 government and that is their underlying
14 motivation, you know, regardless of anything
15 else.

16 So then, you know, a marketplace
17 aggregator system of an e-procurement system, you
18 know, maybe just wants to help facilitate
19 compliance.

20 So how do you rationalize all that,
21 because my suspicion is that you need all of
22 that, how do you account for and ensuring that

1 you are mitigating the risk of the underlying
2 motivation of the marketplace providers with the
3 goals and the compliance and the rules that you
4 need to follow to have compliant purchases?

5 I am just curious about what the
6 thoughts are of the panel.

7 MR. SHARMA: I think, of course, I
8 think from a vendor standpoint everybody is
9 looking for kind of to bring their solution in
10 and who would say no to that, right, that should
11 be the goal.

12 But I would just suggest I think we
13 are trying to be kind of objectively look at
14 this, the entire space and so, you know, I've
15 worked with GSA for a long time and really,
16 again, go back to the basics and around, and I
17 don't want to keep saying the same thing, but I
18 do feel like I should, let's spend the next 90
19 days, that's what we would recommend, really kind
20 of formulating your strategy and understanding
21 it.

22 I don't know if that's enough time but

1 you might be at a point where you can then start
2 testing some of these solutions, right, because
3 I'll just say, having sat through a lot of kind
4 of vendor demos and all that, you know, you will
5 definitely get a lot, you know, out of it, and
6 you want to see that.

7 And the other thing I would suggest to
8 the vendor community is that, you know, really
9 think about it, this is really about the public
10 good at the end of the day.

11 We are trying to serve citizens and
12 taxpayers in a better way and we would just
13 suggest that really think about that when we are
14 doing our dog and pony shows that really make
15 sure that we are kind of really kind of staying
16 true to the mission of what this is about and if
17 we can't meet some requirements in kind of the
18 best manner then, you know, we should have looked
19 at what we did.

20 MS. LAMBERT: Yes, I think that's a
21 very good question and your point is well taken,
22 obviously, I am here representing Staples.

1 But before I lose my train of thought
2 I think that at the end of the day those
3 overriding factors that Raj mentioned is what
4 differentiates the federal government from all of
5 these commercial enterprises.

6 So I was thinking a lot about that as
7 I was preparing to be here today that while it's
8 very good and you should be thinking about how
9 other how commercial entities are buying there
10 are things that make you different and those are
11 the things perhaps driving your buyers away from
12 how you have structured things.

13 So a Staples, for instance, is
14 customizing, it is complying with all of their
15 requirements, it's doing the things that the
16 federal government would like us to be doing and
17 so that your price ultimately would reflect all
18 of that.

19 So how a product gets sourced, and
20 some of you in the audience may know this, is it
21 gets landed, for instance, at the port, the FOB
22 cost, and then every cost that is associated with

1 getting it to the end user is what you call a
2 load, so your end cost is loaded with all of
3 these loads.

4 So if you were going to add extra
5 compliance activities, extra security
6 requirements, and then on top of that you want to
7 add a fee that your portal provider is going to
8 charge you, you are now adding another load to
9 your product.

10 And so those are the kinds of things
11 that differentiate you, is that commercial
12 enterprises don't have every single one of those
13 loads on a product when it shows up at their door
14 because they don't have all of these compliance
15 and delivery requirements and processes in place
16 that have to be considered in coming up with the
17 price.

18 So I don't know if that's a long
19 winded answer to your question, but I think that
20 those are the factors that, whether you need to
21 just sit down and go the drawing board and say if
22 we were to build a system here is what we would

1 want it to look like, forget who all these other
2 parties are, but we would still need to comply
3 with all these other things so we have to add in
4 these extra features.

5 Then you may need more than one
6 solution and I think that's at the end of the day
7 where you would end up.

8 MS. HUTH: Thank you. Any other --
9 Ah, right here.

10 PARTICIPANT: Crystal Young, Kaiser
11 Associates. Raj, earlier you mentioned that this
12 is really a change in behavior and that would
13 culminate in something, it's not something to be
14 ignored.

15 I guess for all panelists what are
16 some anecdotes, examples, or maybe tactical
17 things that you are thinking about as we look to
18 change behavior either on the system side, the
19 business rules, other facets of making sure that
20 implementation is successful to effect that that
21 you want to change?

22 MR. CROMAR: So I think changing

1 behavior is interesting. I think, you know, gone
2 are the days of the enterprise software training
3 manual and, you know, three days of training to
4 learn how to post an invoice.

5 Many more of our solutions have been
6 tailored to be very user-centric, like I said to
7 appeal to those millennial users who grew up, you
8 know, with web and with mobile.

9 I think, you know, that we have tried
10 to lighten it up a little bit with our tag line
11 of Make Procurement Awesome. I mean who doesn't
12 want to have a job where, you know, the tag line
13 is it's awesome.

14 And it's funny, actually, after we
15 started that, we doubled the attendance at our
16 annual conferences and we got a lot more people
17 at lower levels within the organization really
18 got excited about transforming their company and
19 transforming their business.

20 So I think that those are kind of a
21 couple of key tactics, right, you know, that
22 hashtag goes a long way and so that's been

1 successful for us.

2 MS. LAMBERT: Trying to get a bunch of
3 lawyers to use a software platform moving
4 contracts and workload, that's a challenge,
5 believe me.

6 Yes, it will be challenging I think to
7 change the federal government procurement
8 process, not that it can't be done. I think
9 though ultimately when you are changing something
10 the best advice you can get is to make sure that
11 the folks who are going to be using and
12 implementing whatever you are changing have a
13 voice in the process.

14 So I think while you are here getting
15 the industry input again I would highly recommend
16 that you talk to the folks who are doing the
17 buying for your customers and who ultimately will
18 have to change and what is it that is important
19 to them.

20 MR. SHARMA: I 100 percent agree and
21 that's what I was going to refer to is that I
22 think really engaging, you know, not just the

1 procurement and contracting user base but also
2 your end users who are ultimately going to be the
3 main users of this right, it's not going to be
4 the contracting officers, et cetera.

5 So really engaging them if you decide
6 to go down the path of prototypes, et cetera.
7 Really, I mean they are going to provide you, you
8 know, in addition to you gauging some of the, you
9 know, the benefits and complexity and what does
10 the user experience look like, that is really
11 critical, because you engage them early in the
12 process that's ultimately, you know, in the true
13 spirit of agile development and, you know, that
14 that's what should drive ultimately is strategy,
15 you know, what do users embrace.

16 And then you'll get a sense of -- The
17 other thing I'll just mention is there is, I
18 think I find a lot of times from the change
19 standpoint there is not a lot of time, effort,
20 money, put towards really thinking about more of
21 the kind of human resource let's say people
22 strategy part of things, like incentive systems

1 and other things.

2 Whether you are talking about private
3 sector or public sector this is a general
4 statement, nobody ever thinks about, nobody puts
5 enough money towards it, and then they spend
6 years trying to get the people to convert.

7 It happens sometimes. So I would just
8 build a business case to account for some of that
9 as you do this.

10 MR. CROMAR: Yes, let me add one more
11 thing and it's a quote that I will probably
12 mangle a little bit, but from Machiavelli, right,
13 and we used to use this when we talked about
14 implementing systems, like the people that
15 benefit from the preservation of the old system
16 are going to be your worst enemies and those that
17 will benefit from the creation of the new system
18 will be lukewarm defenders but that is something
19 that you are going to have to keep an eye on
20 because the old systems are hard to break down
21 and certainly I think in government probably
22 harder than if the CEO just comes in and says,

1 well, sorry, we're doing it this way from now on,
2 right.

3 There is just a lot of different kind
4 of tribes, right, and so I think that would be a
5 challenge that you will want to consider.

6 MR. SHARMA: I do think -- sorry. One
7 other thing as you think about kind of the path
8 ahead, you know, typically in any community of
9 users you might find some people right up front
10 that are going to be, what do you call them,
11 first movers or early adapters, right, really
12 look for those as opposed to really trying to go
13 after the people that are going to be the
14 resisters, right.

15 Because the more early wins you can
16 create, that is one of the other benefits of kind
17 of starting to implement and experimenting, you
18 can start to learn and create wins along the way.
19 So that helps you then create the communication,
20 the benefits, in a real way than just talking
21 about it theoretically.

22 MS. HUTH: Are there any other

1 questions?

2 (No audible answer)

3 MS. HUTH: No?

4 MR. BLUM: And can I just, from a
5 concept, that's a great effort, but from a
6 federal contractor's standpoint do you have any
7 advice for GSA here, you know, in terms of what
8 messages, what should GSA be saying, for example,
9 to schedule holders currently, you know, because
10 we always, when you come up with that new program
11 there is always issues and often times challenges
12 on transition and people thinking are we doing
13 this and then --

14 PARTICIPANT: Can't hear.

15 (Simultaneous speaking)

16 MR. BLUM: Most people don't usually
17 ask me to speak louder. But just asking from the
18 contractor's standpoint what sort of messages or
19 thoughts should we be thinking about in terms of
20 the current contract holders on the GSA schedules
21 and other existing programs that we use to buy
22 COTS?

1 MS. LAMBERT: Well I think, obviously,
2 change is going to affect, if you are making
3 changes will affect those folks as well. I think
4 that we would need, we would like advance notice
5 of changes.

6 I think knowing how things are going
7 to be done differently so that we can react to it
8 so that we can be flexible so that we can modify
9 if we have to.

10 Hopefully it won't be too big of an
11 impact, but that we can modify our systems or our
12 resources. I mean all of those things do take
13 time when you are reacting to something like
14 that.

15 So I guess my initial reaction is
16 knowing as far in advance what might be changing
17 or might be taking place so we can be able to
18 partner, so we can help, that being proactive in
19 that sense would be preferable.

20 MR. CROMAR: Yes, supplier enablement
21 is certainly a component of the systems that we
22 deal with with e-procurement systems and

1 typically it can take anywhere, depending on the
2 supplier if they are already part of our
3 ecosystem, a week to get ready for a new customer
4 coming on.

5 If they have already got catalogs,
6 like a company like Staples and they are already
7 integrated, it's, you know, a couple of flips of
8 switches.

9 If it's a brand new supplier, maybe
10 it's a mom and pop, there is some education.
11 Certainly the provider you go with is going to
12 have programs in place, proven programs.

13 I mean we have enabled over two
14 million companies to connect and conduct commerce
15 with our network so we've got a little bit of
16 experience doing that, but I agree with you time
17 certainly is going to be an issue and you are
18 going to want to, you know, let them plan out,
19 write their budgets, if they've got to make
20 significant changes, you know, start with the
21 ones that can do it now and then set a path for
22 the ones that maybe need to make some more

1 significant changes.

2 MR. SHARMA: Yes, I think just from a
3 general change standpoint, and going back to the
4 previous question as well, I think they are users
5 as well and that's how I would look at them.

6 MR. BLUM: Okay.

7 MR. SHARMA: And, you know, as you
8 construct your let's call it a stakeholder map to
9 look at those, you know which parties are going
10 to be effective which way and then really start
11 to engage them.

12 And I don't that I have a specific
13 message, but really start to understand what
14 their issues and concern and then think about
15 like what benefits, you know, how this is also
16 going to make your life easier.

17 MS. STANTON: And, Matthew, I wanted
18 to build a little bit on what you just on your
19 experience in onboarding, you know, million, you
20 know, two million companies, and you talked about
21 time.

22 I think one of the things we have

1 talked about is to change the systems users, on
2 the other hand we are also looking at a potential
3 change for a our supplier community.

4 What other key lessons could you call
5 out that we would want to keep, that GSA would
6 want to be keeping in mind as we move forward?

7 MR. CROMAR: Yes. So typically with
8 supplier enablement and what we try to do is
9 bring in a lot of automation.

10 So the first pass typically you look
11 at where most of your spend is going at, if the
12 80/20 rule just exists for a reason, and those
13 suppliers are typically going to be sitting up
14 the straightest and ready to work with you.

15 And then what we typically see our
16 customers do is set up waves of these supplier
17 enablement and using the automation, and
18 certainly, you know, the golden rule, which I
19 like to refer to in supply chain which is he with
20 the gold rules can apply.

21 And so, you know, sometimes you just
22 got to do a little tough love and set some tough

1 deadlines and say this is the way it's going to
2 be.

3 I think you certainly will have to
4 make accommodations for, you know, disadvantaged
5 businesses. Certainly, we have many customers
6 that direct a lot of their spend at those types
7 of organizations and so they, we built solutions
8 to help accommodate those types of companies.

9 So I think, yes, those are a couple of
10 key learnings that I have gotten over the last,
11 geez, 19 years now in and out of Ariba.

12 MS. HUTH: Thank you.

13 MR. CROMAR: Yes.

14 MS. HUTH: All right. I think we have
15 time for maybe one last question. Right here in
16 the audience.

17 PARTICIPANT: So I am just curious,
18 what if GSA was to simply initiate a
19 certification program with various certain rules,
20 you know, similar to the ISO requirement, that
21 would allow schedule holders to participate in
22 this and not have one single port of entry.

1 GSA could manage the contract in a
2 much better way than perhaps schedules have been
3 able to do in the past, but more on the e-
4 commerce platform base.

5 MR. CROMAR: Yes, I would absolutely
6 think of if you are going to go big on this thing
7 I would want to incorporate that contract spend,
8 to take advantage of those contracts and
9 supplement it with the marketplaces.

10 I wouldn't want to say just do a
11 complete shift to only marketplaces, right.
12 There is value in the whole community who have
13 been doing business with the government for
14 years, and like she said, you know, knowing that
15 if I deliver to a government facility I need to
16 have a U.S. citizen as the driver, there is just
17 a lot of value.

18 And I think a lot more efficient
19 operations could be had if there is a system that
20 helps to manage how you access and when the right
21 time is to access in the marketplaces.

22 So I think you bring up a good point.

1 You know, there is no reason why your stuff
2 shouldn't be able to measure up against or maybe
3 even if there is certain factors that, you know,
4 your purchase is being preferred over another
5 that, you know, you'd get that opportunity.

6 So, you know, we have seen customers
7 ask for the ability to mark certain items as
8 preferred and then those items could show up
9 higher in the search results for things like
10 that, so we've been doing that for a long, long
11 time, and I think, you know, that's probably
12 something that Staples gets asked all the time
13 and some of the other providers.

14 MS. LAMBERT: Yes, I think your
15 question kind of brings us back full circle to
16 what is it that we are trying to do, which is how
17 Raj opened, what is the problem statement that we
18 have, what is broke, what's not.

19 If there are ways to work within the
20 current system and then iterate or supplement for
21 the changes to see how this evolves over time
22 perhaps that would be preferable.

1 I can imagine the change management on
2 that would be easier than throwing the baby out
3 with the bath water and changing everything all
4 at once.

5 So I think you raise a very good point
6 in terms of how the government should go about if
7 it has to change the system.

8 MS. HUTH: All right. I think that
9 wraps us up. Remember there is going to be other
10 opportunities to contribute as our Administrator
11 stated.

12 I hope you all come back at 1:30 for
13 the exciting final session on implementation.
14 Please thank our panelists, Matthew Cromar,
15 Stephanie Lambert, and Raj Sharma. Thank you.

16 (Applause)

17 (Whereupon, the above-entitled matter
18 went off the record at 12:16 p.m. and resumed at
19 1:30 p.m.)

20 MS. STANTON: All right, everybody,
21 welcome back for after lunch. And even though it
22 is beautiful out there, I applaud your ability to

1 last out in a dimly lit auditorium. But I would
2 like to take the opportunity to introduce my
3 boss, Alan Thomas, the Commissioner of the
4 Federal Acquisition Service. He's been with us
5 for the past six months. This is something he
6 has a deep personal interest in, in seeing not
7 only how do we improve the buying experience but
8 also how do we really bring more technology and
9 improve the user experience across the board.

10 So with that very brief introduction,
11 let me hand it over to Alan to say a few words
12 about that.

13 COMMISSIONER THOMAS: Can you hear me
14 without the mike? Yes. I'm going to be like one
15 minute. I was supposed to come this morning and
16 I didn't make it here and I apologize. It's a
17 good story. It involves, a dog, a fox, a long
18 walk in the woods in Fairfax County and two
19 disappointed kids, who then got happy,
20 eventually.

21 So one, I just wanted to say thanks
22 for taking the time, particularly for those of

1 you who stuck it out and came back after lunch.
2 We had kind of an over-under pool going on how
3 many folks were going to show up after lunch.
4 So, we appreciate that.

5 I appreciate just you guys offering
6 your opinions, and dialogue and thoughts. You
7 know this is a listening session and it doesn't
8 work if you don't actually participate. And
9 different people have been stopping by my desk,
10 once I was finally able to show up for work today
11 after finding my dog, and they had really good
12 things to say. So I'm eager to see the
13 transcript from the morning piece.

14 The one thing I wanted to offer to
15 everybody in the audience and to the folks on the
16 panel is keep in mind that we're not standing
17 still. So this is an important topic that we're
18 talking about and it's going to have a big impact
19 on GSA and on Federal Acquisition, there are a
20 lot of other things going on that are going to
21 impact us also. And keep those things in mind.

22 So we have our own offering we have

1 Advantage and eBay that handle billions of
2 dollars in procurement a year. We're not just
3 sitting around not doing anything. We're working
4 on improving those things and improving the
5 buying experience for the customer.

6 We're doing some things around taking
7 technology and using it to augment our most
8 important resource, which is our contracting
9 officer. So we just awarded a robotic process
10 automation pilot, and our professional services,
11 and our professional services schedule, and some
12 folks in Region II that will augment what a
13 contracting officer does in terms of getting
14 folks on schedule and then modifying the
15 offerings.

16 So we're doing some interesting things
17 in terms of reform around Schedules. There are
18 some great things in the rulemaking process
19 around ODCs, or order-level materials we call
20 them. We've got a pretty exciting legislative
21 package that are working in concert with our
22 friends at OMB. They're doing some good changes

1 on the services side, the scheduled programs.
2 And there are some other things internally that
3 we're doing that you'll hear more about around
4 Schedules that I think really will ultimately be
5 what many will consider transformation in that
6 program. And we'll hear more about those over
7 the course of the year.

8 So that's, I think, important, to keep
9 all of that in mind as we talk about this issue.
10 There is more going on than just this issue.
11 This is big and this is important but it's not
12 the only thing.

13 So with that, I'll stop because you
14 don't want to hear from me, you want to hear from
15 the panel. So have a great afternoon and thanks,
16 again, for your participation.

17 MS. HUTH: Welcome back for this
18 afternoon's powerful session. I hope you're
19 refreshed after lunch. I would like to introduce
20 to you Jean Edwards, the Business Development
21 Director from DELL EMC Federal; Alan Chvotkin,
22 Executive Vice President and Counsel of the

1 Professional Services Council; Roger Waldron,
2 President of the National Coalition -- I'm sorry,
3 The Coalition for Government Procurement; and
4 Kevin Lynch, President and CEO of the National
5 Industries for the Blind.

6 You each have six minutes to offer
7 some opening statements. So, please begin with
8 Jean.

9 MS. EDWARDS: Thank you. I appreciate
10 Dell EMC's invitation to participate. I wanted
11 to also recognize that Cameron Chehreh, our CTO,
12 was the original invitee to be here. He couldn't
13 make it. So Jean Edwards, Direct of Strategic
14 Programs.

15 I'm mostly focused on civilian
16 business around programs and initiatives. And I
17 have been, combined, Dell EMC about six years of
18 employment there. Prior to that Oracle and some
19 Microsystems.

20 So my whole focus, and I think a lot
21 of our messaging to address the questions that
22 GSA and OMB asked around implementation is really

1 coming from the manufacturer, product, services
2 and solution type of company and that's the
3 message we're going to put forth here.

4 I would like to do two things, just
5 briefly introduce you to what Dell Technologies
6 really is, and then talk about the subset of what
7 we wrote the House Armed Services Committee in
8 reference to H.R. 2511 because a lot of that
9 information we published to them we also shared
10 with you all on our response to be here this
11 afternoon.

12 So Dell Technologies merged with EMC
13 Corporation well over a year ago, 100 percent
14 manufacturing. We develop products, services,
15 and solutions. It's a commercial worldwide
16 company. It's been around for greater than 35
17 years.

18 I work for a division that focused on
19 federal customers. And with that, we listen to
20 the voice of the federal government customer.
21 And we do things a little bit differently for
22 this commercial company. We uplift all of the

1 compliance standards and regulations to make sure
2 everything that we manufacture, test, and reserve
3 will actually perform and operate as required in
4 federal government procurements.

5 Dell Federal is also a distributor.
6 So we have our own GSA Schedules. We are very
7 familiar with GSA scheduled terms and conditions,
8 rules, regulations, in addition to commercial
9 terms and conditions.

10 We are also a reseller. We are the
11 largest reseller of Microsoft and Red Hat, as
12 software companies.

13 And we also are an OEM. What I mean
14 by that is we take our commercial products and we
15 farm them out to systems engineering companies,
16 who want to build a custom build their own
17 solutions for weapon systems, for mobile
18 maintenance systems that come out of the Marine
19 Corps, things of that nature.

20 So we have a lot of personalities and
21 a lot of ways to address some of your questions
22 and answers.

1 Just a couple other things. Our whole
2 company is around Cloud First initiative. We do
3 three things: IT, security, and Air Force
4 transformation. So everything we do is around
5 those three things and we believe that fits 100
6 percent the direction the Federal Government is
7 going and what we have to address for this e-
8 commerce mission.

9 So with that, you know overall our
10 message has been that we absolutely support the
11 utilization of e-commerce and what GSA and OMB is
12 trying to do in reference to what the National
13 Defense Authorization Act has called out. And
14 I'm going to just outline some of the key areas
15 that we have mentioned but we ask for
16 consideration.

17 So some commercial online marketplaces
18 have a pay-to-play requirement for suppliers of
19 goods and services to have their products listed
20 and available for procurement through the online
21 portal. While this pay-to-play requirement is
22 accepted in the commercial space, it should not

1 be a condition for a potential supplier of goods
2 or services to the Federal Government.

3 Allowing the pay-to-play commercial
4 structure to allow -- also prevail in the Federal
5 Government marketplace has two effects. It
6 limits the range of products, services, and
7 prices that may otherwise be available in the
8 Federal Government, especially around small
9 businesses. It also favors large businesses that
10 are able to easily support whatever the pay-to-
11 play toll might be, again, adversely affecting
12 small businesses. Certain existing online
13 marketplaces that provide information technology
14 products and services require that IT solutions
15 utilize only the marketplace portals around cloud
16 solutions. So when cloud is a part of the IT
17 solution, essentially, it excludes other
18 potential cloud service providers, especially
19 around a hybrid or an on-premise environment.
20 The structure limits competitive access to cloud
21 producers that could be available to DoD and
22 eliminates any price competition for the cloud

1 services.

2 Providers of goods and services
3 through a commercial portal must be able to
4 exclusively define the products and the services
5 that they choose to make available through the
6 portal, including application terms and
7 conditions and control the adding and removing of
8 products of services offered on the online
9 marketplace.

10 Legislation should consider the
11 possibility of allowing information technology
12 providers to establish their own defense
13 marketplace online portal. These portals would
14 be required to open to small, women, minority,
15 and veteran-owned businesses and resell IT
16 products and services associated with the portal
17 provider.

18 Legislation does not address how
19 lowest price technically accepted, LPTA, issues
20 are addressed. In fact, use of LPTA as a
21 deciding factor in IT procurements ignores the
22 total cost of ownership, products, and services.

1 So H.R. 2511, which was actually
2 called out in the National Defense Authorization
3 Act, needs to address the total cost of ownership
4 associated with information technology
5 requirements. That total cost of ownership
6 should not only address the cost of a laptop or
7 software products, but also the cost of power,
8 storage cooling, facilities for storage, and
9 people cost. Industry has developed values for
10 each of these items but the commercial
11 marketplace portal does not seem to address this
12 matter with the DoD -- it doesn't address that
13 matter, which the DoD has discussed
14 inconsequentially to getting the best value for
15 its IT dollar.

16 There's a couple of other things in
17 here but, for the most part, around
18 implementation, we're not just a product company
19 and we see ourselves as a solution provider
20 company, again, like I said, around cloud
21 initiatives. And we are seeking understanding on
22 how best to meet the e-commerce requirements but

1 also differentiate ourselves from something like
2 an Amazon business or an Overstock.com.

3 Thank you.

4 MR. CHVOTKIN: Good afternoon. I'm
5 Alan Chvotkin. I'm Executive Vice President and
6 Counsel for the Professional Services Council.

7 PSC is a national trade association of
8 over 400 companies who sell technology and
9 professional services to the Federal Government.

10 I appreciate the opportunity to be on
11 this panel. And some have asked why the
12 Professional Services Council is on a panel on a
13 topic where we're excluded from participation.
14 Our services are excluded under the statute.

15 Well, I had nothing to do this
16 afternoon. So, it's a rare opportunity.

17 (Laughter.)

18 MR. CHVOTKIN: But it does present
19 some great opportunities. Congress has presented
20 the executive branch with a unique opportunity
21 and something that many of us, including us at
22 the Professional Services Council have been

1 asking for for a long time, which is an
2 opportunity for really to take advantage of the
3 commercial marketplace to make those goods and
4 services available to the Federal Government.

5 But the Congress was constrained in
6 its approach. They put a program in place asking
7 the executive branch to address how to fulfill
8 the goal. And as you all know, this provision
9 has gone through an evolution over time.

10 Nevertheless, it is argued that there ought to be
11 a robust implementation by the executive branch
12 of this provision and shouldn't wait for time to
13 pass, even though this legislation provides over
14 three years' worth of implementation. Don't wait
15 for that time to pass. I think it is easy to act
16 prudently but aggressively in that robust
17 implementation plan.

18 In fact, the key to success of this
19 program will be what you come up with in Phase I,
20 this near-term phase.

21 There are multiple marketplaces
22 involved in even COTS items across a whole range

1 of activities. You know many of them because
2 many of them are on the GSA Schedules and through
3 other contract vehicles that GSA manages or that
4 other agencies manage. And there are multiple e-
5 commerce portals already in use today. Don't
6 reinvent the wheel. Take maximum advantage of
7 government approaching those e-commerce portals
8 as they exist. In fact, the statute strongly
9 recommends that you work with those companies and
10 those portals as they exist today.

11 Also look at who are the likely
12 buyers. This program is limited to purchases
13 below the simplified acquisition threshold,
14 although Congress has raised that threshold in
15 the FY18 NDAA. Still, most of those procurements
16 are going to be done by buyers more like what's
17 taking place today through the purchase card,
18 rather than through formal procurements. So
19 there is an interesting and certainly appropriate
20 balance to look at the purchases that will be
21 made, who will be the buyers, and to approach the
22 business rules under which they are able to buy

1 through those various portals.

2 I think the key to spell out what are
3 the attributes that the agency, that the Federal
4 Government is looking for in its relationship to
5 these portals. The Congress laid out a few of
6 those attributes but there certainly are others,
7 and gives the executive branch the opportunity to
8 recommend changes in laws and policies that
9 should apply to covered purchases. And again, it
10 is our view that the executive branch ought to
11 take maximum advantage of identifying those
12 changes in laws and policies to facilitate the
13 maximum use of COTS items through the e-commerce
14 portals.

15 Finally, there needs to be the
16 transparency on both transactions, not just on
17 price and quality. I think there are lots of
18 opportunities to engage in those, establish those
19 attributes and rules up front as part of the
20 Phase I implementation plan and build those out
21 over a short period of time to begin testing out
22 the concepts behind the use of these e-commerce

1 portals.

2 We'll continue to engage through our
3 members and the work that we do on the
4 Association of the Professional Services Council
5 but I think there are some great opportunities to
6 fulfill a promise and a hope that many of us who
7 have been engaged in this procurement process for
8 a long time have hoped for, which is to truly
9 take maximum advantage of the commercial items
10 and COTS items, to make those available to the
11 federal marketplace.

12 Thank you.

13 MR. WALDRON: Good afternoon,
14 everyone. Before I get started, I just wanted I
15 make sure -- I don't know how coherent I'm going
16 to be this afternoon. It's been a long day and a
17 long night. All I can say is Roll Tide. I was
18 up all night. I went to the game.

19 (Laughter.)

20 MR. WALDRON: So you know that may
21 have been the most intelligent thing I have to
22 say. I don't know, we'll see.

1 The Coalition for Government
2 Procurement is a trade association. Our members
3 span the depth and breadth of commercial products
4 and services sold throughout the government,
5 throughout the country. You think about a
6 product or a service that the government
7 utilizes, we have members who provide that to the
8 government and who sell that commercially as
9 well.

10 So we have a keen interest in this
11 legislation and I want to thank GSA and OMB in
12 particular for hosting this meeting. And we look
13 forward to hearing the dialogue through the next
14 90 days and beyond into the other phases.

15 So again, thanks, as well.

16 And I guess what I would like to do is
17 sort of talk about the provision as somewhat in
18 the prism of what we've heard today already a
19 little bit. First of all, I want to echo what
20 Alan just said. This is a wonderful opportunity
21 for OMB to leverage commercial practices in a
22 commercial marketplace to deliver more efficient

1 and effective solutions products for the Federal
2 Government, and also a streamline for suppliers,
3 and ultimately benefits for the American people.
4 So, again, we look forward to working with you on
5 that on this important effort.

6 What I heard this morning, especially
7 the first panel, but the other panel as well, is
8 that it's the age-old -- fundamentally, this
9 isn't rocket science. We have seen this -- this
10 has been going on for 25-30 years. We're talking
11 about the balance between government unique
12 requirements and commercial terms and conditions.
13 That is the conversation, especially on the first
14 panel, and the questions around that first panel,
15 and what's that right balance.

16 What requirements are fundamental to
17 the government that they're not going to waive?
18 And I have to agree with Jonathan Aronie and his
19 comment, the Trade Agreements Act is going away.
20 You know the Federal Government isn't going to be
21 buying Chinese products. And those requirements
22 can add the value to the government. They deal

1 with public policy, stakeholders and it's not
2 just price and best value. It's those compliance
3 and those government-unique terms and conditions.

4 On the other hand, the commercial
5 terms and conditions and taking advantage of
6 those to the maximum extent practicable, you know
7 we've heard a lot of talk this morning earlier
8 about reducing costs and the cost of managing
9 your contracts and reducing barriers. So
10 identifying those requirements where the costs
11 outweigh the benefits and they are not
12 fundamental to the government mission that could
13 be waived or eliminated are things that you know
14 obviously we are going to have a conversation
15 about over the next 90 days and even into Phase I
16 because, as I read the statute, you know what's
17 waived or isn't waived isn't just a Phase I
18 conversation. It's the more details are going to
19 have to be worked out through Phase II of this
20 requirement.

21 So what is the right balance? We're
22 trying to figure that out. And you know we look

1 forward to that conversation. I'll just say that
2 there's things, there's opportunities here. And
3 the one thing I will say in the context of this
4 is that as you think about what should be waived
5 in the context of transactions through the
6 portal, it's more fundamental to think not just
7 about a specific transaction process but what
8 should be waived for commercial items across the
9 board that are government-unique requirements.

10 And what are those things that --
11 because we heard a lot of talk again this morning
12 about nontraditional contractors, getting people
13 to enter the market. There is going to be
14 multiple entry points. There should be multiple
15 entry points, given the size of the market, you
16 know 40 billion, 50 billion, 80 billion
17 commercial items that are logged COTS items.

18 Thinking broadly about how government-
19 unique terms and conditions affect commercial
20 item acquisition in this context, it could be a
21 huge game-changer for the government across the
22 enterprise.

1 And the other thing about this balance
2 between government terms and conditions that I
3 think that has an interesting dynamic that I
4 don't think we've ever faced, is that you are not
5 talking about terms and conditions government
6 versus supplier solely, given some of the
7 different models.

8 Some of the models that may be the
9 case in terms of their portals, like I think the
10 Staples example, where Staples has managed the
11 portal. That's the company that its contract, as
12 I understood it, in that venue and they deliver
13 for the government through their portal.

14 But here we have government, third
15 party portal suppliers -- I mean portal providers
16 and suppliers. And so to the extent you're
17 thinking about prevailing terms and conditions
18 and whether they should apply or not for a portal
19 provider, the government -- there's a market
20 impact in there. And what does it mean for
21 access to whether it's the fee example that you
22 just gave or other terms and conditions to the

1 extent the government is allowing, or mandating,
2 or taking prevailing terms and conditions, those
3 terms and conditions, how do they impact the
4 supplier side of the chain.

5 And just real quickly, I have got a
6 couple of little things, I'm seeing you are kind
7 of wanting to yank my chain here. And I know,
8 like I said, it was a long game last night. So
9 I'm not getting to all my points.

10 But just real quickly on competition,
11 two points. This should be as broad as possible
12 in terms of the contract level, whether its
13 agreements like the Overstock example. Do you
14 even need contracts? Whether it's a multiple
15 award IDIQs, whether it's a schedule solution for
16 e-commerce, we've got to look at that at that
17 level but it should be a broad-base to have a
18 robust market. You're going to have to examine
19 competition at the task order level as well.
20 What level should or shouldn't be? The example
21 of Staples talked about businesses negotiate.
22 They get quotes.

1 You also have the small business
2 issue, a small business set asides the flow below
3 the simplified acquisition threshold.

4 Transparency, real quickly. The data
5 should be transparent. That means the government
6 should open data on these portals and the fees
7 should be transparent.

8 Duplication, I'll just say this is an
9 opportunity to reduce duplication across the
10 government. It's an opportunity to re-engineer
11 the Schedules Program, eliminate unnecessary
12 requirements there. There's an opportunity
13 reduce duplication for commercial lines as a
14 whole and preexisting contracts. We use it to
15 streamline.

16 And just lastly, ethical compliance.
17 In that area, again, we go back to with revenue
18 comes responsibility. I don't think it's a model
19 where you could possibly have a model where the
20 portal provider has no responsibility to the
21 government whatsoever, in terms of some sort of
22 compliance. There's got to be the right balance

1 along those lines.

2 And we heard from this example that
3 there are companies who have software algorithms
4 that can create business rules that portal
5 providers can incorporate to meet the buyers'
6 requirements. So that's a business choice on the
7 part of the portal providers whether they want to
8 access that software capability or not or have a
9 different model that provides and takes care of
10 those compliance requirements up front, whatever
11 they may end up being. That's a big issue.

12 And then lastly, I would just say I
13 think Roger's point about coming up with like
14 your goals, the plan, what are imperative, that's
15 key. And that's key to share that as soon as
16 possible so you can get some feedback from the
17 community as to whether you are on the right
18 track, whether there is other considerations,
19 unintended consequences, that sort of thing.

20 And with that, I will stop. I
21 apologize if I overtook my time. And I'll turn
22 it over to you, Kevin.

1 MR. LYNCH: I'm Kevin Lynch. I'm
2 representing National Industries for the Blind
3 and I want to thank GSA and OMB today for the
4 opportunity to participate on the panel
5 discussion.

6 GSA and OMB have been tremendous
7 partners in helping NIB carry out its mission to
8 create employment opportunities for people who
9 are blind and that strong partnership continues
10 today, allowing us to participate on this panel.

11 NIB also recognizes the long standing
12 support of the Office of Federal Consumer Policy,
13 OFCP. It's uniquely situated to play a key part
14 in this process, given their role of shaping the
15 policy and practices within the government.

16 NIB welcomes the opportunity to
17 provide input on the e-commerce commercial portal
18 initiatives. As a thoughtful implementation, e-
19 commerce portals have the potential to streamline
20 federal government acquisition, while creating
21 economic growth for private industry and
22 strengthening socioeconomic programs to support

1 the federal marketplace.

2 NIB and SourceAmerica are two central
3 non-profit agencies that help administer the
4 AbilityOne program under the Javits-Wagner-O'Day
5 Act. For 80 years now, this program has
6 delivered quality products and services to
7 federal customers, while creating employment
8 opportunities for people who are blind or have
9 significant disabilities.

10 The AbilityOne program offers
11 thousands of products ranging from quality
12 skilled-craft office supplies, to
13 environmentally-friendly cleaners.

14 Production of commodity and products
15 or COTS employs the majority of people who are
16 blind or significantly disabled in the AbilityOne
17 program. Products of the AbilityOne program are
18 available to federal purchasers through many
19 different channels, including more than 300
20 authorized distributors, many of which are women-
21 owned, minority-owned, veteran-owned businesses.

22 AbilityOne is based in 500 stores and

1 e-commerce platforms, such as DoD Advantage, GSA
2 Global Supply, and FedMall. We have demonstrated
3 we can adopt and adapt to the newest acquisition
4 policies.

5 The problem today is America still
6 faces a critical issue with seven out of ten
7 people who are blind or significantly disabled
8 not working. The AbilityOne program helps
9 thousands of these individuals achieve greater
10 independence and reduce their reliance on
11 government assistance through meaningful
12 employment.

13 Today NIB and SourceAmerica, with our
14 network of associated nonprofit agencies employ
15 more than 40,000 people who are blind or have
16 significant disabilities nationwide, including
17 more than 7,000 veterans. These employees work
18 in a range of jobs and professions and earn
19 competitive wages, with opportunities for
20 professional development and career advancement.
21 None of this would be possible without the law
22 which the federal government has protected for 80

1 years and that is why I can't overstate the
2 importance of ensuring that the AbilityOne
3 requirement is preserved as you consider how to
4 implement a commercial e-commerce portal. No
5 waivers or intention for relief from existing
6 laws should be granted and this includes not only
7 AbilityOne program but all applicable sourcing
8 requirements of the Trade Agreements, the Small
9 Business Act, and Buy American Act, among others.
10 There are reasons that these laws exist -- good
11 public policy reasons.

12 Granting waivers or exemptions to
13 these laws not only is an unreasonable request,
14 as federal procurement programs have evolved, the
15 applicable laws have always remained in effect.
16 When GAS launched new purchasing channels like
17 GSA Advantage, GSA Global Supply, and the Federal
18 Supply Schedule, the AbilityOne requirements
19 didn't go away. When GSA closed its depots and
20 shifted to a commercial distribution model, the
21 AbilityOne program still applied.

22 We are aware of pilot purchasing

1 programs that allow federal agencies like the Air
2 Force and the Department of Homeland Security to
3 potentially bypass mandatory source requirements
4 such as AbilityOne. In our opinion, this is a
5 dangerous path to take and could have lasting
6 impact on socioeconomic programs and industry
7 partners that are out there doing the right
8 thing.

9 Over the years, NIB has worked closely
10 with GSA and hundreds of industry partners to
11 ensure that the AbilityOne program is not
12 forgotten in the original initiative. We are
13 ready to provide the same support and
14 collaboration with the implementation of the new
15 portal. We know the acquisition environment
16 continues to change and ideas change as well. In
17 our thinking, both with GSA and our industry
18 partners, we've implemented more interesting
19 distribution and delivery models, updated our
20 product packaging, deal in commercial best
21 practices, and modified our product systems to
22 deliver higher levels of service. We continue to

1 collect and incorporate our customers' feedback,
2 whether they have a new requirement or updating
3 existing product.

4 As the panel studies implementation,
5 I offer two broad thoughts to consider. First we
6 know that technology exists to help vendors
7 comply with AbilityOne requirements. Today, GSA
8 is doing an outstanding job of using technology
9 to improve compliance on GSA Advantage. The 4P
10 Tool flags non-compliant products when vendors
11 attempt to upload them onto the site.

12 GSA often uses a remediation tool to
13 remove noncompliant products. These tools, in
14 concert with the AbilityOne distributor policy
15 released in 2016 has been very effective in
16 increasing AbilityOne program compliance.

17 We know that noncompliance translates
18 into lost jobs and that's why we've considered
19 the technical and procedural compliance
20 mechanisms early in new procurement initiatives.
21 Ultimately, these tools help to protect the
22 employment of people who are blind. NIB can and

1 will offer its assistance to any e-commerce
2 portal provider in implementing the tools used to
3 meet the Javits-Wagner-O'Day Act.

4 Second, we've learned through the past
5 experience that the implementation of new
6 purchasing systems requires training and
7 education and this training must occur at every
8 point in a purchasing cycle from portal hosts, to
9 sellers, to government purchasers.

10 NIB conducts extensive AbilityOne
11 program training to federal purchase card holders
12 and authorized distributors. And over the past
13 two years, we've worked with GSA to host standing
14 room only industry days and training sessions for
15 federal strategic sourcing initiatives.

16 It's clear to NIB that industry is
17 ready and willing to learn about the AbilityOne
18 program and make it part of their process and
19 systems. Many of those dedicated industry
20 partners are here today and we look forward to
21 sharing some best practices on training and
22 outreach with the implementation panel, as this

1 initiative progresses.

2 In addition to the technical tools and
3 training, the implementation panel should
4 consider the supporting regulations to guide you
5 through commercial e-commerce portals. NIB
6 believes regulations for the portals should be
7 codified in both the FAR and the GSA Acquisition
8 Manuals. FAR regulations are necessary to ensure
9 that when purchasing through the portals reach
10 and apply government-wide. The information is
11 often needed for GSA specifically but should be
12 included in the contracts for portal providers
13 and instructions for GSA personnel overseeing the
14 portal.

15 Failing to adequately include the
16 AbilityOne Program in this initiative would have
17 severe ramifications on the employment of people
18 who are blind or have significant disabilities.

19 So let me close by emphasizing NIB
20 number one ask is to continue to improve the JWO
21 Act and the AbilityOne program as a requirement
22 in the plan that you deliver.

1 Thank you very much.

2 MR. LEE: Thank you very much. One of
3 the dialogues that we've been having is sort of
4 the dialogue that I think, Roger, you hit on that
5 is government-unique terms and conditions while
6 still trying to balance commercial terms and
7 conditions to the maximum extent as practicable.

8 If there wasn't a waiver to any of the
9 existing statutes, laws, and regulations, would
10 this program work? If yes, explain why. If no,
11 explain why. And that goes to all of the
12 panelists.

13 MR. WALDRON: Okay. Thanks, I'll go
14 first.

15 I guess I would go by example to say
16 there is service providers currently providing
17 internet-type-based services like FedBid, for
18 example, the GSA Schedules. You know it's a
19 buying platform that's there that has a GSA
20 Schedule contract. So it's complying with those
21 terms and conditions. I think it could be done.
22 The question is: Are there opportunities to

1 reduce the cost for all and how is that shaped?
2 And whether or not, for example, do you need some
3 of the highly regulated aspects of the GSA
4 Schedules Program to accomplish this or could it
5 be even more efficient?

6 So can it be done? Yes, I believe it
7 can be. It could be done under the current
8 regime. The great thing about the statute and
9 the opportunity here is to find ways to make it
10 even better and improve the process for all.

11 And I would be remiss if I -- there
12 was a couple of other items that I just wanted to
13 mention that I didn't get to mention and that is
14 two things.

15 When you talk about government-unique
16 requirements, there are certain things that are
17 cross-cutting. So there's only two aspects that
18 we heard a lot from our membership along the
19 lines with this issue -- with this initiative and
20 one is counterfeit products and they have
21 accessibility to those with regard to a portal.
22 And the other is cyber. And it's cyber both in

1 the products that are being provided via the
2 platform and cyber of the platform themselves.

3 And to the point that you know I
4 understood during the whole process on the Hill,
5 an IT association, specifically, IT industry has
6 to be exempt from this potential pilot or
7 whatever it was at the time. And a lot of the
8 concern there was on the cyber side for their
9 request for an exemption at that time.

10 So, I'll turn it over to Jean.

11 MS. EDWARDS: So that was a great
12 point. We spent a lot of time around supply
13 chain, product assurance, in addition to the
14 certifications and standards. As a matter of
15 fact, we've changed the entire process for a
16 commercial company based on federal requirements
17 for supply chain security.

18 So to make it work for everyone and
19 fairly across e-commerce, how do you have
20 traditional commercial company truly understand
21 that impact of what was just discussed around
22 security, cybersecurity and product assurance

1 inside of a .gov/.mil.gov network?

2 So I think from my experience, there
3 is a lot of commercial companies that want to
4 come into federal but when they realize the
5 statutes, the laws, the regulations, they kind of
6 shy away. It's pretty hard for them to come in.

7 So if this e-commerce is trying to put
8 an equal playing field out for small businesses,
9 large businesses, distributors, OEMs, service
10 providers, cloud service providers, there has to
11 be a commonality across the board for all of
12 that.

13 MR. CHVOTKIN: I disagree. I think
14 the issue is the extent to which we continue to
15 impose the unique set of government terms and
16 conditions. We don't need the e-commerce portals
17 to get there. Many of them are working today.

18 I think the beauty of this statute was
19 to test out whether you can implement the section
20 without creating a government-unique set of
21 requirements and using the standard terms and
22 conditions of the portals themselves, the ones

1 that exist today. And I think that means a
2 shorter set of imposed laws.

3 Now I do agree with Roger's point and
4 Jean's point that to the extent that the portal
5 providers themselves or the markets recognize the
6 value of the compliance and the extent to which
7 the buyers find value in approaching and using
8 those marketplaces because they offer those
9 cybersecurity products or they offer TAA
10 compliance, I think those are benefits and those
11 become market differentiators from the seller
12 making those available to the buyers. It's a
13 criterion for being one of the e-commerce portals
14 I think undercuts the objective of the statute,
15 which is to test out the ability to buy top items
16 on standard commercial terms and conditions, not
17 on government-unique.

18 MR. LYNCH: I think I have to kind of
19 strongly disagree on that. I think there's a
20 difference that, particularly within the federal
21 government's responsibility that is different
22 than the corporate world or the personal buying

1 experience.

2 And I tried to make a point. There
3 are good public policy reasons programs exist
4 like the AbilityOne program. And while I
5 strongly agree that, as a program, and I think we
6 have experience in showing that, we have
7 demonstrated that we have moved very closely to
8 commercial practices in the products that we
9 serve and how we deliver those products.

10 But again, to be honest, with a 70
11 percent unemployment rate among people who are
12 blind or have significant disabilities, there is
13 good reasons why this program exists.

14 And the one thing that I would just
15 say is you have to take a look at the whole
16 picture in regards to public policy. And while
17 there is a value that could be created through
18 efficiency by adopting totally pure, commercial
19 practices, you have to realize that that also
20 then has the potential of transferring over to
21 other costs that are associated within those
22 policy requirements.

1 MR. KOSES: Alan, you made the point
2 that TSE is particularly interested in this
3 legislation. Right now, it is limited to COTS
4 products. GSA is going to be working on that
5 first 90-day deliverable. Looking at what
6 statutes, regulations, and so forth to change,
7 should we be looking at changing that limitation
8 to a COTS product, is there some type of either
9 ancillary or other services which should also be
10 part of this conversation?

11 MR. CHVOTKIN: I would not expand
12 beyond what -- beyond COTS products at this point
13 for two reasons. First of all, I think there are
14 lots of e-commerce portals that have robust
15 opportunities around the COTS items. And
16 secondly, I think it makes great sense to me to
17 demonstrate the workability of this model in the
18 short-term around the universe of products that
19 the Congress has said that both as to the
20 products, COTS products, as well as to the market
21 size that is at or below the simplified
22 acquisition threshold. I would stay with that

1 model but I would pursue those elements
2 aggressively.

3 MR. KOSES: Roger, in your comment a
4 moment ago, it sounded like you were headed
5 towards the idea of an e-commerce schedule as
6 part of that. If, indeed that is what you were
7 thinking where you are going, I'll go back to the
8 question I asked in the first panel today. What
9 is the role of that third party supplier?

10 Presumably, in your scenario, the
11 company is the schedule contractor. What is the
12 third party supplier?

13 MR. WALDRON: That is a great
14 question. It's a fundamental question. And I
15 think part of the answer is it depends on the
16 platform provider's model. In some instances,
17 they may be a subcontractor and in other
18 instances, maybe, as Jonathan Aronie said, a
19 contractor teaming arrangement, where both the
20 portal provider and the Schedule company have
21 privity of contractor or it's the portal provider
22 creates a frame, a template where the contractor

1 created at the time the portal is used in their
2 standalone contract.

3 It's going to depend on the nature of
4 the portal and how it's implemented in that
5 commercial marketplace. And it could be a portal
6 where the company -- you order from one company
7 and they have subcontractors that are providing
8 their product.

9 So I mean it's -- and the thing about
10 a potential e-commerce schedule, I guess, is that
11 the idea that it provides room for all those
12 competing commercial models to participate and
13 then for the government to identify at the task
14 order level, theoretically, and compete and see
15 which corollary it wants to use to meets its
16 mission based on price, value, compliance. What
17 are their compliance needs, like whether it's
18 creating a VP or not?

19 That's one solution. You could look
20 at doing a multiple award IDIQs. You could look
21 at just coming up with an agreement, a basic
22 agreement, theoretically, basic agreement or you

1 could even possibly look at OTAs. I don't know.
2 It just depends on where you want to go as you
3 formulate your ideas.

4 I do want to make one point back on
5 the cyber. I think it's important to think about
6 the issue of -- and I'll go back to the example
7 just hearing earlier today trying to put one and
8 one together to get three or two or whatever, is
9 there are companies that create algorithms,
10 software that sets the business rules that can
11 assist the government in complying. If you don't
12 have that in place, then it's going to be always
13 a contracting officer putting in place a process
14 each and every time to place an order. You could
15 use the software to address the cyber issues
16 because the cyber issues are ubiquitous. They
17 are everywhere. And whether you have an
18 integrator at the Department of Defense and you
19 have a buyer, or thousands of buyers who are
20 buying a piece of IT and they get plugged into
21 that integrator's network and there is some sort
22 of issue, that integrator is a service provider

1 for the Department. It gets into situation with
2 regard to forensics and what they've got to do to
3 demonstrate that it wasn't them, that it was the
4 Department that put the compromised piece of IT
5 into the system. There is all kinds of issues.

6 It's like the issues we talked about
7 earlier about U.S. citizens going to different
8 sites. This is about equipment, it's not just
9 people, as well. So I think that's something
10 that really has to be focused on when you're
11 looking at the IT aspect of this model, in
12 particular.

13 MR. KOSES: Jean, you had proposed the
14 idea of a DoD IT marketplace of some sort. Can
15 you expand on what that means and what does it
16 mean to preclude IT from these commercial
17 portals?

18 MS. EDWARDS: Great question. Thank
19 you.

20 So two factors on that. First of all,
21 Dell Federal has over 3500 companies that we
22 support in our ecosystem, all the way from small

1 business to federal systems integrators, to cloud
2 service providers, hosting service providers. So
3 in your scenario, if we are the e-commerce prime,
4 I don't know how that would work in order to
5 support all those 3500 companies because we don't
6 represent them. They actually represent us.

7 So part of it is on the DoD initiative
8 was to have e-commerce open for everyone,
9 everyone that wants to be fair and open with a
10 solution. We have a preferred model and that's
11 indirect. That is to support that ecosystem with
12 that socioeconomic status all the way to the
13 discriminating deliverables around systems
14 engineering and hardened devices that DoD require
15 in Marine Corps machines, or in airplanes, or
16 whatever. So we would like to be able to play,
17 or at least technology-wise, play in all of that.
18 And to do that, the e-commerce for fairness for
19 all the right companies is the right way for us
20 to do that.

21 IT is a discriminator that I think
22 sets a unique value for companies' success. In

1 the commercial space, FedEx is now collaborating
2 with the postal service but you know ten years
3 ago, they were not because their IT and use of IT
4 was unique to their business model. That made
5 them unique in the marketplace. Now I think
6 we're finding more companies collaborating
7 commercially to understand business models and
8 business practices. And we believe that is still
9 something that GSA and OMB have to consider on
10 delivering this model.

11 MR. KOSES: Let me go a little further
12 with that, though. I can find Dell products in
13 any number of commercial portals today. If we're
14 looking at using the power of commercial portals,
15 what does it mean not to be buying your product
16 for that government buyer using that portal?

17 MS. EDWARDS: So right now on the
18 commercial product portal that you're talking
19 about, it's usually the product and the
20 installation that goes with that product. And as
21 we see the evolution, especially around Cloud
22 First initiative, a product doesn't stand alone

1 for where the Federal Government needs to go for
2 all e-commerce.

3 So what we're considering is the
4 extension of pay-to-play or as a service, where
5 you're pulling the product through because it's
6 really the deliverable of the entire solution
7 that you have to have. So there's multi-
8 dimensions that we're considering beyond -- I
9 mean in VA we've got a BPA to sell laptops. We
10 already know GSA is leveraging GSA Schedule,
11 SEWP, and CIO-CS for bulk laptop guides. We
12 already comply with that. We already support
13 that.

14 So I think those kind of contracts, we
15 actually comply. We deliver through our
16 ecosystem or through us, if it's appropriate, to
17 support it.

18 What we see going forward, especially
19 with the DoD, and with OMB and GSA Support is
20 that it can't just be a product buy for LPTA. It
21 has to really look at the life cycle of a product
22 in the mission or in the program that it is being

1 bought for and supported for. I hope that
2 answers.

3 MR. KOSES: Thank you.

4 MR. BLUM: Earlier, to channel Jeff,
5 we asked the second panel about piloting. And I
6 think I heard positive comment on that but would
7 like to get your views on do you agree that we
8 should, or that GSA should do some piloting here.
9 And if so, do you have views on the types of
10 commodities that might be suited for a pilot?

11 I think we heard earlier some
12 discussion of office supplies, technology
13 accessories, and so forth, and things that we
14 should definitely weigh.

15 MR. CHVOTKIN: Between you and me,
16 I'll go. Pilot is an interesting concept under
17 this provision, Matthew. I think there are -- I
18 would look at the existing e-commerce portals and
19 how you can work with those first and build this
20 as a tiered program, rather than a pilot program.
21 Pilot programs never get the support, never get
22 the buy-in from the activities. I think there

1 are enough examples of where e-commerce portals
2 in the sale of COTS products into the Federal
3 Government exist today that we don't need to test
4 out the model. We do need to work our way
5 through some of the business rules and how the
6 purchases are to take place.

7 And so I would rather see this.
8 Congress created this as a phased program, even
9 in the beginning and I think the implementation
10 plan can be a phased implementation, starting
11 with the existing e-commerce portals and
12 broadening it out into concentric circles over a
13 period of time. But I would not characterize
14 this as a -- I would hope you wouldn't
15 characterize it as a pilot because then it won't
16 quite meet the goals of the statute, which is to
17 do something. And I don't think it will have the
18 success as if we were to launch -- as if the
19 executive branch were to launch a program, even
20 if it's on a narrow set of starting points.

21 MR. WALDRON: Just a couple of points
22 on that. The concern with a pilot, too, is even

1 on a pilot are you preselecting particular
2 approaches to pilot and what is that impact on
3 the goal of maximized competition for the
4 platform providers.

5 You know other than that, you know one
6 of the interesting things right now, too, in
7 whether it's pilot or not, is that with the
8 increase in the micro-purchase threshold to
9 \$10,000 for civilian agencies, you've got an
10 ecosystem going right now. Transaction are being
11 done commercially all over the place through all
12 various types of portals across the board. But
13 the issue with that is it's a micro-purchase buy
14 and certain rules don't apply. Most rules don't
15 apply, right?

16 No rules really apply, right, which is
17 interesting from the earlier conversation this
18 morning with the Amazon discussion about their
19 customers and they did, as I understood it,
20 indicate that their transactions and their
21 customers on a government space are doing micro-
22 purchase type transactions. That's the

1 prevailing commercial terms and conditions I
2 guess, then, would theoretically apply from their
3 perspective.

4 MR. LYNCH: I think in regards to
5 whether it's a pilot or whether it's a complete
6 roll out, I think that it's probably more
7 important that the time is spent to make sure
8 that the plan going forward has been designed
9 appropriately, at least from our perspective.

10 I think it is something that also has
11 to be approached somewhat cautiously for a lot of
12 different reasons that have been expressed
13 already. And again, I think in the
14 identification of specifically what's available,
15 what would be available to the purchaser.

16 We make office products. In many
17 cases in office products, a pen is a pen, is a
18 pen. So in that particular area, that might be
19 suitable. But I can tell you right now we also
20 make military uniforms and you can buy military
21 uniforms on existing commercial portals today
22 that are out there. And I will tell you that

1 many of those uniforms do not meet the
2 specifications, yet, that service personnel will
3 have the opportunity to purchase and they may not
4 get a uniform that had the infrared coating that
5 is needed and required when they go into battle.

6 So I think there are lots of different
7 issues in terms of finding out or deciding and
8 determining what are going to be the appropriate
9 categories that will be made available.

10 MS. EDWARDS: Prototypes are a tool to
11 train corporations on how to understand policy
12 and procedures and how to maybe institutionalize
13 change at a very higher level. So coming from a
14 business unit that is federal-focused, meanwhile
15 we can address compliance standards,
16 certifications, our ecosystem, we may not be able
17 to transform the company in the way you want to
18 implement the guidelines going forward for e-
19 commerce without our corporate investment
20 participating.

21 So in a way, I align to a CRADA that
22 DoD uses when they have a think tank or big

1 project and they want corporations to kind of co-
2 develop a policy procedure and possibly a
3 downstream solution.

4 The other thing is CRADA's, there's no
5 money and the intellectual property stays with
6 the body unit that comes together to design it.
7 So it's not perfect.

8 The other thing, too, is prototypes,
9 sometimes they're free; sometimes they're not.
10 I've seen prototypes where people get paid to
11 support and implement prototypes.

12 So if you are implementing that, I
13 think it has to be designed more around policy
14 changes, procedures that you're looking for, and
15 possibly have it so that no one can get paid for
16 a prototype. Make it fair so that whoever
17 participates is participating equally.

18 MR. BLUM: One follow-up. I asked
19 this morning about competition and I don't know
20 that I asked it very clearly. But just simply
21 put, do you think that -- well, Congress has
22 asked that we think about what sort of waivers of

1 laws might be appropriate.

2 So strictly on the competition front,
3 I think you already expressed some views with
4 respect to some of the socioeconomic
5 requirements, but on competition itself, should
6 we be thinking about asking Congress for any
7 waivers or relief so that we can have special
8 competition rules applying to this program?

9 MR. CHVOTKIN: I'm not shy about an
10 answer. I view competition in two ways, Matthew.
11 The first is the competition among portals. And
12 it is very clear that the expectation, because
13 there are multiple markets, that there should be
14 lots of opportunities for multiple portals to be
15 authorized and to be able to be used.

16 Then there is the question of
17 competition within the portal. Is the portal
18 provider making only one of its products, only
19 one vendor product available, depending on
20 whether the business model is one of an
21 aggregator or a product offeror, their own
22 individual business model might change.

1 So it would be important to think
2 about the importance of the definition in that
3 context. And I think it would be helpful over
4 time to make it clear that the competition that
5 takes place is around, among the portals but
6 there is no need for a statutory change to get at
7 the business model of the individual portal
8 provider, if you want to adhere to the objective
9 of the statute, which is to minimize the degree
10 of customization and take the portals on the
11 standard terms and conditions that the portals
12 use.

13 So if they support multiple products
14 or an open product, I'm okay with that. If they
15 have only one product available on their site,
16 I'm okay with that, too. It will be up to the
17 buyer to determine whether that product meets
18 their needs. We don't need to impose any
19 additional federal statute requirements on that
20 portal provider.

21 MR. WALDRON: So I'm trying to
22 understand what you said. Is it your view that

1 the competition requirements like over \$10,000 up
2 to the simplified acquisition threshold, like the
3 notice, and all those requirements, should or
4 shouldn't apply to transactions with the portal?
5 Or should it just be the standard terms and
6 conditions of the portal provider?

7 MR. CHVOTKIN: So I would apply those
8 at the -- as between portals from the purchaser
9 out to the portal provider but not as an
10 imposition on a portal provider to its vendors or
11 suppliers.

12 MR. BLUM: So now I'm confused. From
13 the buyer, from the government buyer standpoint,
14 if they are going to a portal and they have a buy
15 that right now say it's over \$25,000, what sort
16 of competition -- should they be expected to do
17 some sort of notice, some sort of RFQ process?
18 Maybe that's the best way to put it. Should
19 there be some sort of RFQ process?

20 MR. CHVOTKIN: I'll have to think
21 about that one a little bit further.

22 So I see this as part of an acquisition and

1 decision. So if they have a solicitation -- if
2 they have a need for a product over \$25,000, they
3 provide the notice for that, they could choose to
4 acquire it through the Schedules Program, they
5 could choose to acquire it through an IDIQ, or
6 they could choose to acquire it through one of
7 the e-commerce portals. Each of those would be
8 equally valid in terms of the acquisition
9 methodology, as far as I'm concerned.

10 So if there's a need for notice about
11 that, I'd have to think about how that would then
12 apply.

13 MR. KOSES: To keep throwing on that
14 question, and you don't have to be the one to
15 answer these, if the same product is on multiple
16 portals, does that, at that point, make it
17 competitive I mean if it is a different resource
18 of the same commercial product?

19 MR. WALDRON: Well that's a good
20 question. It goes back to the fundamental issue
21 that, for lack of a better term, is it a shopping
22 model, where people can go and take their phone,

1 go on the portal provider, see a bunch of
2 different prices, press buy and pay for it or is
3 it more interactive, where the government is
4 seeking, like to your point, Matthew, a quote
5 based on the dollar size of the order.

6 That's the rub. That's where you know
7 in some portal providers, you may be going
8 directly to them to buy something, depending on
9 the nature of the contract you've entered in with
10 them. If it's a portal provider that wants to be
11 sort of a hands off, third party, and wants it to
12 be viewed as a privity of contract between the
13 third party supplier and the government, then you
14 get into your question. Do they have to compete
15 it in some manner, way, or form?

16 And I guess I don't know, and maybe I
17 could be wrong, but I don't know of many
18 commercial, the ones that we've seen today, do
19 that interactive sort of back and forth to quote,
20 negotiate and submit a quote. You can do it on
21 some other commercial tools. You can, like
22 FedBid is an example, but also you can do it on

1 GSA eBuy. It provides that ability to submit
2 quotes but that's not within the context of the
3 portal.

4 The competition can take many
5 different forms: the open market; you could have
6 task order competition consistent with the
7 schedule rules and below the simplified
8 acquisition threshold, which is now \$250,000,
9 there is less competition requirements. Like you
10 don't have to provide notice to all, right? You
11 also don't necessarily have to set aside a
12 requirement if it's an order on the schedule.

13 So if you create a portal program that
14 runs through the Schedules Program, you'd have
15 different competition requirements than if you
16 had the example where it's an open market. We've
17 got all different kind of scenarios that you have
18 to think about and ask us for feedback on.

19 And you know it gets to the
20 interesting conversation we had in other panels
21 is the dollar value of the order and the
22 complexity of what you're buying are factors that

1 should play into it theoretically when you're
2 thinking about all this. And is the government
3 comfortable with a shopping model for some things
4 and does that make sense for the market and
5 getting feedback from industry or should it
6 continue to be more interactive? That's a
7 question.

8 MS. STANTON: Yes, and I want to take
9 it in a slightly -- oh, I'm sorry, Jean, did you
10 want to say something?

11 MS. EDWARDS: Could I make a real
12 quick comment? If the product is the same
13 product and the discriminator is the unique value
14 of either the company or the service the company
15 provides, then I think the competition should be
16 across the companies and not necessarily the
17 product. So that's one piece of it.

18 I mean I really think it does matter
19 on what the problem is and what the outcome is.
20 But we, right now as a manufacturer, if we see
21 the government wants that product, then the
22 competition is really across the channel, the

1 community and not necessarily us for this
2 product.

3 MS. STANTON: And I want to take this
4 conversation and turn it slightly, which is we've
5 been talking a lot about the multiple portals.
6 It's sort of on and off. Throughout the day,
7 we've been talking about the need to have
8 multiple portal providers and that the government
9 shouldn't be limiting itself to just a couple of
10 them.

11 I guess I wanted to sort of ask what
12 is the tradeoff that you see that, as we being to
13 -- that begins to change the government's buying
14 experience, if we're setting up different
15 marketplaces for different types of commodities
16 versus sort of the model that we've used for a
17 long time with the GSA Advantage model or the
18 sort of everything in one place model, it also
19 begins to change this framework for the supplier
20 community in the terms of which portal are they
21 represented on.

22 And so I sort of wanted to ask if

1 we're talking about multiple portals, can you
2 talk a little bit about how you see the tradeoff
3 from the industry point of view on using that
4 approach?

5 MS. EDWARDS: I think it changes the
6 way we support our ecosystem completely. And for
7 us to truly support a commercial e-commerce
8 environment, if Dell EMC is the commerce portal
9 provider, it really changes our entire business
10 model for how we deal with the ecosystem across
11 federal. That would have to be something that
12 would definitely have to be elevated I think up
13 to a corporate level for us to be an e-commerce
14 portal provider, instead of a GSA Schedule holder
15 being indirect to a channel partner.

16 I'm not saying we may not be open-
17 minded to it but I think it turned me on my side.
18 And so you have to do that for our executives in
19 our company as well.

20 MR. CHVOTKIN: I think in my view, GSA
21 should not be in the business of setting up
22 marketplaces. They either exist that you can

1 take advantage of them or not but you shouldn't
2 be out there and setting them up.

3 So you have to look at in part of the
4 market research and underlying the implementation
5 of this, and even though it sort of comes in
6 Phase II, it's a little backwards, it should have
7 been do that market research before you put the
8 implementation plan together but not given that
9 opportunity, Congress, in its infinite wisdom
10 decided to do it the other way around, to take
11 those markets as you find them.

12 And I think you'll find the vendors,
13 whether it's the e-commerce portal providers or
14 the suppliers, the product offerors making that
15 offering, and that's where the agency's market
16 research will come in across the activity.

17 This is not, in my view, not a
18 substitute for the Schedules Program or the IDIQ
19 contracts but for those low dollar item values,
20 below the SAT and for those COTS items that are
21 covered here, I think you'll see the marketplace,
22 the buyers, the federal government buyers setting

1 the tone and deciding which ones are best meeting
2 their needs. And I think that will draw the
3 vendor community, the e-portal commerce providers
4 to adjust based on how the federal government is
5 approaching the marketplace on those.

6 MR. WALDRON: Continuing on that
7 thought, this shouldn't be a one-size-fits-all
8 approach for the portal providers. And even the
9 definition in the statute is pretty broad -- very
10 broad, actually. And you know the market should
11 drive solutions and customer needs or
12 requirements.

13 There could be a logistics focus of
14 the Department of Defense in terms of acquiring
15 through a portal provider that they want to
16 contract with. It's not just necessarily, quote,
17 a marketplace of third party suppliers all sort
18 of theoretically competing. You know the
19 definition isn't limited to just that. It's
20 beyond that.

21 So when you're talking about portal
22 provider, you're talking about all kinds of

1 different companies who may contract with
2 companies and suppliers that subcontract just to
3 provide product and they are consistent with this
4 as well, in terms of being able to provide
5 solutions to meet customer requirements.

6 So more choice I think is better.

7 MR. BLUM: So does that include
8 Schedules? So for example like if we get going
9 and portals are identified, should existing
10 schedule contract holders be able to compete as
11 well with those that are selling through the
12 portals that may not also be on the Schedules?

13 MR. WALDRON: Why wouldn't you want
14 that?

15 MR. BLUM: No, I'm just asking.

16 MR. WALDRON: Yes, it should be
17 expansive. Like I said earlier, there's company
18 who already provide internet services via the IT
19 Schedule 70 and there are other companies who
20 have their own portals that aren't on the
21 schedule that are utilized for customers to
22 purchase their products through.

1 MR. LYNCH: The only thing I would add
2 is just our observation from experience and that
3 is we find that the customer generally likes a
4 one stop shop approach. And that's one of the
5 reasons why we have worked really hard to want to
6 be participating in all of those different
7 platforms because you know you're not going to
8 find many buyers that are going to want to jump
9 from one site to another. They want to get in,
10 get what they need, and get out, particularly if
11 they are COTS items. So, that's the only thing I
12 would just add to it.

13 MR. LEE: Kind of just to go back on
14 the dialogue between government use requirements
15 and commercial terms and conditions and talk
16 about the tremendous opportunity we have with
17 this and what does apply to COTS items.

18 So I would ask: If you were going to
19 weave things, what government use requirements
20 should be retained?

21 MR. WALDRON: I knew you were going to
22 ask that question. And that's something I think

1 you start with the base of the Commercial Item
2 Clause and I think you make a couple different
3 suggestions. So number one, you start with that
4 basically 52.212-4-5 clauses and you try to limit
5 the you know checking the box for adding
6 additional clauses that those provisions have.

7 I think you also go back and look at
8 the authority of OMB, OMP, you know in terms of
9 not applying certain requirements to commercial
10 item acquisitions, generally. I think
11 historically, I think it's fair to say, there is
12 perception, whether it's right or wrong, that
13 there is a lot of check the box and that the
14 determinations to apply certain things to. And I
15 don't have a line if you're going to ask me that
16 follow-up question but the perception is that
17 rule are being applied to commercial item
18 contracting that could be theoretically waived
19 under existing authorities already.

20 And also to the extent you're looking
21 to leverage preexisting contract programs, you
22 know the laundry list of things that should be

1 eliminated from the GSA Schedules program or the
2 Price Reduction Clause. This could potentially
3 address some of the transactional data reporting
4 requirements as well. That's for further
5 dialogue.

6 And I just I have to read this because
7 this is you know kind of your dilemma and our
8 dilemma. Here's the guidance from the Conferees
9 on this issue in particular: The Conferees
10 encourage the Administrator, General Services, to
11 resist the urge to make changes to the existing
12 features, terms, and conditions, and business
13 models of available e-commerce portals, but
14 rather demonstrate the government's willingness
15 to adapt the way it does business -- part one.

16 Part two: Pursuant to a diligent
17 review of existing law and regulations, the
18 Conferees direct the Administrator to be
19 judicious in requesting exceptions, obviously
20 from the law.

21 So you know, everybody, my point here
22 is this is an ongoing conversation that's more

1 than just this. And we would be happy to sit
2 down and provide additional suggestions on areas
3 that there are opportunity.

4 I go back to my first comment. This
5 is a wonderful opportunity. You could do it now
6 but you can do it so much better if we work
7 together to try to streamline the process and
8 take advantage of the commercial marketplace for
9 all the portal providers, regardless of their
10 type, and then the suppliers as well, and
11 ultimately, for the customer and the American
12 people.

13 MS. HUTH: I think if there are no
14 other questions from the panel, are there some
15 questions from the audience?

16 I'll bring you a microphone.

17 PARTICIPANT: We've been talking about
18 commercial terms and conditions, not changing the
19 providers' terms and conditions and it just
20 harkens back to the discussions we had of the
21 commercial item language and you were asking if
22 that's a commercial terms and conditions to the

1 maximum extent practical, recognizing government
2 is a different entity than a private sector
3 entity.

4 What's interesting here is that we're
5 kind of not recognizing a nuanced difference
6 between all the providers in commercial items.
7 Commercial items are operating in a general
8 market. Depending on how you define the portal
9 provider, that's the market. And is there really
10 enough market interaction to say that we can, in
11 the same way we did for commercial items, just
12 without even looking at them, accept utilizing
13 commercial provider terms and conditions? Do we
14 even know what those terms and conditions are?

15 The statute -- a good example, I
16 think, is in the statute, which talks about the
17 use of transactional data; that the portal
18 providers will not use that data for anything
19 other than the fulfillment used in the
20 transaction.

21 Well what about -- what if, and I
22 don't know but what if a portal provider requires

1 the transfer of ownership of that transactional
2 data as a condition of participating in the
3 portal? Is that something the government would
4 accept, especially since the government has an
5 ownership interest in that transactional data?

6 I mean we're talking a little bit
7 ahead of ourselves. Until we understand what
8 those provider terms and conditions are and until
9 we understand whether or not they are consonant
10 with the requirements of law and policy, we can't
11 make a decision.

12 I mean I was listening to the
13 discussion here on commercial -- excuse me -- on
14 cyber counter to that and the government has a
15 cyber obligation that is even different than a
16 commercial company. It certainly doesn't last in
17 terms of the company's obligations to its
18 shareholders and to consumers but the government
19 has got a lot more on the line like you know
20 things blowing up and stuff like that. It
21 defends the nation. It seems to me that we
22 should know something about these terms and

1 conditions.

2 And I guess my fundamental question --
3 sorry for the long intro -- is do we understand
4 what the portal provider terms and conditions are
5 and do we understand them across different portal
6 providers? Because we heard three or four
7 different models on this earlier this morning.

8 MS. EDWARDS: Are you expecting us to
9 answer that?

10 PARTICIPANT: No.

11 MS. HUTH: Would you like to answer
12 that?

13 (Laughter.)

14 MS. EDWARDS: I mean the only part is
15 the e-commerce portals today are pre-negotiated
16 and so they have terms and conditions built into
17 them. And you know right, wrong, or indifferent,
18 to change them requires change management, no
19 matter what you try to do.

20 So the question is you know I've even
21 seen DoD wanting to lead with commercial terms
22 and conditions, FAR Part 12, and then they throw

1 in some Subpart 15s in there because they are
2 still a militarized body of arms. So you could
3 still lead with commercial and still spend extra
4 efforts on additional terms and conditions that
5 won't be accepted or have to be accepted.

6 So no, I don't know that we know. I
7 think what we've committed to is our own written,
8 as terms and conditions in e-commerce portals,
9 already exist. Where it's going, I think we
10 would all like more information on that.

11 MR. WALDRON: I'll say to your point,
12 there is going to -- as the law is -- unless it's
13 you and I can say well, it should be waived,
14 there is going to be a government term and
15 condition that says that the portal provider
16 agrees not to use for pricing, marketing, or
17 competitive, or other purposes any information
18 related to the product and the third party
19 supplier sold through the platform. So that's
20 going to be a government requirement right there.
21 That's going to go in here that the portal
22 provider is going to have to agree to as a

1 condition to get in the contract.

2 MS. HUTH: Any more questions? Okay,
3 down here.

4 PARTICIPANT: So I'm curious how GSA
5 Schedule holders and these portals will be held
6 to the same standards or different standards?

7 MR. WALDRON: So that's part of this
8 Phase I, Phase II, Phase III process. I think
9 that's a very good question and that's something
10 that, to the extent the GSA and OMB want to
11 leverage frequency contract vehicles, whether
12 it's schedules or contracts in other locations as
13 part of this, I just assume -- I don't know,
14 maybe not -- but just throw it in there as
15 another example you know how you leverage those
16 is part of that analysis that's going to have to
17 be done is how you sort of create a competitive -
18 - you know nothing is going to be perfect.
19 There's no -- but from a government requirement,
20 unique requirements perspective, put them on a
21 level playing field. I guess that's going
22 forward.

1 You start with threshold question.
2 Does that need to be done or are you going to
3 take advantage it? How do you do it in a manner
4 that brings up a market that provides -- because
5 the goal would be to use the schedules to get
6 more competition, more access, et cetera, which
7 seems to me that would be the fundamental goal.

8 But that's something that the
9 government's going to have a continuing dialogue
10 on.

11 MR. CHVOTKIN: I just think the two
12 are separate and I would not recommend any
13 changes to the Schedules Program, as this
14 provision gets developed and implemented.
15 There's a lot of changes that need to take place
16 to the Schedules. We talked about those before.
17 But for right now, I don't see them as being
18 identical. I think that they can coexist as
19 separate entities and, over time, the purchaser
20 is going to decide whether the Schedules Program
21 is the better purchasing vehicle or through the
22 e-commerce portal with a narrow set of programs

1 -- narrow set of purchases under this.

2 MR. WALDRON: So Alan, I have to
3 fundamentally disagree with that. There is an
4 opportunity here. Whether you try to leverage
5 the Schedules as part of the portal or not, this
6 language provides an opportunity to exercise to
7 streamline commercial item acquisition, which the
8 Schedules are supposed to be. And frankly, that
9 doesn't just impact potentially product
10 providers, it also could fundamentally impact
11 service providers as the government examines what
12 terms and conditions, current government terms
13 and conditions that apply to commercial item
14 contracts through the Schedules should or
15 shouldn't be there.

16 This is like a strategic opportunity
17 for GSA to look at the program holistically. You
18 know and I mean you heard Alan Thomas, they are
19 working on all this stuff already. So why would
20 we tell them to stop? And take advantage of this
21 as an opportunity. You know it could be missed
22 opportunity if GSA doesn't look at it. At least

1 look at it and see whether it makes sense or not.

2 MS. HUTH: All right, any more
3 difficult questions for us? Over here.

4 PARTICIPANT: So the mechanics of
5 this, if you have a portal and then you have a
6 GSA Schedule contract and your product is on the
7 portal as well, are you exempt from Price
8 Reductions Clause for what you send to the
9 portal? And then would a contracting officer
10 then come back while your product is lower on the
11 portal, we want a lower discount now on our
12 Schedule contract?

13 MR. WALDRON: That's a very good one.
14 Can I answer that? That is the exact question
15 that relates to the gentleman's question up
16 there. What's the rules of the road? What are
17 they going to look like?

18 And in that marketplace context
19 period, in the 21st century, the Price Reduction
20 Clause is, you know our view on it, doesn't make
21 any commercial business government procurement
22 sense whatsoever anyway.

1 MS. HUTH: Okay. I think we have time
2 for one or maybe two quick questions. Who's out
3 there?

4 PARTICIPANT: There's a lot of
5 oversight in credit card purchasing with the GSA
6 Program today. DoD has its vehicle that they
7 have to go through. GSA has to go through GSA
8 and this can be tracked by making a credit card
9 purchase. If all of the purchasing was going to
10 go through one portal, the portal is going to be
11 with them, how would that oversight work?

12 MR. CHVOTKIN: First of all, I hope
13 there isn't just one portal. Secondly, as Roger
14 pointed out earlier, there is, in the statute, a
15 requirement for that transaction information to
16 be made available to the government and I think
17 there are lots of data analytical tools that are
18 available to the government or that may be
19 provided by the portal providers that help the
20 government evaluate those purchase card
21 transactions, much as is taking place today.

22 So I don't see that as a significant

1 barrier to implementation here.

2 PARTICIPANT: Maybe I didn't make that
3 clear. The oversight starts at this level.
4 You're talking the government level, the
5 management level?

6 MR. CHVOTKIN: No.

7 PARTICIPANT: I'm talking the card
8 management level.

9 MR. CHVOTKIN: Yes, I am, too. Watch
10 the business rules be set up through these
11 portals. A lot of activities that the portal
12 might have or some of the portal providers have
13 talked about that they can work with the
14 government agency to provide whether it's
15 thresholds that somebody can only buy this set of
16 products, or up to this dollar value. So it can
17 work literally at the transaction level, all the
18 way up through the data analytics so that the
19 government can capture the information that it
20 needs both for audit and for oversight. At least
21 that's my understanding.

22 MS. EDWARDS: I think it's a two-way

1 street. Department of Labor was using credit
2 cards for a lot of purchases but their prime, who
3 was managing their financials, which I think was
4 Oracle Financials, didn't have a catchall system
5 and their actual implementation of all the credit
6 card use, the overspending, what they were buying
7 it on.

8 So I think there's a requirement
9 inside the government to have oversight on how
10 they're managing, monitoring their own
11 financials. I mean we, as a commercial company,
12 we have to do that. We use SAP for all of our
13 supply chain, buying for anything we're doing
14 just in time to build our products.

15 So even if you know something changes
16 and we have more e-commerce or we
17 institutionalize more financial modeling, it can
18 be done. The irony is, if we do it, the
19 government doesn't do it, or if the government
20 does and we don't do it, we both have to do it.
21 Because how do you come to a common criteria that
22 the spend is really the spend? So it has to be

1 on both sides.

2 MS. HUTH: All right, thank you to our
3 panel. That concludes this session. I think we
4 followed through on our promise to be engaging
5 and interesting. Thank you again to our
6 panelists Jean, Alan, Roger, and Kevin. Please
7 stay, we are going to have a session lead by Mr.
8 Tom Meiron where you can provide some comments if
9 nothing you heard answered some of your
10 questions. Or if some of your questions weren't
11 addressed here you can provide comments.

12 MR. MEIRON: For the last session,
13 obviously, we had three panel tracks going with
14 three distinct subject lines but we wanted to
15 block out some degree of time to allow you to
16 offer any comments that you have over other
17 subjects that were not attached to those specific
18 panel tracks. So we would just like to open up
19 the floor for any comments that you may have in
20 that area. Additionally, we also highly
21 encourage you to submit your written comments
22 through the Federal Register Notice. I believe

1 that the deadline that we're asking for is within
2 one week or the 16th of January. So I will open
3 up the floor. We have roving mics.

4 If there is no further comments or
5 concerns, I will actually turn it over to Laura
6 for some closing comments.

7 MS. STANTON: I will keep it very
8 brief. I just want to thank everybody for coming
9 out and staying with us throughout the day today,
10 as well as to all of our panel members for their
11 insights and observations about the challenges
12 and opportunities that await the government as we
13 move forward with the implementation of this.

14 So with that, I think you've heard
15 Emily, you heard Alan, both say as well as I
16 opened up the day saying this is the beginning of
17 a dialogue. This is we wanted to -- and we
18 wanted to move very quickly on this in order to
19 have your feedback for the first 90-day
20 deliverable and we will be continuing this, based
21 on the comments that we receive on
22 regulations.gov and continuing this conversation

1 as we find the best path forward.

2 I think we learned quite a bit
3 throughout the sessions throughout the day and
4 want to be able to take that, thoughtfully
5 process it, and also see what you have to say in
6 the written comments.

7 So let me urge everybody to come in
8 and actually provide us with those written
9 comments so that we can take that information and
10 incorporate it.

11 So with that, thank you once again,
12 and I look forward to continuing this.

13 (Whereupon, the above-entitled matter
14 went off the record at 3:00 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Procurement Through Commercial
e-Commerce Portals Meeting

Before: US GSA

Date: 01-09-18

Place: Washington, DC

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