



February 2017

# GOVERNMENT PROCUREMENT

United States  
Reported Opening  
More Opportunities to  
Foreign Firms Than  
Other Countries, but  
Better Data Are  
Needed

This Report Is Temporarily Restricted Pending Official Public Release.

# GAO Highlights

Highlights of [GAO-17-168](#), a report to congressional requesters

## Why GAO Did This Study

Globally, government procurement, estimated at \$4.4 trillion annually, constitutes a significant market for international business. However, according to officials from the Office of the U.S. Trade Representative (USTR), which is responsible for reporting to the WTO, government procurement markets are often closed to foreign competition. GAO was asked to review U.S. participation in international procurement agreements, which seek to ensure fair and open competition on a reciprocal basis. This report (1) broadly compares GPA-covered government procurement reported to the WTO by the United States and other parties; (2) assesses the usefulness of statistical reporting of government procurement data by GPA and U.S. FTA parties for more detailed comparisons; and (3) examines the extent to which the U.S. approach to reporting such data ensures timeliness, accuracy, and comparability. GAO analyzed WTO and U.S. documents and data pertaining to the GPA and U.S. FTAs and interviewed officials in Washington, D.C., and Geneva, Switzerland.

## What GAO Recommends

GAO is making six recommendations to USTR to improve statistical reporting of government procurement under the GPA and U.S. FTAs, including working with GPA parties to enhance their reporting, resuming the required data exchange with NAFTA parties, improving U.S. federal and state procurement data reported to the WTO, and ensuring that U.S. statistical notifications to the WTO are well documented and reviewed for accuracy. USTR did not provide official comments.

View [GAO-17-168](#). For more information, contact Kimberly M. Gianopoulos at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov).

February 2017

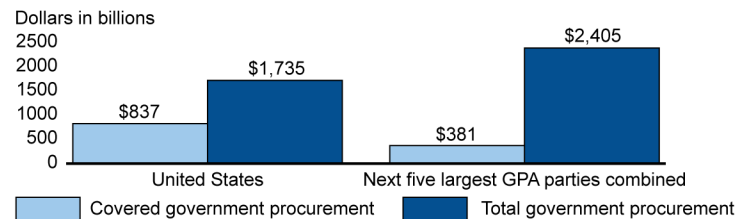
## GOVERNMENT PROCUREMENT

### United States Reported Opening More Opportunities to Foreign Firms Than Other Countries, but Better Data Are Needed

## What GAO Found

Under the World Trade Organization (WTO) Agreement on Government Procurement (GPA), the United States has reported opening more procurement covered by the agreement to foreign firms than have other parties to the agreement. For example, U.S. data for 2010—the most recent available—show that the United States reported \$837 billion in GPA-covered procurement. This amount is about twice as large as the approximately \$381 billion reported by the next five largest GPA parties—the European Union, Japan, South Korea, Norway, and Canada—combined, even though total U.S. procurement is less than that of the other five parties combined. (See figure.)

**Government Procurement Opened to Foreign Competition under the WTO GPA as Reported by the United States and Next Five Largest GPA Parties, 2010**



Source: GAO analysis of data submitted to the World Trade Organization (WTO) by selected parties to the Agreement on Government Procurement (GPA). | GAO-17-168

Deficiencies in the statistical reporting of government procurement by GPA and U.S. free trade agreement (FTA) parties, including the United States, limit detailed comparisons as well as transparency—one of the GPA's stated goals. For example, the GPA parties' reports that GAO reviewed were not always submitted on time and often lacked certain required data. Also, a lack of common understanding of key terms' definitions led to inconsistencies in GPA parties' reporting. Moreover, while parties to the North American Free Trade Agreement (NAFTA) are required to exchange government procurement data annually, NAFTA's parties have not done so since 2005; other U.S. FTAs GAO reviewed do not require reporting of government procurement data. As a result, policymakers and others have limited information with which to monitor the agreements or assess their financial benefits.

The U.S. approach to statistical reporting of GPA-covered government procurement to the WTO does not ensure the data's timeliness, accuracy, and comparability. For instance, while a recent revision of the methodology for calculating covered U.S. federal procurement improves accuracy, it creates a 6-year reporting delay. In contrast, the GPA requires the reporting of annual procurement statistics within 2 years. In addition, U.S. agencies have not developed a methodology for reporting states' covered government procurement, as the GPA requires. Instead, the United States reports total state-level procurement, which GAO estimated may exceed covered procurement by about 10 percent. Further, the expertise needed to report government procurement data to the WTO is fragmented among the four agencies involved, leading to inconsistencies, errors, and deficiencies. Federal standards for internal control call for U.S. agencies to issue relevant, accurate, and reliable information within a time frame that enables entities to carry out their responsibilities.

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## Abbreviations

EU	European Union
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System–Next Generation
FTA	Free Trade Agreement
GPA	Agreement on Government Procurement
GSA	General Services Administration
NAFTA	North American Free Trade Agreement
SDR	Special Drawing Rights
TAR	Trade Agreements Report
UN	United Nations
USTR	Office of the United States Trade Representative
WTO	World Trade Organization

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February 9, 2017

The Honorable Jeff Merkley  
United States Senate

The Honorable Tammy Baldwin  
United States Senate

Globally, government procurement—the purchase of goods or services on behalf of a government—constitutes a significant potential market for international trade, with an estimated annual size of \$4.4 trillion.<sup>1</sup> However, some procurement markets may be closed to foreign competition because of national laws, regulations, and executive policy directives, according to officials from the Office of the United States Trade Representative (USTR). Over the past four decades, the United States has played a key role in developing trade agreements—the World Trade Organization’s (WTO) Agreement on Government Procurement (GPA)<sup>2</sup> as well as numerous U.S. free trade agreements (FTA)—that open government procurement to international competition, ensure that the procurement process is conducted transparently and without bias, and provide foreign suppliers with the same rights as domestic ones. In addition, the GPA and the North American Free Trade Agreement (NAFTA) require that parties to these agreements submit annual statistical notifications of government procurements covered by these provisions (covered government procurement).<sup>3</sup> These data are important for providing transparency about the extent to which GPA and NAFTA parties have opened government procurement covered by the

<sup>1</sup>In this report, “government procurement” refers to procurement by central and subcentral governments as well as utilities and other government entities.

<sup>2</sup>World Trade Organization Agreement on Government Procurement, 1868 UNTS 194 (1994), available at [https://www.wto.org/english/docs\\_e/legal\\_e/gpr-94\\_01\\_e.ht](https://www.wto.org/english/docs_e/legal_e/gpr-94_01_e.ht) (accessed June 13, 2016) [hereinafter “the 1994 GPA”]; Revised Agreement on Government Procurement, Annex to the Protocol Amending the Agreement on Government Procurement (Mar. 30, 2012), available at [https://www.wto.org/english/docs\\_e/legal\\_e/rev-gpr-94\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm) (accessed June 13, 2016) [hereinafter “the 2014 GPA”]. In this report, “the GPA” refers to elements common to both the 1994 GPA and the 2014 GPA unless otherwise specified.

<sup>3</sup>GPA countries are required to provide annual statistics of covered government procurement under the agreement. See 1994 GPA, Art. XIX.5, and 2014 GPA, Art. XVI.4. With the exception of NAFTA, U.S. FTAs that we reviewed do not contain such a requirement.

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agreements to foreign suppliers and for demonstrating the agreements' financial benefits.

In response to your request for information on U.S. participation in international procurement agreements, we reviewed statistical reporting by the United States and trading partners in selected international procurement agreements.<sup>4</sup> Specifically, in this report, we

1. broadly compare covered government procurement reported by the United States and other parties to the GPA and U.S. FTAs;
2. assess the usefulness of GPA and U.S. FTA parties' statistical reporting for more detailed comparisons of—and transparency regarding—their covered government procurement; and
3. examine the extent to which U.S. agencies' approach to reporting statistical data on covered government procurement to the WTO ensures timeliness, accuracy, and comparability.

To address our first objective and aspects of our second and third objectives, we estimated total government expenditures and total government procurement covered by the GPA and U.S. FTAs for the United States and the other 57 countries that are parties to these agreements. We used macroeconomic data for 2008 through 2012 from the United Nations' (UN) National Accounts Official Country Data system and the International Monetary Fund's Financial Statistics and World Economic Outlook to make these estimates. In addition, we analyzed data on covered government procurement reported to the WTO for the same period by the United States and other selected parties to the GPA—the European Union (EU), Japan, Canada, South Korea, and Norway, which represent, after the United States, the next five largest GPA procurement markets. Together these parties represent over 90 percent of GPA countries' total government procurement.

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<sup>4</sup>In addition, in a related report issued in July 2015, we examined the size of government procurement markets for 60 countries with which the United States had signed trade agreements containing procurement provisions or with which the United States was currently negotiating agreements. See GAO, *International Trade: The United States and European Union Are the Two Largest Markets Covered by Key Procurement-Related Agreements*, [GAO-15-717](#) (Washington, D.C.: July 29, 2015). In a report issued in September 2016, we examined selected trading partners in selected international procurement agreements. See GAO, *International Trade: Government Procurement Agreements Contain Similar Provisions, but Market Access Commitments Vary*, [GAO-16-727](#) (Washington, D.C.: Sept. 27, 2016).

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To analyze GPA-covered government procurement by level of government and by other covered entities, we used the latest available data for the United States, which were reported to the WTO in September 2016 for fiscal year 2010, and compared them with other selected parties' statistical submissions for 2010. (We first analyzed all available data for 2008 through 2013 and determined that data for 2010 provided a reasonable basis for noting general patterns and making broad comparisons between the latest U.S. data reported and data reported by other parties.) We used information from the Federal Procurement Data System–Next Generation (FPDS-NG) as part of our assessment of U.S. federal covered government procurement. Because over 70 percent of procurement reported by the five selected GPA parties other than the United States was from the EU, we focused our analysis of other parties' data on the EU data after determining that they were sufficiently reliable for comparing U.S. and EU covered government procurement in orders of magnitude. Although we conducted consistency checks across time periods, we were not able to otherwise assess the comprehensiveness and accuracy of the data that other parties reported to the WTO under the GPA; alternative data sources were not available for these parties. In addressing our second and third objectives, we considered the effects of a number of data limitations that we identified on precise measurement and analysis of differences in the parties' covered government procurement under trade agreements as well as on analysis of covered government procurement over time. We determined that although these limitations affected our ability to perform certain detailed analyses, such as disaggregation of covered government procurement by type and trend analysis over a period of time, they were not an impediment to using the data for broad comparisons of orders of magnitude of covered government procurement.

To address all three objectives, we interviewed U.S. agency officials in Washington, D.C., from the Office of Management and Budget (OMB), the General Services Administration (GSA), USTR, and the Department of Commerce (Commerce). In addition, we discussed the availability of U.S. states' data with state officials, reviewed public documents, and contacted state audit organizations to assure ourselves there were no significant deficiencies that would affect the data we used. Moreover, we interviewed WTO and EU, Japanese, Canadian, and other officials in Geneva, Switzerland, and reviewed related documents issued by their offices as well as relevant studies.

We conducted this performance audit from August 2015 to February 2017 in accordance with generally accepted government auditing standards.



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Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. (See app. I for more information on our scope and methodology.)

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## Background

U.S. international trade agreements that cover U.S. government procurement include the GPA and bilateral and regional FTAs. Two versions of the GPA currently coexist: the prior GPA, which was signed on April 15, 1994 (in this report, “the 1994 GPA”), and a revision of the agreement, which entered into force on April 6, 2014 (in this report, “the 2014 GPA”).<sup>5</sup> According to the WTO, the 2014 GPA reflects refinements to the 1994 GPA, including updates to the agreement’s text and expansion of market access commitments. The 2014 GPA has 19 parties (including the EU) covering 47 WTO member countries (including the 28 EU member countries). Another 29 WTO members are observers; of these, 9 are in the process of acceding to the agreement. In addition to the GPA, the United States has 14 FTAs with 20 countries, 4 of which (Canada, Israel, Singapore, and South Korea) are also parties to the GPA. Almost all of the FTAs include provisions covering government procurement.<sup>6</sup>

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## GPA Framework for Government Procurement

The GPA aims to mutually open government procurement markets for goods, services, and construction services among its parties, according to the WTO.<sup>7</sup> Under the GPA, foreign suppliers are able to compete alongside U.S. suppliers for U.S. government contracts covered by the

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<sup>5</sup>The 1994 and 2014 GPAs currently coexist because Switzerland, a party to the 1994 GPA, is still in the process of adopting the revised GPA. According to Commerce officials, Switzerland anticipated ratifying the 2014 GPA by the end of 2017.

<sup>6</sup>Of the 15 other countries that are parties to U.S. FTAs with procurement chapters—Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Oman, Panama, and Peru—none are parties to the GPA. The U.S.–Jordan FTA includes an article on government procurement. This article states that the parties to the FTA “shall enter into negotiations with regard to Jordan’s accession” to the GPA. Commerce officials noted that the U.S.–Jordan commitment regarding government procurement does not include any specific procedural or market access commitments.

<sup>7</sup>According to the WTO, the GPA is a plurilateral agreement—that is, it has a narrower group of signatories than most WTO agreements, which have all WTO members as signatories.

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agreement, and U.S. suppliers are able to compete for covered foreign government contracts in accordance with the framework established by the GPA. Under this framework, parties to the GPA are obligated to follow the processes for carrying out government procurement listed below:

- Parties to the agreement must treat other parties' goods, services, and suppliers no less favorably than those of domestic sources or any other party and may not discriminate against locally based suppliers on the basis of foreign affiliation or ownership.
- The agreement prohibits the use of offsets in covered government procurement—that is, any condition or undertaking that encourages local development by means of local content or investment requirements, countertrade, or similar requirement.
- The agreement generally requires that the covered government procurement be conducted in a transparent, fair, and nondiscriminatory manner.
- The agreement specifies three methods of procurement that may be specified in a contract, provided that the procuring entity meets the conditions set out in the agreement:<sup>8</sup>
  1. *open tendering*, in which all interested suppliers may submit a tender;
  2. *selective tendering*, in which only qualified suppliers are invited to submit a tender; and
  3. *limited tendering*, in which the procuring entity may contact a particular supplier (or more than one supplier) of choice.

According to USTR, to implement U.S. obligations under the international agreements that cover government procurement, the United States waives preferential purchasing requirements—such as the requirement to purchase U.S.-made products—that would otherwise be inconsistent with

the agreements.<sup>9</sup> For example, USTR has waived the Buy American Act<sup>10</sup> and other preferential provisions for eligible products in acquisitions covered by various trade agreements.<sup>11</sup>

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<sup>8</sup>For more information on international procurement agreements, see [GAO-16-727](#).

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## Covered Government Procurement

Under the agreements we reviewed, each party's covered government procurement is defined in part through coverage schedules in annexes to the agreement. These annexes identify the procuring entities covered by the agreements at the central and subcentral government levels as well as, in some agreements, procuring entities at an additional level (in this report, "other government entities").<sup>12</sup> These annexes further identify the goods and services and construction services whose procurement by the specified entities is covered by the agreement.

In addition, each agreement delineates threshold values for coverage of government procurement. Below these thresholds, procurement activities are not covered by the agreement, and foreign access in accordance with the procedure in the agreement is not guaranteed. In the GPA, these threshold values are expressed as special drawing rights (SDR) in

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<sup>9</sup>The Trade Agreement Act of 1979, as amended, authorizes the President to waive any law, regulation, procedure, or practice for eligible products from certain countries that results in less favorable treatment than that accorded to domestic products and suppliers or than that accorded to eligible products or suppliers of a party to the GPA. 19 U.S.C. § 2511. Such countries include those that have signed an international trade agreement with the United States or that meet certain other criteria such as being a least-developed country. 19 U.S.C. § 2511. The act also defines a least-developed country to be any country on the UN General Assembly list of least-developed countries. 19 U.S.C. § 2518. According to the UN, least-developed countries are defined as low-income countries suffering from structural impediments to sustainable development. For identifying least-developed countries, three criteria are used by the UN's Committee for Development Policy: gross national income per capita, the Human Assets Index, and the Economic Vulnerability Index.

<sup>10</sup>48 C.F.R. § 25.402(a)(1). The Buy American Act is an example of domestic preference legislation that places conditions on federal government purchases to require that federal agencies procure unmanufactured articles, materials, and supplies that have been domestically produced or mined, and manufactured articles, supplies, and materials that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States for use in the United States, subject to a number of exceptions. 41 U.S.C. §§ 8301–8305. The Buy American Act was enacted in 1933 and applies to direct purchases by the federal government of more than a statutorily established level (currently \$3,000). Congress has enacted other forms of domestic preference legislation in the years following that can impose a higher domestic content requirement or apply to indirect purchases.

<sup>11</sup>Federal Acquisition Regulation (FAR) Part 25.

<sup>12</sup>The annexes and sections we reviewed used different terms to refer to this level of coverage. Specifically, the GPA annex is titled "Other Entities," the relevant sections in NAFTA and the Australia-FTA are titled "Government Enterprises," and the relevant section in the Colombia-FTA is titled "Other Covered Entities." For convenience, we refer to all of these coverage schedules as concerning other government entities.

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coverage schedules delineating covered entities.<sup>13</sup> The United States converts the threshold values set in the GPA to official dollar amounts, which USTR reviews, and may revise, every 2 years and publishes in the *Federal Register*.<sup>14</sup> For calendar years 2016 and 2017, the United States converted the GPA threshold values to \$191,000 for procurement of goods and services and to \$7.4 million for procurement of construction services for covered central government entities.<sup>15</sup> These amounts help define the opportunities available to U.S. and foreign firms seeking to compete for government procurement contracts in the countries that are parties to the agreements.

Moreover, parties to these agreements identify, by general category or entity, exclusions or exceptions to the coverage schedules. According to USTR officials, all international parties to the agreements we reviewed have certain procurements not open to foreign suppliers, including those not open for social, economic, or national security reasons. For example, the United States specifies exclusions that include set-asides for small businesses and for women-owned and veteran-owned businesses.

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## U.S. Agencies Involved in Oversight of U.S. Government Procurement Commitments

According to USTR officials, OMB, USTR, Commerce, and GSA participate in overseeing the U.S. commitments related to government procurement under the trade agreements in a number of ways, including the following:

- OMB's Office of Federal Procurement Policy sets the overall direction for federal procurement policies and regulations, which are driven by federal laws.
- USTR negotiates the agreements and submits data to the WTO.

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<sup>13</sup>An SDR is an international reserve asset created by the International Monetary Fund based on four international currencies, each given a weight in the total composition reviewed and determined by the International Monetary Fund's Executive Board every 5 years. The rate used by the United States for the calendar years 2016 and 2017 is 1 USD = 0.68 SDR.

<sup>14</sup>FAR § 25.402. Also, see, e.g., Procurement Thresholds for Implementation of the Trade Agreements Act of 1979. 80 Fed. Reg. 77,694 (Dec. 15, 2015).

<sup>15</sup>80 Fed. Reg. 77,694 (USTR publication of U.S. dollar procurement thresholds for relevant trade agreements for calendar years 2016 and 2017).

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- Commerce’s International Trade Administration monitors compliance with the agreements, supports USTR’s activities, and provides services to promote U.S. exports.
  - GSA provides technical support to USTR in preparing the data for statistical notifications required by the GPA.

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## The United States Has Reported a Larger Amount of Covered Government Procurement Than Other GPA and U.S. FTA Parties

While recent and complete data on covered government procurement are not available, we estimated, using data available for 2008 through 2012, that GPA and U.S. FTA parties’ annual average government procurement covered by these agreements totaled about \$1.6 trillion—approximately one-third of their average total annual government procurement in those years. Overall, the amount of GPA-covered government procurement that the United States reported for 2010—the most recent year for which U.S. data are available—was more than double the combined amount reported by the five GPA parties with the next largest procurement markets (in this report, “the next five largest GPA parties”).<sup>16</sup> At the central government (federal) level, U.S. covered government procurement reported for 2010 was also higher than the combined total reported by the next five largest GPA parties.

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## About a Third of All Estimated Government Procurement by GPA and U.S. FTA Parties Is Covered by the Agreements

Using available macroeconomic data, we estimated that average annual covered government procurement reported by the United States and the 57 other countries that are parties to the GPA and U.S. FTAs totaled about \$1.6 trillion per year from 2008 through 2012—about one-third of the average annual \$4.4 trillion total government procurement that we estimated for these countries for this period.<sup>17</sup> This amount estimated for covered government procurement

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<sup>16</sup>We identified, and discuss elsewhere in this report, a number of limitations that affect the usefulness of these data for detailed comparisons. However, we determined that these data are useful for broad comparisons of covered procurement by parties to the GPA and U.S. FTAs.

<sup>17</sup>To estimate total government expenditures and total government procurement for the United States and the 57 other countries that are parties to the WTO GPA and U.S. FTAs, we analyzed macroeconomic data from 2008 through 2012 from the UN’s National Accounts Official Country Data database and the International Monetary Fund’s Financial Statistics and World Economic Outlook. We used the 2008–2012 time period for these estimates in order to base them on the most reliable, consistent, and comparable sets of data available.

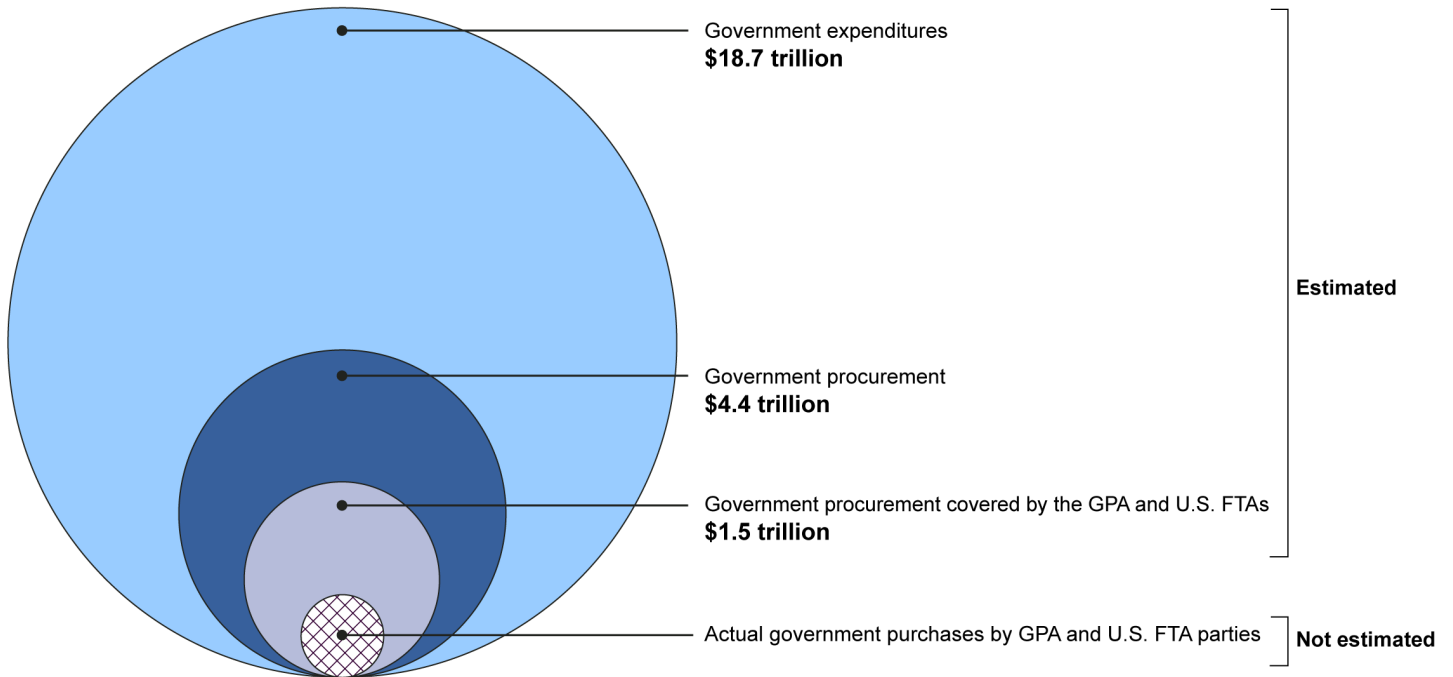
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- comprises covered government procurement of goods and services by specified government entities at the central and subcentral levels, above certain predetermined thresholds, and not excluded by the agreements;
  - is largely a measure of the opportunities available to domestic and foreign firms seeking to openly compete for government procurement contracts in the countries that are parties to the agreements; and
  - includes procurements conducted through limited tendering procedures.

In a larger context, covered government procurement under the GPA and U.S. FTAs represents less than one-tenth of the 58 countries' estimated \$18.7 trillion in average annual government expenditures. Figure 1 shows our estimates of GPA and U.S. FTA parties' average annual government procurement covered by the agreements, relative to their estimated government expenditures and total government procurement, in 2008 through 2012.<sup>18</sup>

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<sup>18</sup>These estimates of government procurement do not include data on utilities and other government entities because, although the GPA covers government procurement by these entities, international macroeconomic statistics for government procurement do not include such data. See [GAO-15-717](#).

**Figure 1: Estimated Average Annual Government Expenditures, Total Government Procurement, and Government Procurement Covered by the WTO GPA and U.S. FTAs, 2008—2012**



Sources: GAO analysis of data from the United Nations' National Accounts Official Country Data; data from the International Monetary Fund's Financial Statistics and World Economic Outlook; and data submitted to the World Trade Organization (WTO) by parties to the Agreement on Government Procurement (GPA). | GAO-17-168

Notes: Data shown for government procurement do not include procurement by utilities and other government entities because, although the GPA covers procurement by these entities, international macroeconomic statistics for government procurement do not include such data.

Data shown for "Government expenditures" and "Government procurement" update a previous analysis, which we published in 2015, of estimated average annual total government expenditures and procurement for the United States and 57 countries that are parties to the WTO GPA and U.S. free trade agreements FTAs in 2008 through 2012. See GAO, *International Trade: The United States and European Union Are the Two Largest Markets Covered by Key Procurement-Related Agreements*, GAO-15-717 (Washington, D.C.: July 29, 2015). Data shown for "Government procurement covered by the GPA and U.S. FTAs" include \$1.168 trillion in average annual covered government procurement reported by the United States and parties with the next five largest procurement markets for 2008 through 2012. We assumed that the remaining countries' government procurement, totaling about \$373 billion, was covered by the agreements. Not all countries reported data for all years.

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Available 2010 Data Show Covered Procurement Reported by the United States Was Twice the Combined Amount Reported by the Next Five Largest GPA Parties

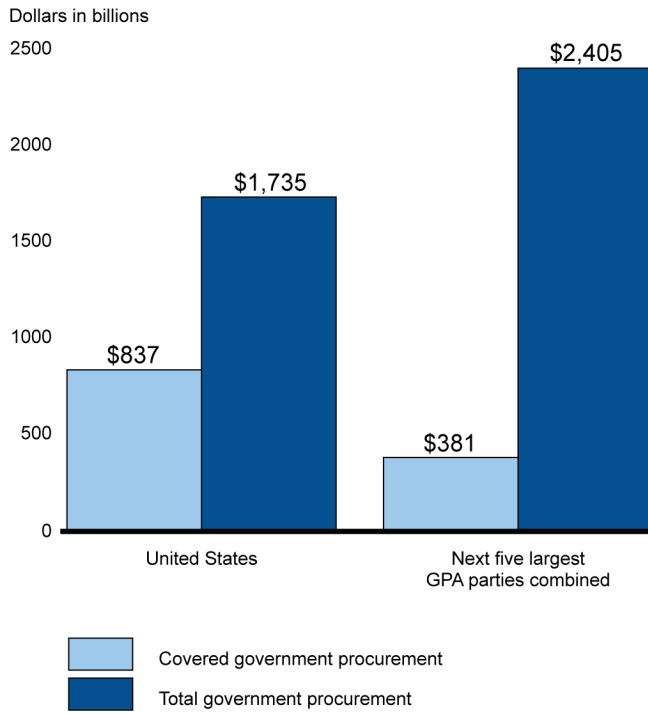
Data available from the WTO for 2010 show that the United States reported more than twice as much GPA-covered government procurement as the next five largest GPA parties combined, although total U.S. government procurement is less than the combined total for the other five parties. In its statistical notification for 2010—the most recent U.S. submission to the WTO to meet the 1994 GPA statistical requirements, providing the most complete data for all selected countries—the United States reported covered government procurement totaling about \$837 billion. In contrast, the combined covered government procurement reported by the next five largest GPA parties—the EU, Japan, South Korea, Norway, and Canada—for 2010 was about \$381 billion. Using macroeconomic statistics, we estimated that total government procurement by the United States and the next five largest GPA parties in 2010 was about \$1.7 trillion versus \$2.4 trillion, respectively.<sup>19</sup> (See fig. 2.)

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<sup>19</sup>Government procurement includes procurement by central and subcentral governments as well as other government entities, such as utilities, that are covered by the GPA.



**Figure 2: Covered Government Procurement Reported to the WTO and Estimated Total Government Procurement by the United States and Next Five Largest GPA Parties, 2010**



Source: GAO analysis of data submitted to the World Trade Organization (WTO) by selected parties to the Agreement on Government Procurement (GPA). | GAO-17-168

Notes: Data shown are for procurement by central and subcentral governments as well as utilities and other government entities.

The “next five largest GPA parties” are the parties to the GPA with, after the United States, the next five largest procurement markets—Canada, the European Union, Japan, South Korea, and Norway.

Data shown for covered government procurement are based on data for 2010 submitted to the WTO by the United States and the next five largest GPA parties.

Data shown for total government procurement are based on macroeconomic data from the United Nations’ National Accounts Official Country Data and the International Monetary Fund’s Financial Statistics and World Economic Outlook.

According to the available data, the EU’s reported covered government procurement ranked second to the United States’ in 2010, at about \$331 billion. For the same year, Japan reported about \$25 billion in covered government procurement; South Korea reported about \$18 billion; Norway reported about \$5 billion; and Canada reported about \$2 billion, although the data available for Canada represent only central government

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procurement.<sup>20</sup> Table 1 shows these GPA parties' reported covered government procurement by central governments, subcentral governments, and utilities and other government entities as well as our estimates of the value of each party's total government procurement. The U.S. and EU total government procurement markets are comparable in size, with estimated annual procurement of about \$1.7 trillion and \$1.6 trillion, respectively, in 2010; however, the United States reported more than twice as much covered government procurement as the EU—\$837 billion versus \$331 billion, respectively. (Elsewhere in this report we discuss limitations in the data that affected our ability to perform certain analyses and precluded more precise comparisons.)

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<sup>20</sup>Norway has the third largest government procurement among GPA parties, in part because its sovereign wealth fund—estimated by the Sovereign Wealth Fund Institute at more than \$800 billion—ranks first in the world by the

**Table 1: Covered Government Procurement Reported to the WTO and Estimated Total Government Procurement by the United States and Next Five Largest GPA Parties, 2010**

Dollars in millions

	Covered government procurement				Total government procurement (5)
	Central government (1)	Subcentral government (2)	Utilities and other government entities (3)	Total (4)=(1)+(2)+(3)	
United States	198,024	627,818	11,619	837,462	1,735,219
European Union	111,444	174,254	42,891	330,589	1,627,615
Norway	1,846	2,821	351	5,018	41,955
South Korea	1,385	3,279	13,709	18,372	105,299
Japan	13,300	11,681	Not reported	24,981	406,500
Canada	2,250	Not reported	Not reported	2,250	223,608
<b>Total</b>	<b>328,249</b>	<b>819,853</b>	<b>70,570</b>	<b>1,218,672</b>	<b>4,140,196</b>

Source: GAO analysis of data from statistics submitted by parties to the World Trade Organization (WTO) Agreement on Government Procurement (GPA) and macroeconomic data from the United Nations' National Accounts Official Country Data and the International Monetary Fund's Financial Statistics and World Economic Outlook. | GAO-17-168.

Notes: Data shown for GPA-covered government procurement for the United States, European Union, Norway, South Korea, and Canada are based on statistics reported to the WTO for 2010. Canada does not report procurement data for subcentral government or for utilities and other government entities, and Japan does not report procurement data for utilities and other government entities. The data reported by the United States reflect total rather than covered procurement at the subcentral government level. In general, we found that limitations in the data reported by the United States and other five parties, examined elsewhere in this report, affected our ability to perform certain analyses and precluded more precise comparisons. Because of rounding, covered procurement amounts shown may not sum to totals.

Data shown for total government procurement are based on macroeconomic data from the United Nations' National Accounts Official Country Data and the International Monetary Fund's Financial Statistics and World Economic Outlook.

We found that the United States and the other five largest GPA parties reported for 2010 that an average of about 27 percent of all covered government procurement was at the central government level and 67 percent was at the subcentral level; however, there is large variation among the parties' reported procurement. For the United States, the EU, and Norway, subcentral government procurement constitutes over half of the covered government procurement reported by each party. For South Korea, procurement by utilities and other government entities constitutes

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close to 75 percent of reported covered government procurement. For Japan, central government procurement constitutes over half of reported covered government procurement. Overall, covered government procurement by government entities such as utilities represents about 6 percent of the combined covered government procurement reported by the United States and the next five largest GPA parties; however, some GPA parties, such as Canada and Japan, do not report procurement by these entities.

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### The United States Has Reported Opening More Central Government Procurement to Foreign Suppliers Than Have Other GPA Parties

We calculated the percentages of covered central government procurement relative to total central government procurement for GPA parties, based on data reported to the WTO.<sup>21</sup> Total central (federal) government procurement includes above-threshold and below-threshold procurement by covered entities reported to the WTO as well as procurement excluded from GPA coverage but reported to the WTO.<sup>22</sup> Our analysis of detailed data on central government procurement, which were available only for the United States, Japan, and South Korea, shows that the United States reported opening its central (i.e., federal) government procurement market to foreign competitors to a greater extent than Japan and South Korea.<sup>23</sup> The \$198 billion in U.S. covered federal procurement reported for 2010 (see table 1) represents about 80 percent of the \$247 billion in total reported U.S. federal procurement that

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<sup>21</sup>We sought to more precisely calculate covered government procurement for individual entities or levels of government than in our estimates of covered government procurement of all entities or levels of government to the GPA and U.S. FTAs earlier in our report. We did not examine subcentral procurement or procurement by utilities and other entities, because data on noncovered government procurement for such entities are not available. The 1994 GPA includes a provision that requires countries to report statistics on the estimated value of contracts awarded by central government entities covered by the agreement, both above and below the threshold value, on a global basis and broken down by entities. For procurement by subcentral governments or by utilities and other entities, the provision requires statistics on the estimated value of contracts awarded above the threshold value on a global basis and broken down by categories of entities.

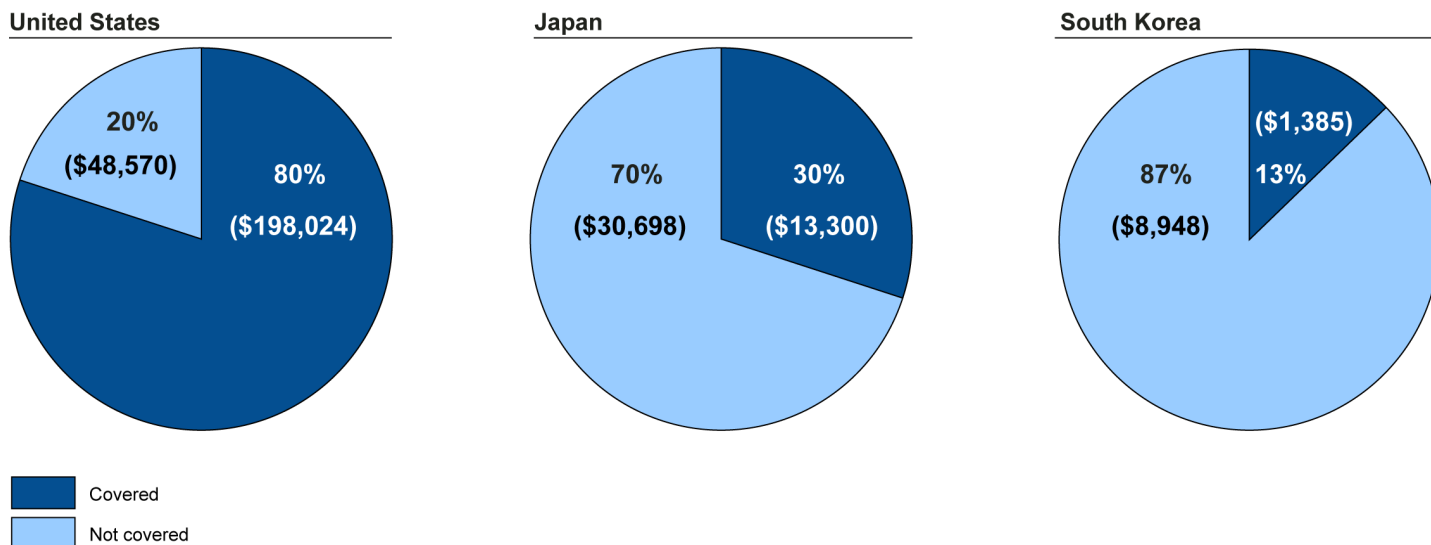
<sup>22</sup>Examples of procurement excluded from GPA coverage but reported to the WTO include, in U.S. federal contracting, small business and minority enterprise set-asides contained in the small business, small disadvantaged business, women-owned small business, service-disabled veteran-owned small business, Hubzone, and 8(a) programs.

<sup>23</sup>We focused this analysis on the United States, Japan, and South Korea because only these countries reported detailed data on noncovered central government procurement to the WTO.

year.<sup>24</sup> In contrast, Japan's and South Korea's reported covered central government procurement for 2010 constituted about 30 percent and 13 percent, respectively, of their reported total central government procurement. (See fig. 3.)

**Figure 3: United States', Japan's, and South Korea's Covered Central Government Procurement as a Percentage of Total Central Government Procurement Reported to the WTO, 2010**

Dollars in millions



Source: GAO analysis of data submitted to the World Trade Organization (WTO) by selected parties to the Agreement on Government Procurement (GPA). | GAO-17-168

These amounts of covered central government procurement are the value of contracts largely open to all domestic and foreign competitors. However, covered government procurement also includes procurement made under limited tendering provisions. According to USTR officials, limited tendering is considered to be covered procurement under the GPA.<sup>25</sup> GPA parties are to report the use of these provisions. (See app. II for more information about limited tendering.)

<sup>24</sup>In addition to competitively open covered government procurement, total reported federal procurement includes above-threshold limited tendering of about \$47 billion, below-threshold limited tendering of about \$3 billion, above-threshold exclusions or small-business set-asides of about \$35 billion, and below-threshold exclusions of about \$10 billion.

<sup>25</sup>Limited tendering provisions allow procuring entities to contact one or more suppliers directly.

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The EU reported covered central government procurement of about \$111 billion for 2010. However, we were unable to estimate the percentage of the EU's total central government procurement that this amount represented because, unlike the United States, Japan, and South Korea, the EU does not separately report below-threshold procurement by covered entities. For 2010, the EU reported a macroeconomic estimate of about \$676 billion in total central government procurement that does not distinguish procurement not covered by the GPA, including below-threshold amounts. According to EU officials, these data are not available because the EU does not require member states to report data on below-threshold procurement in the EU procurement database.<sup>26</sup> According to the EU notification to the WTO, below-threshold procurement can be estimated by deducting above-threshold procurement from the reported total central government procurement; using this calculation, we estimated that the EU's covered central government procurement represented 16 percent of its total central government procurement in 2010.<sup>27</sup> We did not estimate this percentage for Canada and Norway, because Canada does not report below-threshold central government procurement or procurement excluded from the agreement and Norway does not disaggregate limited tendering or exclusions by level of government.

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### Several Factors Could Explain Large Differences in GPA Parties' Covered Procurement as Share of Total Procurement

There are several possible explanations for the large differences between the United States and the next five largest GPA parties' covered government procurement relative to their total government procurement. For example, because parties negotiate coverage, the percentage value depends on (1) the value of actual individual procurements vis-à-vis the set threshold levels, (2) the list of covered entities and covered types of government procurement in parties' GPA commitments, and (3) exclusions from coverage.<sup>28</sup> Many EU member states, as well as Japan

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<sup>26</sup>The EU relies on member reporting and a centralized database of contract award data to prepare its WTO statistical notifications. Only 18 percent of total government procurement is reported to the centralized database; disaggregated data on noncovered government procurement by central and subcentral governments are not in the database and are not otherwise available.

<sup>27</sup>As table 1 shows, reported U.S. and EU covered central government procurement were about \$198 billion and \$111 billion, respectively, in 2010. These data suggest that the United States has opened its central government (federal) procurement market to foreign competitors to a larger extent than the EU.

<sup>28</sup>See [GAO-16-727](#) for a description of GPA parties' market access commitments and exclusions.

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and South Korea, have actual government expenditures smaller than the United States' and are therefore likely to have more smaller-value individual procurement contracts that fall below the GPA threshold levels. There is also variance in parties' commitments in terms of covered entities. For example, Canada, the EU, Japan, Norway, and South Korea use a positive list approach for designating covered services—that is, listing only the services covered by the GPA—while the United States uses a negative list approach—that is, listing only services by a covered entity meeting the procurement threshold that are not covered by the agreement. According to Commerce officials, a negative list approach provides more liberal coverage than a positive list approach because it is not an exhaustive list and allows for coverage of new services. Moreover, our analysis of EU-reported data found that over 80 percent of EU total government procurement is not covered by the EU commitments. Procurements can fall outside EU commitments if they are below threshold or for other reasons, such as when they are specifically excluded. For example, EU procurement for hotel and accommodation services, water, defense equipment, and fuels for the production of energy are excluded from the agreement.<sup>29</sup>

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## Deficiencies in Statistical Reporting of Government Procurement Limit Detailed Comparisons and Transparency

Government procurement statistics reported by the GPA and U.S. FTA parties that we reviewed have deficiencies and inconsistencies that limit detailed comparisons of, and transparency regarding, the parties' covered procurement. These statistics provide transparency—one of the GPA's main goals, according to the WTO—about parties' implementation of the GPA as well as the agreement's benefits. However, our review of data that the United States and next five largest GPA parties submitted to the WTO for 2008 through 2013 found that a number of parties did not submit the reports annually, the submitted reports did not include all required data, and each party's reports included inconsistencies that limit the data's comparability. Further, a lack of common understanding on definitions of key terms has led to inconsistent reporting practices among the GPA parties, and a GPA statistical working group has made little progress in addressing such challenges. Of the U.S. FTAs we reviewed, only NAFTA requires its parties to report annual statistics on government procurement; however, the last data exchange between the three NAFTA

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<sup>29</sup>As part of the calculations, we used the methodology laid out in the EU GPA notifications to the WTO. Specifically, the 2011 EU notifications stated that "the value of contracts below thresholds can be estimated by deducting above threshold procurement from the total expenditures on goods and services."

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parties took place in 2005. As a result, information about the extent to which U.S. FTA partner governments open procurement to U.S. suppliers is not available. The UN's *Principles Governing International Statistical Activities* states that high-quality international statistics are a fundamental element of global information systems and that sources and methods should be chosen to ensure timeliness and other aspects of quality. Moreover, related good practices encourage countries to continually improve the quality and transparency of their statistics and systematically establish common concepts, classifications, standards, and methods.<sup>30</sup>

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### Statistical Reporting Requirements in 1994 and 2014 GPA Differ in Some Respects

Under the 1994 GPA, which entered into force in 1996, countries are required to provide detailed statistics on their procurement, though the requirements will change with submissions of 2014 procurement data under the 2014 GPA.<sup>31</sup> Under the 1994 GPA, each party is to collect and provide to the committee, on an annual basis, the following statistics for central government entities' procurement:

- the estimated value of contracts awarded, both above and below the threshold values, on a global basis and broken down by entity;
- the number and total value of contracts awarded above the threshold values, broken down by entity and by category of products and services according to uniform classification systems;
- the number and total value of contracts awarded through limited tendering, broken down by entity and by categories of products and services; and
- the number and total value of contracts awarded under exceptions to the GPA, broken down by entities.

The statistical reporting requirements on procurement by subcentral government and by utilities and other government entities are generally similar to the requirements for procurement by central government

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<sup>30</sup>United Nations, *Principles Governing International Statistical Activities*, accessed December 2, 2016, [http://unstats.un.org/unsd/accsub-public/principles\\_stat\\_activities.htm](http://unstats.un.org/unsd/accsub-public/principles_stat_activities.htm).

<sup>31</sup>Submissions of procurement data for 2014 and subsequent years are subject to the 2014 GPA's requirements. For statistical reporting requirements under the 1994 GPA, see Article XIX Information and Review as Regards Obligations of Parties, [https://www.wto.org/english/docs\\_e/legal\\_e/gpr-94\\_02\\_e.htm#articleXIX](https://www.wto.org/english/docs_e/legal_e/gpr-94_02_e.htm#articleXIX). For statistical reporting requirements under the 2014 GPA, see Article XVI Transparency of Procurement Information, [https://www.wto.org/english/docs\\_e/legal\\_e/rev-gpr-94\\_01\\_e.htm#articleXVI](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm#articleXVI).



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entities. However, under the 1994 GPA, parties are not required to report the value of contracts awarded by subcentral government and other entities below the threshold values or the number of contracts awarded. In addition, under the 1994 GPA, each party is required to provide statistics on the country of origin of products and services purchased by its entities to the extent that such information is available.

The 2014 GPA's statistical reporting requirements differ in some respects from the 1994 GPA's. For example:

- The 2014 GPA requires countries to provide their annual statistical notifications within 2 years of the end of the reporting period, whereas the 1994 GPA does not specify a reporting deadline.
- While the 1994 GPA requires parties to report the estimated value of below-threshold contracts awarded for central government procurement and procurement excluded from the agreement, the 2014 GPA does not require these data. As a result, policymakers will not have available data to calculate GPA parties' total central government procurement in 2014 and subsequent years, unless parties voluntarily report such data. Further, it will not be possible to determine the extent of covered government procurement as a percentage of total central government procurement.
- Whereas the 1994 GPA requires data on the country of origin of purchased goods and services, the 2014 GPA does not require such data. As a result, policymakers will not be able to use government procurement data that GPA parties submit to the WTO for 2014 and subsequent years to assess the degree to which procuring entities award contracts to foreign sources.<sup>32</sup>
- The 2014 GPA allows a party, instead of submitting data in its notification to the WTO, to notify the WTO of the website address where the party publishes its statistics, with any instructions necessary to access and use such statistics, as long as the statistics are published in a manner that is consistent with the GPA statistical reporting requirements. As a result, the format of data that parties report to meet their GPA annual statistical reporting requirements may vary from the format of data they reported for previous years.

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<sup>32</sup>Under the 1994 GPA, to the extent that such information is available, parties are to provide statistics on the country of origin of products and services purchased by their entities.

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## Deficiencies in GPA Parties' Reporting Limit Transparency and Comparisons of Parties' Procurement

Although the data the United States and next five largest GPA parties reported for 2010 enable broad comparisons, deficiencies in their reporting prevent more detailed comparisons of their covered procurement. A lack of timely, complete, and consistent statistical reporting by the parties limits transparency, one of the GPA's main goals stated by the WTO. As a result, trade officials are limited in their ability to identify anomalies in, and monitor, other parties' compliance with their GPA commitments. These reporting deficiencies also reduce policymakers' ability to obtain an accurate understanding of the relative benefits of the GPA—that is, the extent to which they and other parties have opened procurement to one another's suppliers.

We identified the following deficiencies in the GPA statistical notifications we reviewed.

- **Incomplete reporting.** Parties have not provided data for all entities covered by the agreement, as required. For example, although Canada submitted annual notifications with central government procurement data for 2008 through 2013, the notifications did not include data on procurement by subcentral governments or by other government entities.<sup>33</sup> According to Canadian officials we spoke with, only 10 to 15 percent of Canada's government procurement occurs at the central government level. These officials said that Canada is working to devise a methodology to report on subcentral government procurement. Similarly, Japan's annual notifications have not included procurement by entities such as utilities and state-owned enterprises that are covered by the GPA. Moreover, Norway reports total limited tendering for all levels of government and other covered entities rather than disaggregating these data by level of government. In addition, while the GPA requires parties to provide data on the value and number of covered contracts, EU member countries report only the contracts' value.
- **Lack of timely reporting.** A number of parties have not provided their annual statistical notifications for 2008 through 2013 to the WTO in a timely manner. For example, the United States submitted its most recent notification, for fiscal year 2010, in September 2016 and has not submitted notifications for fiscal years 2011 through 2013. South Korea has not submitted notifications for any year except 2010, and

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<sup>33</sup>According to USTR officials, Canada was not required to submit statistics on subcentral procurement until 2010, when coverage of subcentral procurement was added to the WTO GPA through a U.S.-Canada bilateral agreement.

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Japan has not submitted a notification for 2012 although it did so for other years through 2013.

- **Inconsistencies in reporting.** Our review of the statistical notifications submitted by the United States and next five largest GPA parties found a number of inconsistencies. For example, Canada switched its reporting from fiscal to calendar year in 2010, making it more difficult to compare Canada's data over time. Japan denominates central government procurement in SDR and subcentral government procurement in yen, but its statistical notifications do not provide a conversion rate. Norway reports three estimates of covered government procurement, which are disaggregated by different characteristics, but none of the estimated totals match the others. The United States provided data on federal procurement for 2008, 2009, and 2010, but the U.S. data on overall and covered federal procurement in 2008 and 2009 are inconsistent because of a change in the reporting methodology that began with the 2009 notification.<sup>34</sup>



Figure 4 shows the deficiencies and other issues that we identified in the United States and next five largest GPA parties' statistical reporting.

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<sup>34</sup>We discuss the reasons for the change in the U.S. methodology elsewhere in this report.

**Figure 4: Annual Reporting of Government Procurement Statistics for 2008-2013 to the WTO by the United States and Next Five Largest 1994 GPA Parties**

	Incomplete reporting	Annual statistics reported as of December 2016 <sup>a</sup>						Reporting inconsistencies
		2008	2009	2010	2011	2012	2013	
<b>Canada</b>	<i>Central government:</i> Estimated below-threshold procurement not reported. <i>Subcentral government, utilities and other entities:</i> Not reported.	✓	✓	✓	✓	✓	✓	In 2010, Canada changed its reporting period from fiscal year to calendar year.
<b>European Union</b>	<i>Central government:</i> Estimated below-threshold procurement not reported. <i>Central government, subcentral government, utilities and other entities:</i> Number of covered contracts awarded not reported.	✓	✓	✓	✓	✓	⊘	In 2012, the European Union changed its method for calculating values and identifying defense contracts.
<b>Japan</b>	<i>Utilities and other entities:</i> Not reported.	✓	✓	✓	✓	⊘	✓	For 2008 through 2013, Japan reported central government procurement denominated in special drawing rights and reported subcentral government procurement in yen, with no conversion rate.
<b>Norway</b>	<i>Limited tendering:</i> Not disaggregated by levels of government.	✓	✓	✓	✓	✓	⊘	For 2008 through 2012, Norway reported inconsistent totals for procurement by entities and procurement of goods and services.
<b>South Korea</b>	None identified	⊘	⊘	✓	⊘	⊘	⊘	For 2010, South Korea reported inconsistent totals for subcentral government procurement by entities and procurement of goods and services.
<b>United States</b>	<i>Central government:</i> Reporting on number and total value of contracts awarded not broken down by categories of products and services. <i>Subcentral government, utilities and other entities:</i> Includes total, not covered procurement.	✓	✓	✓	⊘	⊘	⊘	For 2009, the United States changed its methodology for reporting federal procurement statistics.

-  Annual statistics reported
-  Annual statistics not reported

Source: GAO analysis of data submitted to the World Trade Organization (WTO) by selected parties to the Agreement on Government Procurement (GPA). | GAO-17-168

<sup>a</sup>Under the 1994 GPA, parties are required to report, on an annual basis, statistics on procurements covered by the agreement. Under the 2014 GPA, parties are required to report annual statistics on covered procurements within 2 years of the end of the reporting period; as of December 2016, none of the six parties shown had reported these statistics for 2014 through 2016.

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## Common Understanding of Definitions of Key Terms Is Lacking among GPA Parties

We found several areas where there was a lack of common understanding about the definition of key terms for reporting procurement data required by the GPA. This led to inconsistency in the reporting practices of the GPA parties we reviewed, which affects the usefulness of the reported data for detailed comparisons of the parties' covered government procurement, diminishing transparency.

- **Government procurement.** According to WTO officials, there is no official definition of government procurement; as a result, GPA parties lack a clear, common understanding or practice for computing its value. Our review of statistical data submitted by the United States and the next five largest GPA parties for 2010 found that they generally measured procurement by the total value of contracts awarded or by actual expenditures on goods and services in a given time frame. However, we found that the reported contract values represented different measures of procurement at different points in time, which resulted in inconsistent reporting. For example, Canada and Japan report data on government procurement based on the full value of awarded contracts, the EU reports data on government procurement based on total contract values at the time of award, Norway reports the agreed full value of contracts when they are signed, and the United States reports the total dollars obligated against GPA-covered contracts in the year they are signed and any subsequent obligations on those contracts during the following 5 years. In addition, while the GPA outlines the scope of covered government procurement, our analysis found that GPA parties interpreted standard statistical terms differently, leading to inconsistencies in their reporting. For example, the degree to which the GPA parties' notifications include data on procurement by state-owned enterprises is unclear. As a result, the parties' notifications may provide different measures of covered government procurement.
- **Below-threshold central government procurement.** While the 1994 GPA requires that parties report the estimated value of below-threshold contracts awarded at the central government level, GPA parties interpreted this requirement differently, leading to inconsistencies in their reporting.<sup>35</sup> We found that GPA parties reported different types of data for below-threshold central government procurement—some parties reported data for all central government entities, while other parties reported data only for entities

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<sup>35</sup>Because the 2014 GPA does not include this requirement, this information will not be reported for contracts signed in or after 2014 unless parties voluntarily submit it.

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covered by the GPA. For example, the EU does not report the value of contracts below the GPA thresholds. Instead, according to the EU notification, these values can be estimated by deducting the reported above-threshold procurement from the estimated total government procurement of goods and services, which also includes procurement below GPA thresholds and other noncovered government procurement. In contrast, the United States reports below-threshold central government procurement only for GPA-covered entities. As a result, estimates of GPA parties' below-threshold central government procurement are not comparable.

- **Uniform classification system.** There is no single classification system for reporting procurement by economic sector, which has led to the use of different systems to categorize reported procurement by GPA parties. For example, the United States uses the U.S. product and service codes to classify federal government contracts in product groups, categorizing reported procurement as either goods and services or construction services. The EU uses its common procurement vocabulary to classify EU contracts, categorizing reported procurement as supplies, services, works, or "miscellaneous." Canada codes reported procurement by its goods and services identification numbers and groups it into goods, services, and construction, but plans to replace the current classification with the UN standard products and services codes in 2017. Without consistent categorization, it is difficult to compare parties' covered government procurement by product group.<sup>36</sup>
- **Country of origin.** According to the 1994 GPA, parties are to apply the same rules of origin to products or services supplied for covered government procurements as they apply in the normal course of trade.<sup>37</sup> In addition, parties are to provide statistics on the country of origin for products and services purchased by its entities, to the extent that such information is available.<sup>38</sup> Japan reports suppliers' nationality, using it as the basis for determining country of origin for its

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<sup>36</sup>The Committee on Government Procurement adopted a classification system for statistical reporting of goods and services under the GPA in 1996. However, most parties do not use this system in reporting their annual government procurement statistics.

<sup>37</sup>Rules of origin are the subject of the WTO Agreement on Rules of Origin and according to the WTO, are the criteria used to define where a product was made. According to the WTO, "determining where a product comes from is not easy when raw materials and parts crisscross the globe to be used as inputs in scattered manufacturing plants."

<sup>38</sup>The 2014 GPA does not require parties to report available information on purchased products' or services' country of origin.

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imported goods and services, but a supplier's nationality may differ from the origin of the product or service. The EU, Canada, South Korea, and the United States do not report this information, although the United States collects it in its Trade Agreements Report (TAR), which USTR uses to generate the WTO notifications at the federal level.<sup>39</sup> Until 2008, in its TAR reporting, the United States defined country of origin for goods as the place where the product was manufactured, which, according to OMB officials, aligns with data on place of manufacture, as defined in the FAR, for purposes of U.S. government contracting. However, since 2009, U.S. statistical data—the source of U.S. procurement information reported to the WTO—have defined country of origin for goods as the place of performance of the contract and have defined country of origin for services as the country of the supplier (vendor). Without consistent reporting of suppliers' country of origin, it is difficult to estimate the extent to which GPA parties award covered government procurement contracts to foreign suppliers.

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## GPA Statistical Work Group Has Made Little Progress in Addressing Factors That Affect Reporting of Required Procurement Data

In March 2012, GPA parties convened a working group—the Committee on Government Procurement's Work Programme on the Collection and Reporting of Statistical Data—to review the collection and reporting of procurement statistics. According to WTO officials, GPA parties recognized that they faced challenges in collecting data related to government procurement to meet the GPA reporting requirements and that different methodologies were used to collect these data, including data for central government entities and subcentral government entities. WTO officials noted that the work group was created because GPA parties could not agree on how to address statistical reporting challenges in the 2014 GPA and is part of parties' GPA obligations.<sup>40</sup>

In forming the working group, the United States and other GPA parties agreed to submit relevant information and review the submissions in order to make recommendations on whether the parties should adopt a common method for collecting statistics, standardize the classifications of statistical data, facilitate the collection of country of origin of goods and

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<sup>39</sup>The TAR is a publicly available, standard report generated in real time from GSA's FPDS-NG (<http://www.fpds.gov>).

<sup>40</sup>The need for improvement in this area was recognized by GPA parties as early as 1994, when the Interim Committee on Government Procurement established a working group on statistical reporting.

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services data, and address other technical issues in government procurement data reporting raised by any party. According to a WTO document, the working group was also to consider the “potential harmonization” of parties’ statistical data to provide transparency regarding procurement covered under the GPA and consider how these data may be used for further analyses to facilitate greater understanding of the agreement’s economic importance.<sup>41</sup> The WTO document states that statistical data illustrating the extent to which the parties procure goods and services covered by the agreement from other GPA parties could be an important tool in encouraging other WTO members to accede to the agreement.

As of December 2016, nine parties had provided submissions to the working group.<sup>42</sup> According to USTR, the parties’ submissions show variance in the methods used to measure government procurement above and below agreement thresholds as well as variance in data sources, classifications, and availability of country-of-origin statistics. According to WTO officials, the working group is still taking stock of this information. As a result, it has made limited progress in addressing its goals.

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<sup>41</sup>World Trade Organization, “Annex D: Decision of the Committee on Government Procurement on a Work Programme on the Collection and Reporting of Statistical Data, Decision of 30 March 2012,” accessed Jan. 19, 2017, <https://ustr.gov/sites/default/files/GPA%20113%20Decision%20on%20the%20outcomes%20of%20the%20negotiations%20under%20Article%20XXIV%207.pdf>.

<sup>42</sup>The nine parties that have made submissions to the working group are Hong Kong, Canada, Taiwan, Singapore, Japan, Switzerland, the EU, Norway, and the United States.



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## Lack of Procurement Data from U.S. FTA Parties Reduces Transparency

Although NAFTA requires its parties—the United States, Canada, and Mexico—to exchange annual statistics on government procurement, they have not exchanged this information since 2005.<sup>43</sup> As a result, the parties are unable to compare their covered government procurement with that of the other parties, reducing transparency and hindering their ability to monitor activity under the agreement. NAFTA requires the reporting of annual data on the estimated value of government procurement contracts awarded, both above and below threshold values. According to a USTR official, NAFTA parties are not required to publish any statistical data but are required to exchange such data among themselves. According to USTR officials, NAFTA data have not been exchanged since 2005 because NAFTA partners have been focused on negotiations for the Trans-Pacific Partnership. U.S. statistical data related to NAFTA can be accessed electronically via the FPDS-NG through the TAR, but the most recent complete report is for fiscal year 2010. Moreover, Commerce officials noted that all three NAFTA members have had difficulty in providing accurate statistics.

Other U.S. FTAs that we reviewed do not require reporting of such data, and information about the extent to which FTA partner governments open procurement to U.S. suppliers is not readily available. Although other U.S. FTAs contain provisions concerning government procurement, NAFTA is the only U.S. FTA with a statistical reporting requirement among the FTAs we reviewed. According to Commerce officials, procurement statistics can be used to convince prospective members to join a bilateral or multilateral procurement agreement by empirically demonstrating the financial

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<sup>43</sup>NAFTA includes a provision requiring each party to collect statistics and provide to the other parties an annual report in accordance with the following reporting requirements, unless the parties otherwise agree: (a) statistics on the estimated value of all contracts awarded, both above and below the applicable threshold values, broken down by entities; (b) statistics on the number and total value of contracts above the applicable threshold values, broken down by entities, by categories of goods and services established in accordance with classification systems developed under the government procurement chapter and by the country of origin of the goods and services procured; (c) statistics on the number and total value of contracts awarded under limited tendering procedures, broken down by entities, by categories of goods and services, and by country of origin of the goods and services procured; and (d) statistics on the number and total value of contracts awarded under specified exclusions to the agreement, broken down by entities. Each party may organize by state or province certain elements of the data. NAFTA, Article 1019.7-8.

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benefits other member states have achieved.<sup>44</sup> While some FTA partner countries—that is, Canada, Israel, South Korea, and Singapore—are parties to the GPA, most other U.S. FTA partners are not parties to the GPA or NAFTA and therefore are not required to provide any statistics on their government procurement, according to USTR officials. As a result, data that could be used to make detailed comparisons of, and provide transparency regarding, FTA parties' covered government procurement and to demonstrate the agreements' economic benefits are not available.

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## U.S. Agencies' Approach to Reporting GPA-Covered Procurement Does Not Ensure Timeliness, Accuracy, and Comparability

U.S. agencies' approach to statistical reporting of covered government procurement to the WTO does not ensure the timeliness, accuracy, or comparability of the reported data. The methodology that agencies used to report covered federal (central government) procurement until 2009 produced timely data but overstated the value of procurement opportunities. An interagency revision of the methodology improved these data's accuracy, but it has significant disadvantages. For example, the revised methodology introduces a 6-year delay in reporting to the WTO, whereas the 2014 GPA requires reporting within 2 years of the end of the reporting period. Also, the interagency decision to revise the methodology was based on a misinterpretation of reported federal procurement data, and the agencies involved in the decision were unable to provide documentation supporting the decision. Further, U.S. statistical notifications submitted to the WTO, as well as the TAR on which the reports are based, contain inconsistencies and errors. In addition, USTR lacks a methodology for reporting states' and other government entities' GPA-covered procurement, as the GPA requires, and instead reports estimated total government procurement, which exceeds covered procurement. Finally, no U.S. agency has taken responsibility for ensuring the accuracy, timeliness, or comparability of the procurement data submitted to the WTO. Federal standards for internal control call for U.S. agencies to issue relevant, accurate, and reliable information, recording and communicating it within a time frame that enables entities to carry out their responsibilities. Without timely, accurate, and comparable data on GPA-covered U.S. procurement, U.S. agencies and Congress, as well as

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<sup>44</sup>Commerce officials noted that statistical reporting requirements were not included in, for example, the Australia FTA, likely because it was intended to remain a bilateral agreement and thus had no need to attract new members. In addition, a USTR official told us that FTAs other than NAFTA do not include statistical requirements because the partner governments may not have been willing to agree to such a requirement or because the governments' procurement statistics were seen as already being sufficiently transparent.

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other GPA parties, lack information necessary for assessing the economic benefits of participating in the agreement.

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**Revised U.S. Methodology for Reporting Federal Procurement Increases Accuracy but Has Significant Disadvantages**

The U.S. methodology used from 1996 through 2008 to report federal procurement to the WTO produced timely data but inflated procurement values. In 2009, U.S. agencies began a revision of this methodology, resulting in a more accurate measure of federal procurement based on actual cumulative obligations rather than award values. Applying the revised methodology caused the reported value of covered U.S. federal contracts to drop by more than 75 percent from fiscal year 2008 to fiscal year 2009. However, the revised methodology introduces a 6-year delay in reporting to the WTO, whereas the 2014 GPA requires reporting within 2 years of the end of the reporting period. Also, the revised methodology provides data on the value of U.S. federal procurement obligations that are only broadly comparable to the value of central government procurement that some other GPA parties report.

**Original "Award Value" Methodology Produced Timely Statistics but Inflated Federal Procurement Values**

Although the 1996-2008 methodology for reporting U.S. federal procurement provided timely annual data on award values, it overstated procurement opportunities. This methodology, which calculated the total potential value of GPA-covered federal government contracts at the time of award, provided a simple and direct measure of covered federal procurement, since the method used to determine the number of covered contracts and determine the contracts comprising the aggregate contract values is based on information reported in in FPDS-NG. The methodology also provided timely annual data based on the bidding opportunities for prospective domestic and foreign suppliers in that year. (After a contract is awarded, contract changes may occur, and additional funds may be obligated to the contract, which would change the contract value.) In addition, the methodology provided data that were consistent with

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information posted on the official U.S. government website of federal procurement opportunities for GPA purposes.<sup>45</sup>

However, the original methodology overstated the value of U.S. central government procurement, primarily because of the way data is reported in FPDS-NG and by aggregating multiple-year, multiple-award federal contracts, which resulted in the counting of some award values more than once. Multiple-award contracts result from a single solicitation and are awarded to multiple suppliers. The government then selects among the multiple suppliers to issue individual orders for supplies, services, or both as needed. Federal contracts, including, multiple-award contracts, can include options that the government may, or may not, exercise; contracts with options are often referred to as multiple-year contracts and, according to OMB staff, generally include a base year with four 1-year option periods. In FPDS-NG, data on each supplier's multiple-year, multiple-award contract reflects the base and all option value, since each supplier could receive up to the full value of the contract if all options are exercised.

For example, a contract for which FPDS-NG shows an award value of \$10 billion, comprising a base value of \$5 billion and a \$5 billion option, might result in only \$5 billion in obligations if the option is not exercised. In addition, the contract's \$10 billion award value might be entered in FPDS-NG for each supplier that is awarded a multiple-award contract, since each supplier could receive up to the full value of the contract, and could be entered for each year of the contract's duration. The original methodology reported a multiple-year contract's potential award value—that is, the contract value including all possible options that could be exercised against the contract—and aggregated across multiple-award contracts, even though the options may not be exercised on each supplier's contract. Commerce officials explained that contract options allow for additional purchases under the same contract at the discretion of

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<sup>45</sup>U.S. federal procurement opportunities are posted on the Federal Business Opportunities database at <https://www.fedbizopps.gov>, and procurement contract award numbers and values are available at <https://www.fpds.gov>. OMB officials we spoke with confirmed that data on actual contract award notices from the Federal Business Opportunities database can be used in, or otherwise incorporated into, FPDS-NG, and therefore can be used in the TAR. While the United States does not do so, countries can provide a link to a website with contract award data in lieu of providing a statistical notification, as outlined in the 2014 GPA. However, Federal Business Opportunities database is not yet fully integrated with FPDS-NG. The upcoming releases of the federal government System for Award Management will incorporate the Federal Business Opportunities database and FPDS-NG.

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the U.S. government entity. For example, Commerce officials told us that because multiple-year, multiple-award contracts are intended to be used as needed, contracting officials may set a high total award value for a group of contracts to allow the contracts to be used repeatedly and to ensure that there are sufficient funds to pay any awardee for each contract option.

According to Commerce officials, they sought to improve the accuracy of WTO notifications based on the award-value methodology. These officials said they recognized that the data anomalies in FPDS-NG related to multiple-year, multiple-award federal contracts materially skewed the overall statistics and, as a result, cumulatively misrepresented the total value of U.S. federal procurement for 2008. Because FPDS-NG records hundreds of thousands of contracts across many agencies, Commerce did not identify all multiple-year, multiple-award federal contracts. Instead, Commerce identified three Department of Defense entities that frequently used this type of contract and two blanket purchasing agreements reported by the Department of Interior Bureau of Land Management and deleted these contracts from the FPDS-NG TAR data they used to draft U.S. notification. However, this approach resulted in inconsistent treatment of multiple-award contracts with other agencies and also needlessly excluded all other contracts.

Using the TAR, we searched FPDS-NG for, and identified, all GPA-covered multiple-year, multiple-award federal contracts awarded in fiscal year 2009. Our analysis shows that these contracts—which were the main cause of the original methodology’s inflated estimates of covered federal procurement—accounted for 12 percent of all covered federal contracts awarded in fiscal year 2009 (3,637 of 30,243 contracts). We found that these contracts represented 95 percent of the total dollar value of all awards (\$18.666 trillion of \$19.625 trillion), based on the old methodology and the way these contracts are reported in the FPDS-NG system.<sup>46</sup>

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<sup>46</sup>The value of multiple-year, multiple-award contracts awarded in 2009 includes funding for covered and noncovered procurement with dollar amounts that (1) can be obligated over multiple years during the contracts’ life and (2) can be recorded multiple times for each awardee. Using the revised U.S. methodology for reporting federal procurement, we calculated that obligations for such contracts represented 12 percent of the number of contracts awarded in 2009 and 29 percent of total obligations for these contracts (\$61 billion of \$2,295 billion).

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Revised “Cumulative Obligations” Methodology Produces More Accurate Data but Delays Reporting

In 2009, USTR officials informed EU officials that OMB, in consultation with USTR and Commerce, was planning to change the U.S. methodology for preparing U.S. statistical reports as part of an OMB effort to improve the quality of federal procurement data, and that U.S. statistics reported to the GPA in the future would measure federal procurement based on actual cumulative obligations against awarded contracts over a 5-year period, which is consistent with what OMB considers the standard life of such contracts.<sup>47</sup> In October 2015, USTR notified the WTO that the United States had revised its methodology for preparing GPA statistical reports on federal procurement. To more precisely reflect the value of the federal procurement market at the time of each report, the revised methodology would reflect total amounts obligated under GPA-covered contracts over a 6-year period—that is, the year the contract was awarded plus 5 years after the award. As a result, the United States did not report procurement data to the WTO for 5 years, despite the 1994 GPA requirement to report annual statistics. In December 2015, the United States submitted its statistical notification of U.S. federal procurement in fiscal year 2009, based on the revised methodology.<sup>48</sup>

Our analysis shows that compared with the original methodology, the revised methodology has both advantages and disadvantages. The revised methodology provides a more accurate estimate of federal procurement value than the original methodology, as it uses data for actual obligations for procurement contracts rather than potential award values and avoids the inflated values resulting from the aggregation of multiple-year, multiple-award federal contracts. Because of the change in methodology, the estimated value of covered central government contracts in the United States decreased by more than 70 percent from fiscal year 2008 to fiscal year 2009, dropping from about \$712 billion in fiscal year 2008 to \$204 billion in fiscal year 2009.

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<sup>47</sup>Commerce officials stated that the decision to revise the methodology for reporting covered federal procurement—using an obligations-based approach instead of the original methodology’s awards-based approach—stemmed from early interagency discussions with OMB, USTR, GSA, and the Department of Defense about how to identify and process the anomalies in multiple-year, multiple-award contracts in FPDS-NG.

<sup>48</sup>The U.S. reports for fiscal years 2008 and 2009 identify the same data source, and the 2009 report does not mention the change in methodology. USTR notified the WTO of the new methodology in an October 2015 nonpublic communication to the GPA statistical working group.

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However, the revised methodology's use of cumulative obligations data leads to a more than 6-year lag in reporting annual data to the WTO. If this methodology is used to report data for fiscal year 2014 and subsequent years, the resulting delay would appear to be inconsistent with the 2014 GPA's requirement that parties provide their statistical notifications within 2 years of the end of the reporting period. The delay would also reduce the transparency of U.S. covered government procurement for U.S. policymakers and GPA parties. In addition, it is inconsistent with federal standards for internal control that call for U.S. agencies to issue relevant, accurate, and reliable information and to record and communicate the information within a time frame that enables entities to carry out their responsibilities.<sup>49</sup> Finally, in measuring actual obligations for procurement contracts rather than the value at the time of award, the new methodology is inconsistent with the methodology used by other large GPA members, such as the EU and Norway, which report contract values at the time of award rather than actual obligations (or expenditures). As a result, the revised methodology makes comparisons of the United States' and other GPA parties' central government procurement less consistent. In addition, the United States continues to report the number of covered contracts to the WTO based on their award value, which leads to an inconsistency between the reported numbers and values of reported U.S. government procurement contracts. The contracts comprising the reported value of covered (above-threshold) procurement are determined at a later time under the new methodology and can result in a different set of contracts. Table 2 shows advantages and disadvantages of the original and revised methodologies.

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<sup>49</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

**Table 2: Advantages and Disadvantages of the Original and Revised Methodologies for Calculating U.S. Federal Procurement**

	<b>Advantages</b>	<b>Disadvantages</b>
<b>Original methodology</b>	<p><i>Timely:</i> The methodology provided data for a particular year based on procurement opportunities available to foreign suppliers at the time of award.</p> <p>Data were consistent with information available on the official public website of contract awards.</p> <p>Number and value of covered contracts reported to the World Trade Organization (WTO) were consistent.</p>	<p><i>Overstated procurement opportunities:</i> The methodology counted contract award values more than once by reporting the full award value for (1) multiple contract suppliers and (2) contract options that might not be exercised.</p>
<b>Revised methodology</b>	<p><i>More accurate:</i> The methodology uses historical data on actual obligations and the opportunities available to foreign suppliers at the time of the report.</p> <p>It eliminates the double counting of multiple-year, multiple-award contracts.</p>	<p><i>Delay reporting:</i> The methodology's use of 6-year cumulative obligations data leads to a more than 6-year lag in reporting of annual procurement data to the WTO.</p> <p>Number and value of contracts reported to the WTO are based on threshold determinations at different points in time.</p> <p>Its use of cumulative obligations causes complexity in tracking and reporting of federal contracts by award date.</p>

Source: GAO analysis of Office of Management and Budget and General Service Administration documents. | GAO-17-168

Our analysis also found that, despite using 6 years of data, the revised methodology does not produce final obligated contract values, because it does not capture obligations that can occur after the 6-year period.<sup>50</sup> Since the 2014 GPA requires parties to provide their annual statistical notifications within 2 years of the end of the reporting period, we analyzed the distribution of cumulative obligations. As table 3 shows, a preliminary estimate of 3 years of cumulative obligations for contracts awarded in fiscal year 2009, consistent with the 2014 GPA's requirement to report annual statistics within 2 years of the end of the reporting period—that is, obligations in fiscal years 2009 through 2011—covered about 67 percent of cumulative obligations through July 2016. Updating this estimate with obligations made for these contracts in fiscal year 2012 would raise the amount covered to about 78 percent. Using the revised U.S. methodology to analyze 6 years of cumulative obligations against the 2009 awards—that is, obligations in fiscal years 2009 through 2014—we found that the amount USTR reported to the WTO in December 2015 equaled about 96 percent of total obligations for these contracts over the 6-year period. In

<sup>50</sup>USTR, OMB, and Commerce staff told us that they did not compare the results of using the original and revised methodologies. However, we conducted a comparative analysis of FPDS-NG data to test the difference between the two methodologies.



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other words, using 6 years of cumulative obligations, in accordance with the revised methodology, produced about 30 percent higher procurement value than using 2 years of obligations consistent with the 2014 GPA requirement to report within 2 years of the end of the reporting period. However, the revised methodology did not account for 100 percent of the contracts' value after 6 years. The methodology assumes that cumulative obligations against awarded contracts over a 6-year period—a year longer than a contract's typical duration, according to OMB—will capture the full value of those contracts. Our analysis of federal contracts awarded in fiscal year 2009 shows that the U.S. estimate of covered government procurement based on the revised methodology is \$200 billion for fiscal years 2009 through 2014. However, cumulative obligations for these contracts from fiscal year 2009 through July 2016 amounted to \$209 billion—about \$9 billion more than the amount obligated for these contracts by the end of the revised methodology's 6-year period.<sup>51</sup>

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<sup>51</sup>This estimate is based on cumulative obligations data as of July 2016. We analyzed data on contracts awarded in 2009 rather than 2010, the latest U.S. submission to the WTO, to illustrate the amount of cumulative obligations over the longest time period for which relevant data on awarded contracts are available—that is, cumulative obligations over 7.5 years of data (fiscal year 2009–July 2016).

**Table 3: Cumulative Obligations against U.S. Federal Procurement Contracts Awarded in Fiscal Year 2009 and Covered by the World Trade Organization’s (WTO) Agreement on Government Procurement (GPA) by Fiscal Year, as of July 2016**

Dollars in billions

Fiscal year	Cumulative obligations for fiscal year 2009 awards (dollars)	Percentage against total cumulative obligations for fiscal year 2009 awards as of July 2016
2009	71	34.2
2009–2010	109	52.2
2009–2011 <sup>a</sup>	139	66.7
2009–2012	163	78.0
2009–2013	184	88.2
2009–2014 <sup>b</sup>	200	95.8
2009–2015/2016 <sup>c</sup>	209	100.0

Source: GAO analysis of Federal Procurement Data System—Next Generation (FPDS-NG) Trade Agreements Report for fiscal year 2009 contracts as of July 2016. | GAO-17-168

<sup>a</sup>Three-year period consistent with the time period specified by the 2014 GPA requirement to report within 2 years of the end of the reporting period.

<sup>b</sup>Six-year period consistent with the revised U.S. methodology for reporting GPA-covered central government (federal) procurement to the WTO, which uses 6 years of cumulative obligations data to calculate federal procurement contract award value.

<sup>c</sup>The U.S. statistical submission to the WTO reported about \$204 billion in cumulative obligations for fiscal year 2009 covered federal procurement awards as of June 2015, or 6.5 years after the contracts were awarded. Our analysis of data in FPDS-NG available as of July 2016 estimated that total obligations for these awards amounted to about \$209 billion. The reason for the difference between the two values is the addition of obligations data for June 2015 through July 2016. According to Office of Management and Budget staff, the methodology for the fiscal year 2009 report was finalized on May 29, 2014, about a year before the official U.S. notification to the WTO.

Further, in compiling the fiscal year 2009 U.S. statistical notification submitted to the WTO in December 2015, USTR did not use the revised methodology as it was described to the WTO in August 2011. Whereas that methodology was to use 6 years of obligations data (i.e., fiscal years 2009 through 2014), the fiscal year 2009 statistical notification used 6 years and 6 months of obligations data. While the notification reported that \$204 billion was obligated in fiscal years 2009 through 2014 for fiscal year 2009 contracts, the reported data were extracted from FPDS-NG in June 2015.<sup>52</sup>

<sup>52</sup>The United States also reported more than 6 years of cumulative obligations in its statistical notification of fiscal year 2010 procurement, which it submitted to the WTO in September 2016.

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While analyzing the original and revised U.S. methodologies, we identified an alternative methodology that uses annual obligations for covered contracts as a measure of covered government procurement.<sup>53</sup> (See app. III.)

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### Agencies' Decision to Change U.S. Methodology Showed Incomplete Understanding of Reported Procurement Data

The rationale on which U.S. agencies based their decision to change the U.S. methodology for reporting covered federal procurement to the WTO suggest that the agencies had an incomplete understanding of U.S. procurement data reported to the WTO in response to the GPA requirements. In 2011, OMB determined, in consultation with USTR and Commerce, that U.S. statistical reports to the WTO on federal procurement were misleading and that the methodology should be revised. At the same time, USTR and Commerce were receiving questions from other parties about the U.S. statistics, according to a USTR document. According to OMB documents, the TAR, which is used as a basis for the U.S. statistical reports to the WTO, overstated available bidding opportunities as a result of the original U.S. methodology. However, our review of agency documents and interviews with agency officials found that this conclusion was based on a misinterpretation of the reported data. The United States' statistical notification for fiscal year 2008 stated that \$700 billion worth of procurement was available to GPA trading partners, while the Office of Federal Procurement Policy reported obligations of only \$527 billion. Agency documents show that this identified gap of \$173 billion was the basis for the decision to remove the 2008 TAR from the standard FPDS-NG statistical reports and to develop the new methodology. However, the two amounts, which capture different measures of federal procurement, are not comparable. The \$700 billion reported to the WTO was a measure of all contracts awarded in a particular year—that is, all newly awarded contracts in fiscal year 2008, which could be obligated any time over a 5-year period. In contrast, the \$527 billion reported by the Office of Federal Procurement Policy reflected all obligations made within a 1-year period—that is, obligations in fiscal year 2008 against any contract, regardless of the year of the initial contract award.

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<sup>53</sup>While we used this alternative methodology to determine the type of data that would be produced, we make no comment regarding the legal consistency of this method with GPA statistical reporting requirements.

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## Agencies Lacked Documentation to Support Revision of Methodology for Reporting Federal Procurement Data to the WTO

The agencies involved in the decision to revise the U.S. methodology for reporting federal procurement to the WTO were unable to provide documentation supporting the decision. Federal standards for internal control call for U.S. agencies to carry out internal control activities to help ensure that management's directives, such as changing the U.S. methodology, are carried out. These activities include the need for appropriate review of data (and software) used in information processing as well as properly recording and documenting significant events.<sup>54</sup> We requested, but could not obtain, documentation of the original methodology, any comparison of the original and revised methodologies, and any analysis of the revision's effects on U.S. reported awarded contract values. According to OMB staff, the agency reviewed data in the TAR that Commerce shared with them via e-mail, but no documentation of these reports was available from OMB, Commerce, GSA, or USTR. In addition, we were unable to obtain copies of the TAR that were the basis of statistical notifications submitted to the WTO. As a result, we had to rely on interviews with current and former USTR, GSA, and Commerce officials to reconstruct the original methodology from GSA computer programs. OMB staff stated that staff turnover prevented them from providing complete information about how and why the TAR was initially developed and revised.

In addition, although OMB and GSA provided us with documentation of the TAR requirements that were approved by OMB, USTR, Commerce, and GSA, we found no documentation of any steps to validate that the requirements for applying the revised methodology were correct and implemented successfully to produce the intended results. According to OMB officials, OMB established the requirement for the new TAR after consultation with USTR and trade agencies. The agencies concluded that it was appropriate to determine the total value of obligations for a contract 5 years after it was awarded because they considered federal contracts to generally include a base year and four 1-year option periods that the federal government may or may not exercise. OMB officials said that the Federal Acquisition Regulation (FAR) provides that the base and option periods shall not exceed 5 years for services and the total of the basic and option quantities shall not exceed requirements for 5 years in the case of supplies, unless otherwise approved.<sup>55</sup> OMB officials stated that

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<sup>54</sup>[GAO/AIMD-00-21.3.1](#).

<sup>55</sup>As our analysis showed (see table 3), about 88 percent of total cumulative obligations for federal procurement contracts awarded in fiscal year 2009 had been obligated after 5 years.

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the TAR was established using this reporting methodology. However, according to an unpublished October 2015 communication to the WTO GPA statistical working group, the U.S. methodology is based on the amount spent during the base year and five 1-year option periods (i.e., the 6 years after the award date).

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### Trade Agreements Report and Statistical Notifications Contain Inconsistencies and Errors

We found several reporting inconsistencies and errors in the FPDS-NG TAR and in U.S. GPA notifications submitted to the WTO.

- USTR reviews the GPA thresholds, which are developed by Commerce, and publishes them in the FAR every 2 years on a calendar-year basis.<sup>56</sup> However, the GSA-run program that generates the TAR begins applying those thresholds every other fiscal year. (See fig. 5.) As a result, the U.S. procurement statistics that USTR reports to the WTO, based on the TAR, for contracts awarded in the first quarter of each 2-fiscal-year period's initial year reflect the new biennial thresholds instead of the thresholds that U.S. procurement officers used in determining the applicability of trade agreements for those contracts. This discrepancy may affect the accuracy of data on covered procurement reported to the WTO. When the new thresholds are higher than the old ones, the reported data may exclude contracts with values lower than the new thresholds; when the new thresholds are lower, the data may include contracts that were not covered by the GPA at the time they were signed.

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<sup>56</sup>FAR Part 25. The FAR is jointly issued by the Department of Defense, GSA, and National Aeronautics and Space Administration.

**Figure 5: Timing of WTO GPA Threshold Values' Publication in U.S. Federal Acquisition Regulation and Application in U.S. Trade Agreements Report and WTO GPA Notification**

	2015				2016				2017				2018			
	Jan - March	April - June	July - Sept	Oct - Dec	Jan - March	April - June	July - Sept	Oct - Dec	Jan - March	April - June	July - Sept	Oct - Dec	Jan - March	April - June	July - Sept	Oct - Dec
Federal Acquisition Regulation	Threshold for calendar years 2014-2015				Threshold for calendar years 2016-2017				Threshold for calendar years 2018-2019							
U.S. Trade Agreements Report U.S. statistical notifications submitted to WTO under GPA	Threshold for fiscal years 2014-2015				Threshold for fiscal years 2016-2017				Threshold for fiscal years 2018-2019							

 Period of inconsistent determination

Source: GAO analysis of Federal Acquisition Regulation, U.S. Trade Agreements Report, and U.S. statistical notifications submitted to the World Trade Organization (WTO) under the Agreement on Government Procurement (GPA). | GAO-17-168

Note: To determine whether a contract is covered by the GPA, U.S. procurement officers consider, among other things, the GPA thresholds published in the Federal Acquisition Regulation.

- The TAR, which is used as a basis for the WTO notifications, applies a methodology to capture covered government procurements under the GPA that does not reflect the process U.S. procurement officers use to determine whether contracts are covered by the GPA. Consequently, some contracts considered to be covered when awarded may not be reported to the WTO. To determine whether a contract is covered by the GPA, procurement officials calculate the estimated acquisition value using a methodology set out in the FAR.<sup>57</sup> However, the new GSA-run statistical program used to generate the TAR considers a contract to be covered by the GPA only when cumulative obligations against that contract exceed the GPA thresholds, which can happen at any time during the contract's duration. As a result, contracts that were determined to be covered by trade agreements at the time of contract award but for which cumulative obligations never exceed the GPA thresholds are not included in the TAR and WTO notifications until a later and uncertain point in time, if at all.<sup>58</sup>

<sup>57</sup>See FAR § 25.403. The applicable methodology to be used varies depending on factors such as contract type and the term of the contract.

<sup>58</sup>If obligations never reach the threshold amount, the procurement would have been treated as "covered" in making a decision, but never reported as such.

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- The fiscal year 2009 U.S. notification of state procurement reports inaccurate data for Florida's total government procurement. USTR calculated that amount as \$45 billion. However, using the U.S. methodology for estimating total state procurement, we calculated that Florida's total government procurement in fiscal year 2009 was \$37 billion.

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### U.S. Agencies Lack a Methodology for Reporting States' and Other Government Entities' GPA-Covered Procurement as Required

Although the GPA requires that parties provide annual statistics on covered procurement by subcentral governments, USTR and Commerce have not developed a methodology for using available state data to report these data. Under the 1994 and 2014 GPA, notifications for states' and other government entities' procurement are required to include statistics on the value of contracts awarded by covered entities above the threshold value. However, for fiscal years 2009 and 2010, the United States reported total instead of covered government procurement for the 37 states that make up U.S. subcentral level commitments under the GPA. As a result, the reported U.S. data are only broadly comparable with other GPA parties' data on covered subcentral government procurement. Further, USTR's reporting does not meet federal standards requiring relevant, timely, and accurate reporting by U.S. agencies.<sup>59</sup>

To estimate states' total procurement, USTR uses the U.S. Census Bureau's state government financial data, which include below-threshold procurement by noncovered entities.<sup>60</sup> Also, these data do not account for any restrictions that the federal government or a state government may place on procurements for specific goods or services that are excluded from U.S. GPA commitments.<sup>61</sup> There is no central repository for statistics on GPA-covered state procurement. An unpublished U.S. submission to the GPA working group on the collection and reporting of statistical data

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<sup>59</sup>[GAO/AIMD-00-21.3.1.](#)

<sup>60</sup>According to the Census Bureau, its financial data for the 50 states cover each state's executive, legislative, and judicial branches. The data also cover agencies, institutions, commissions, and public authorities that operate separately or somewhat autonomously from the state government, but the state government maintains administrative or fiscal control over their activities. The Census Bureau data do not include local government (city or county) data.

<sup>61</sup>A study of state procurement practices by the National Association of State Procurement Officials included 32 of the 37 states covered by the GPA. In the study, 12 states reported that they did not have any set-asides for small business, small disadvantaged business, women-owned small business, service-disabled veteran-owned small business, Hubzone, or Buy America requirements.

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acknowledges that reported U.S. subcentral-level procurement data do not distinguish between covered and noncovered government procurement or reflect the amount or percentage of procurement below or above the GPA threshold.

Although data on states' GPA-covered procurement are not centrally available, we estimated—using data that we obtained from 3 of the largest states covered by U.S. GPA commitments—that the total state government procurement reported to the WTO exceeds covered state government procurement by about 10 percent.<sup>62</sup> We calculated that in 2010, about 40 percent of estimated total government procurement by the 37 states covered by the GPA took place in California, New York, Texas, and Pennsylvania. Three of these states—California, New York, and Pennsylvania—collect electronic data on their contract awards and have databases that contain information on the amount spent on state procurement contracts (Texas does not). We calculated that contracts representing over 90 percent of total government procurement in these 3 states were awarded in 2014 and 2015 by covered entities, had values higher than the GPA thresholds, and therefore could be considered covered government procurement.

For example, we estimated that on average contracts representing 99 percent of the value of New York's goods and services contracts and 64 percent of the value of its construction services contracts were awarded to covered entities and exceeded the U.S. GPA thresholds for 2014 and 2015. Goods and services contracts represent 92 percent of the value of all state contracts in New York.<sup>63</sup> Therefore, we estimated that 96 percent of total government procurement by covered New York state entities was above GPA thresholds and was therefore covered by the GPA. For California, which is the largest state among the 37 covered states and accounts for about 14 percent of their total government procurement, we estimated that 92 percent of the value of goods, services, and

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<sup>62</sup>Because the structure of the data systems in those states did not allow us to extract data as far back as fiscal year 2009, we were unable to compare total government procurement estimated in the 2009 U.S. statistical notification with covered government procurement on the basis of contract data in those states. Instead, our estimate is based on an analysis of 2014 and 2015 state data.

<sup>63</sup>We analyzed contract data from New York State's Open Book database at <http://www.openbooknewyork.com/>. The database contains all active state agency contracts, which includes contracts approved by the Office of the State Comptroller (OSC) and those that do not require OSC approval.



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construction contracts awarded to covered entities fell above GPA thresholds and therefore were covered by the GPA. For Pennsylvania, we estimated that 95 percent of such contracts were covered by the GPA. In estimating covered procurement for New York, California, and Pennsylvania, we did not correct for procurements that are excluded by the U.S. GPA commitments; therefore, our estimates may overstate these states' covered government procurement.

With regard to other government entities, including utilities, the United States reported estimates of covered government procurement for 9 of the 11 entities covered by the U.S. GPA commitments in 2009 and 2010.<sup>64</sup> These estimates are based on the entities' financial statements. While the methodology for these estimates varies on the basis of the data that the statements provide, the general methodology adopted by the United States calls for the estimate to include operating expenses other than wages and salaries and newly acquired capital expenditures. Commerce calculates the estimates using data on operations and maintenance expenses; however, for certain entities, the available data aggregate wages with other operating expenses. As a result, estimates based on these data overstate these entities' covered government procurement. Conversely, covered government procurement reported for some entities, such as the Port Authority of New York and New Jersey, includes capital expenditures, while for other entities, such as the Port of Baltimore, covered government procurement does not include these expenditures. Since capital expenditures under the methodology adopted by the United States should be included in the estimate of covered government procurement, the data reported for entities that exclude capital expenditures understate covered government procurement.

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## Gaps in Collaboration among U.S. Agencies Contributed to Reporting Deficiencies

We found that gaps in collaboration among the four agencies involved in preparing, using, and submitting the required procurement data to the WTO—USTR, OMB, Commerce, and GSA—contributed to deficiencies in the reporting of these data. The preparation of GPA statistical notifications requires expertise in procurement data, procurement policy and regulations, and WTO agreements. However, none of the agencies has all of the expertise needed to prepare and submit the U.S. notifications, and statements made by agency officials to us indicated

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<sup>64</sup>Data on the Power Marketing Administration of the Department of Energy and the Rural Utilities Service Financing are not provided.

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gaps in their collaboration in leveraging each other's expertise. For example:

- An official from USTR stated that he was the “consumer” of procurement data received from OMB and GSA but that USTR currently has no technical expertise in federal procurement data collection.
- OMB staff noted that USTR relies on OMB's interpretation of procurement data during trade negotiations. They also stated that USTR is the report owner and the program officer for trade agreement data and reporting, since it negotiates all trade agreements.
- Officials from Commerce told us that they provide “technical assistance” to USTR in developing and finalizing the trade agreement and reviewing procurement data in the TAR but that they were not responsible for U.S. notifications or for submitting those notifications to the WTO.
- Officials from GSA told us that GSA is the “technical executor” of data requests received from agencies, including Commerce and USTR, with regard to report design and provided technical assistance on reporting requirements, but the GSA officials were not involved in any policy decisions.
- USTR, Commerce, and GSA officials stated that OMB's Office of Federal Procurement Policy is responsible for setting procurement policy and therefore is responsible for the methodology used in U.S. reporting of procurement data. However, an OMB Office of Federal Procurement Policy official stated that although her office employed procurement data specialists, the TAR was prepared according to USTR specifications. OMB staff stated that they worked with USTR, Commerce, and GSA to establish and finalize the reporting requirements and methodology for the TAR to meet the GPA and NAFTA reporting requirements.

Moreover, no U.S. agency has taken responsibility for ensuring the accuracy, timeliness, or comparability of the procurement data submitted to the WTO or for recording related decisions and activities. This resulted in an incomplete understanding among the agencies of the U.S. methodology for reporting procurement statistics to the WTO, a number of technical deficiencies, a lack of documentation, and some errors in U.S. statistical reporting to the WTO. Our prior work has shown that in such cases, agencies can improve their activities through enhanced interagency collaboration—for example, by agreeing on roles and responsibilities, including leadership; by leveraging resources, including

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expertise; and by developing mechanisms for effective collection, analysis, and use of data.<sup>65</sup>

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## Conclusions

Government procurement constitutes a significant potential market for international trade that the U.S. government has sought to open through the GPA and FTAs. Reporting of government procurement statistics required by trade agreements provides transparency about the extent to which the parties have opened government procurements covered by their commitments under the agreements to foreign competitors. This transparency, in turn, allows policymakers to gain an understanding of the agreements' relative benefits and helps other countries judge the potential benefits of undertaking similar agreements.

While the data that the United States and next five largest GPA parties reported to the WTO for 2010 allow for broad comparisons of their covered government procurement, we found that deficiencies in the data prevent more detailed comparisons, limiting transparency. In some cases, the parties' statistical reporting in response to GPA requirements was not timely, complete, or consistent. In other cases, a lack of common understanding of the definitions of key terms as fundamental as "government procurement" led to inconsistency in the parties' reporting practices. In forming the working group for the GPA statistical work program, the United States and other GPA parties committed to submit relevant information, make recommendations, and consider the "potential harmonization" of parties' statistical data in order to provide transparency regarding procurement covered under the GPA and improve understanding of the agreement's economic importance. However, the GPA working group charged with recommending actions to address technical issues, such as those we identified, that impede transparency regarding covered procurement has made little progress. Moreover, recent data on procurement covered by U.S. FTAs are not available—NAFTA parties last exchanged such data in 2005, and the government procurement chapters of the U.S. FTAs we reviewed do not require statistical reporting of covered government procurement.

We found that the introduction of the revised methodology for reporting covered federal procurement affected the timeliness, accuracy, and

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<sup>65</sup>GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

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comparability of U.S. reporting of procurement statistics to the WTO. While the methodology enables more accurate reporting, its use of 6 years of cumulative obligations data does not appear to be compatible with the 2-year timeframe allowed by the 2014 GPA. In addition, gaps in collaboration among USTR and the other agencies involved in collecting and reporting U.S. government procurement data contributed to other deficiencies we identified, such as the absence of documentation of the methodology's revision and inaccuracy in the U.S. statistical notifications. Finally, the lack of a methodology for reporting state-level covered procurement consistent with GPA requirements has led USTR and Commerce to report only total procurement, limiting the comparability of the United States' and other parties' covered subcentral government procurement.

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## Recommendations for Executive Action

To improve the quality and transparency of statistical reporting of international government procurement by GPA and U.S. FTA parties to fulfill their commitments under these agreements, we recommend that the U.S. Trade Representative take the following two actions:

- Prepare and submit a proposal to the WTO GPA working group on statistical reporting established by the Committee on Government Procurement that aims to improve the quality of statistical reporting by WTO parties to address the weaknesses we identified.
- Resume the annual exchange of statistical data on covered government procurement with the other NAFTA parties as NAFTA requires.

We also recommend that the U.S. Trade Representative take the following four actions in consultation with appropriate experts in Commerce, OMB, and GSA:

- Improve the U.S. methodology for providing federal government procurement statistics to the WTO to ensure both accurate and more timely reporting, consistent with GPA requirements—for example, by providing preliminary estimates and updated values of covered federal procurement or by using an alternative methodology that bases measures of covered government procurement on actual annual obligations, if USTR determines that such an approach is consistent with WTO obligations.
- Develop a methodology for reporting statistics on state governments' covered procurement to the WTO consistent with GPA requirements.

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- Ensure that methodologies and data sources used to prepare GPA statistical notifications are documented.
  - Ensure that calculations using U.S. procurement statistics and other data are reviewed for accuracy before reporting them to the WTO.

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## Agency Comments

We provided a draft of this product to USTR, Commerce, OMB, and GSA for comment. USTR, Commerce, and OMB officials did not comment on our findings and recommendations but provided technical comments, which we incorporated as appropriate. For example, in response to Commerce officials' comments, we clarified our description of their efforts to address data anomalies created by multiple-year, multiple-award federal contracts. GSA concurred with our findings and recommendations and also provided technical comments that we incorporated as appropriate.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan to no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the U.S. Trade Representative, the Secretary of Commerce, the Director of the Office of Management and Budget, the Administrator of the General Services Administration, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Kimberly M. Gianopoulos  
Director, International Affairs and Trade

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# Appendix I: Objectives, Scope, and Methodology

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For this report, we (1) broadly compared covered government procurement reported by the United States and other parties to the World Trade Organization's (WTO) Agreement on Government Procurement (GPA) and U.S. free trade agreements (FTA); (2) assessed the usefulness of GPA and U.S. FTA parties' statistical reporting for more detailed comparisons of—and transparency regarding—their covered government procurement; and (3) examined the extent to which U.S. agencies' approach to reporting statistical data on covered government procurement to the WTO ensures timeliness, accuracy, and comparability.

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## General Analysis of Procurement by the United States and Other GPA and U.S. FTA Parties

The following describes our general analysis of data on procurement by the United States and other GPA and U.S. FTA parties. To estimate total government expenditures and total government procurement for the United States and the 57 other countries that are parties to the WTO GPA and U.S. FTAs, we analyzed macroeconomic data from 2008 through 2012 from the United Nations' (UN) National Accounts Official Country Data database and the International Monetary Fund's Financial Statistics and World Economic Outlook.<sup>1</sup> We used the 2008-2012 time period for these estimates in order to base them on the most reliable, consistent, and comparable sets of data available. Government procurement includes a government's current purchases of goods and services, such as machinery and equipment; purchases of accounting or information technology services; and investment expenditures. The amount of covered government procurement is a subset of total government

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<sup>1</sup>This estimate of total government expenditures and procurement is based on our previous work reported in GAO, *International Trade: The United States and European Union Are the Two Largest Markets Covered by Key Procurement-Related Agreements*, [GAO-15-717](#) (Washington, D.C.: July 29, 2015). In our prior report, we estimated government procurement for the 57 GPA parties as well as 3 additional countries—Brunei, Malaysia and Vietnam—that were parties to negotiations for the Trans-Pacific Partnership but were not parties to the GPA. In our current report, we focus on covered government procurement reported by countries that are parties to the GPA or U.S. FTAs. In addition, the current report provides estimates of covered government procurement, which includes all government procurement as well as procurement by other entities, such as covered state-owned enterprises. State-owned enterprises were not included in our prior report because countries do not provide data on intermediate consumption and gross fixed capital formation of these entities in the UN macroeconomic statistics used to estimate government expenditures and government procurement. However, because WTO GPA countries' notifications include data on procurement by certain covered state-owned enterprises, data shown in all graphics in our current report include procurement by these enterprises, except in fig. 1, which compares the current estimates with those from our prior report.

procurement. We defined covered government procurement under the GPA and U.S. FTAs as procurement by covered government entities at the central and subcentral levels that falls above certain predetermined thresholds and outside certain exclusions stipulated in the agreements. This amount is largely a measure of the opportunities available to domestic and foreign firms seeking to compete under open tendering procedures for government procurement contracts in the countries that are parties to the agreements. Covered government procurement also includes procurement conducted through limited tendering that is covered under the agreements but is not open to all interested suppliers. (GPA parties report data on the use of limited tendering procedures; we analyzed these data and present our findings in app. II.)

We compared data on government procurement reported by the United States with data reported by five other selected parties to the GPA—the European Union (EU), comprising 28 member countries; Japan; Canada; South Korea; and Norway. We selected these parties because they represent, after the United States, the next five largest GPA procurement markets. The combined total government procurement reported by these six parties (33 countries) accounts for 92 percent (\$4.0 trillion of \$4.4 trillion) of average annual total government procurement for the United States and the other 57 countries that are parties to the WTO GPA and U.S. FTAs from 2008 through 2012. For the remaining 25 countries in the dataset, total government procurement during this period amounted to about \$370 billion; we assumed that all of their estimated procurement is covered by the agreements.

In addition, we interviewed federal agency officials from the Office of Management and Budget's Office of Federal Procurement Policy, the General Services Administration's Integrated Award Environment Business Operations Division, the Office of the U.S. Trade Representative's (USTR) Office of WTO and Multilateral Affairs, and the Department of Commerce's International Trade Administration in Washington, D.C. We also discussed the availability of U.S. state procurement data with state officials, reviewed state government documents, and contacted state audit organizations to determine whether the data we used had any significant deficiencies. We interviewed WTO secretariat, EU government, Japanese government, Canadian government, and other officials in Geneva, Switzerland, and reviewed related documents issued by their offices. In addition, we interviewed a former USTR procurement trade negotiator and reviewed relevant studies, papers, and articles.

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## Detailed Analysis of Covered Procurement by U.S. Federal and State Governments and Other Government Entities and by Other Selected GPA Parties

The following describes our detailed analysis of covered government procurement by the U.S. central (federal) government and subcentral (state) governments and other entities and by the other selected GPA parties.

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### U.S. Federal Government Procurement

To analyze covered government procurement by the U.S. federal government, we used data that the United States reported to the WTO in September 2016 covering procurements in fiscal year 2010—the most recent data available—after determining that these data provided a reasonable basis for noting general patterns and making broad comparisons with other parties' central government procurement. We used data from annex 1 of the U.S. WTO statistical notifications for fiscal years 2009 and 2010. We did not use data from before fiscal year 2009 because the 2009 revision of the U.S. methodology for estimating federal procurement rendered earlier data incomparable with data produced with the revised methodology.

To assess the reasonableness of using the 2010 data for our reporting purposes, we also analyzed U.S. data on federal procurement that were not reported to the WTO but that allowed us to estimate likely covered government procurement in more recent years. Specifically, we examined data from the Federal Procurement Data System—Next Generation (FPDS-NG)<sup>2</sup> for fiscal years 2010 to 2014 and estimated the amount of actual obligations in a given fiscal year regardless of the year of the original contract award (see app. III for a discussion of this alternative to the two methodologies used by the United States to report federal covered government procurement). Our analysis found that there is little

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<sup>2</sup>FPDS-NG is the official U.S. federal government procurement database that includes all obligations made by federal agencies and therefore can be used to estimate federal government procurement that was covered by the international trade agreements. FPDS-NG contains standard reports, including trade agreements reports, that contain data on the number and value of contracts covered by the WTO GPA and NAFTA.



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variation in U.S. covered government procurement measured using actual obligations as a share of total federal procurement from year to year. We also found that the percentage of covered federal procurement as reported by the United States in 2009 and 2010 was consistent with FPDS-NG obligations data. As a result, we determined that using the 2010 data was reasonable.

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### U.S. States' and Other Government Entities' Covered Procurement

To analyze covered government procurement by U.S. state governments and other entities, we used data from annexes 2 and 3, respectively, of the U.S. WTO statistical notifications for fiscal years 2009 and 2010. We found that the United States reported total instead of covered government procurement for the 37 states that comprise U.S. subcentral-level commitments under the GPA. We estimated covered procurement by the U.S. states by collecting data for 2014 and 2015 from three of the states that have the largest amounts of procurement—California, New York, and Pennsylvania—and calculating the percentage of their total government procurement that was covered by the trade agreements. We calculated state covered government procurement as the cumulative dollar value of contracts by covered entities that were higher than the thresholds set in the GPA; we did not otherwise correct for other specific exclusions, if applicable. We were unable to obtain any data from another of the largest states, Texas, as it does not collect such data in a central database. We determined that the degree of overstatement of states' covered government procurement was likely relatively minor and would therefore not affect our analysis of differences in orders of magnitude in subcentral government procurement by the United States and the five selected GPA parties.

To analyze covered government procurement by utilities and other government entities, we examined the U.S. methodology for reporting procurement by the 11 entities covered by the GPA. We examined the disaggregated data from the financial statements of 9 of the 11 entities; data for the remaining 2 were not available. We identified the components used to estimate covered government procurement and the relative effects of the inclusion of certain elements that should have been excluded from the estimate and of the exclusion of certain elements that should have been included in the estimate. We determined that these effects were likely small and would not affect our overall conclusions.

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Other Selected GPA Parties' Reported Procurement

We analyzed all available data reported to the WTO by the five selected GPA parties for 2008 to 2013 as well as estimates of their total covered government procurement during this period. We assessed the internal consistency of their WTO notifications and determined that despite some annual variations, the 2010 data provided a reasonable basis for comparing these parties' and the United States' covered government procurement. For example, we sequentially expanded the analysis to include data from 2008 through 2009, 2008 through 2010, 2008 through 2011, and 2008 through 2012, and we excluded years to match the last two U.S. submissions for 2009 and 2010. We found that procurement by central and subcentral governments and other entities appeared to be stable at levels and as shares of covered and total covered government procurement for the various time periods.

Because EU member governments' procurement in 2010 accounts for more than 85 percent of procurement reported by the five selected GPA parties other than the United States, we focused our analysis and assessment of the selected parties' data quality on EU data. We took the following steps to assess the reliability of EU procurement data, from the EU's Tenders Electronic Database. We spoke with EU officials and reviewed publicly available data and analysis of EU covered government procurement. We performed a detailed comparison of data from two sources—the 2011 EU WTO GPA notification and the 2012 EU Public Procurement Indicators.<sup>3</sup> We used several measures related to EU general government procurement, such as above- and below-threshold procurement from the Official Journal of the European Union and from member states reporting, and GPA covered government procurement. After EU officials clarified certain relevant differences in the data, we found the results from the two sources to be largely consistent. Therefore, we determined the data we used were sufficiently reliable to discuss differences in the United States' and EU's reported covered government procurement in terms of orders of magnitude.

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<sup>3</sup>World Trade Organization, Committee on Government Procurement, *Statistics for 2011 Reported under Article XIX:5 of the Agreement: Report by the European Union*, GPA/114/Add.5 (Oct. 22, 2014), accessed January 4, 2016, [https://www.wto.org/english/tratop\\_e/gproc\\_e/notnat\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/notnat_e.htm); *Public Procurement Indicators 2012, DG Markt C4—Economic Analysis and e-Procurement*, 12 November 2014, accessed January 4, 2016, [http://ec.europa.eu/internal\\_market/publicprocurement/docs/modernising\\_rules/public-procurement-indicators-2011\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf).

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## Data Limitations

Because alternative data sources were not publicly available for GPA parties other than the United States and the EU (i.e., for Canada, South Korea, Norway, and Japan), we were able only to check for consistency across time periods and were not able to otherwise assess the comprehensiveness and accuracy of the procurement data reported to the WTO by these parties. In addition, other than noting that the amounts reported are relatively consistent, we were unable to determine the reliability of the data reported by parties other than the EU or the extent to which the reported data represent the actual amounts of covered government procurement for each party. Because the fact that some GPA parties reported far less covered government procurement than the United States is relevant to our report, we present these data for the purpose of a broad comparison with data on U.S. covered government procurement. We also present a table of what these nations reported in 2010 to indicate what was and was not reported. We performed a similar analysis of 2009 and had consistent results.

In our report, we discuss the effects of a number of other data limitations on the precise measurement and analysis of differences in the parties' covered government procurement under trade agreements as well as on analysis of covered government procurement over time. These limitations include the absence of U.S. statistical notifications to the WTO for years after fiscal year 2010; the lack of timeliness, completeness, and consistency in GPA parties' reporting; the lack of common understanding and practice among GPA parties regarding reporting of procurement data; the 2009 change in the U.S. methodology for reporting federal procurement; and the failure of U.S. notifications to distinguish covered from noncovered government procurement for the states. We determined that these limitations may affect our ability to perform certain analyses. For example, we were unable to disaggregate covered government procurement of goods, services, and construction work, owing to the lack of a generally accepted uniform classification system among all GPA parties. Moreover, the changes in reporting methodology by the United States and gaps in reporting by a number of parties made trend analysis over a period of time inappropriate. However, while these limitations preclude precise comparisons, we nevertheless determined that data were sufficiently reliable for broad comparisons in terms of orders of magnitude between parties' covered government procurement.

We conducted this performance audit from August 2015 to February 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

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findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Limited Tendering

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The World Trade Organization's (WTO) Agreement on Government Procurement (GPA) recognizes the importance of transparent measures for government procurement.<sup>1</sup> Our analysis of covered government procurement focused on procurement conducted under open tendering procedures. In certain situations, the GPA also permits procurement through limited tendering—that is, by contacting a supplier or suppliers of choice directly rather than using open tendering procedures. The GPA permits limited tendering when, for instance, no tenders are submitted, no tenders conform to essential requirements of the tender documentation, no suppliers satisfy conditions for participation, or tenders submitted are collusive.<sup>2</sup> Limited tendering is a restrictive practice for making individual procurement decisions, according to the Office of the U.S. Trade Representative. According to the GPA, limited tendering may not be used to avoid competition among suppliers or to discriminate against foreign suppliers.

Procurement data that the United States and the next five largest GPA parties reported to the WTO for 2010 show varying use of limited tendering. The United States, Japan, and Norway reported the use of limited tendering in at least 20 percent of central government contracts covered by the GPA. The practice was less common in the European Union and South Korea, which reported limited tendering in fewer than 10 percent of GPA-covered central government contracts.<sup>3</sup> (See fig. 6.)

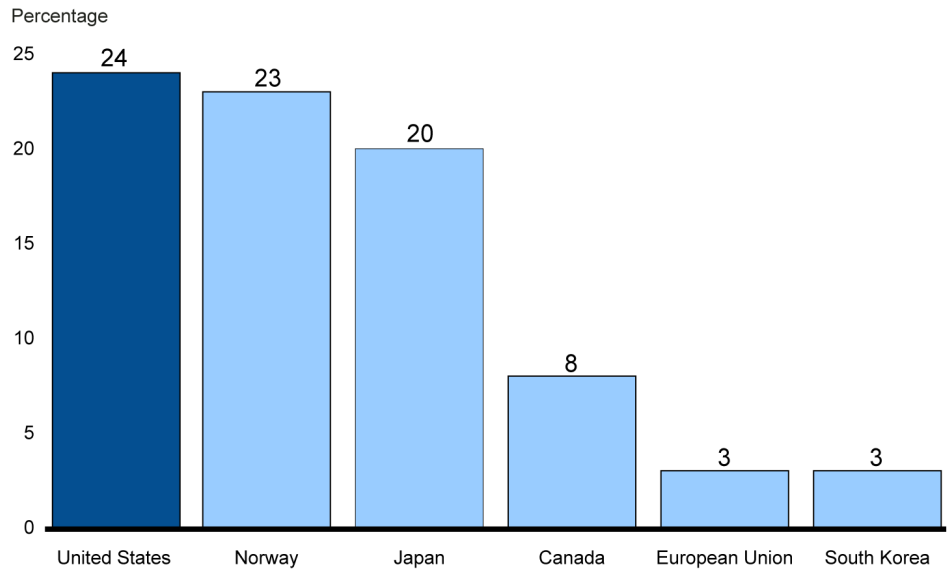
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<sup>1</sup>Revised Agreement on Government Procurement, Annex to the Protocol Amending the Agreement on Government Procurement (Mar. 30, 2012), available at [https://www.wto.org/english/docs\\_e/legal\\_e/rev-gpr-94\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm) (accessed June 13, 2016).

<sup>2</sup>Limited tendering procedures may be used in these circumstances provided that the requirements of the tender documentation are not substantially modified.

<sup>3</sup>Data on limited tendering at the different levels of government and utilities are not available for all the parties within our scope. Therefore, we focused on limited tendering at the central government level only.

**Figure 6: Percentages of Covered Central Government Procurement Reported as Conducted through Limited Tendering by the United States and Next Five Largest GPA Parties, 2010**



Source: GAO analysis of data submitted to the World Trade Organization by selected parties to the Agreement on Government Procurement (GPA). | GAO-17-168

Note: Data shown for Norway include limited tendering at all levels of government, because Norway does not disaggregate data on limited tendering by level of government.

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# Appendix III: Alternative Method for Reporting U.S. Covered Federal Procurement to the WTO

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During our analysis of the original and revised U.S. methodologies for reporting U.S. covered federal central government procurement to the World Trade Organization (WTO), we identified an alternative methodology that could be used to measure the openness of U.S. central government procurement under the Agreement on Government Procurement (GPA).<sup>1</sup>

We found that the original and revised methodologies each have advantages and disadvantages.

- The original methodology allowed for timely reporting by capturing the value of awards in the given year, but it overstated procurement opportunities by reporting the full value of multiple-year, multiple-award contracts multiple times for each award recipient. Because some reported funds were never obligated, aggregating those contracts at the time of award and reporting this aggregate value for a particular year overstated the value of covered federal procurement opportunities.
- The revised methodology accurately captures the dollars obligated against awards in a particular year, but it leads to a 6-year reporting lag by tracking the funds actually obligated for multiple-year contracts. It also results in underreporting, as obligations against those contracts can continue after the methodology's 6-year time frame.

Our analysis of the revised methodology showed that reporting preliminary estimates of dollars obligated in a multiple-year contract's first 3 years would meet the 2014 GPA requirement to report within 2 years of the reporting period and would cover the majority of funds that could be obligated against such a contract. However, this approach could result in the underestimation of funds obligated against the contract, as more funds could be obligated in subsequent years. Therefore, such a preliminary estimate would need to be updated several times to reflect the actual total value of the contracts awarded.

We identified an alternative methodology that would estimate GPA-covered federal procurement based on actual obligations for covered contracts in any given year, regardless of the year the contracts were awarded. This approach would ensure timely reporting since these data

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<sup>1</sup>While we used this alternative methodology to determine the type of data that would be produced, we make no comment regarding the consistency of this method with GPA statistical reporting requirements.

are available on an annual basis without a time lag; moreover, these data would be largely consistent with total federal expenditures reported in the macroeconomic data used to estimate total federal procurement. However, these data may not represent opportunities available to foreign and domestic firms in the reported fiscal year, since obligations in any given fiscal year include obligations on task orders against contracts awarded in prior years.

Using this alternative approach, we found that, whereas total obligations for GPA-covered contracts declined from \$540 billion in fiscal year 2009 to \$445 billion in fiscal year 2014, or by 18 percent, there was little yearly variation in federal covered government procurement as a percentage of total federal procurement. For example, in fiscal year 2009, covered contracts represented 53 percent (\$289 billion) of total obligations, while in fiscal years 2010 through 2014, they represented 51 percent (\$274 billion), 48 percent (\$261 billion), 48 percent (\$248 billion), 48 percent (\$221 billion), and 48 percent (\$214 billion), respectively.



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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Kimberly M. Gianopoulos, (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov).

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## Staff Acknowledgments

In addition to the contact named above, Adam R. Cowles (Assistant Director), Marisela Perez (Analyst-in-Charge), Gergana T. Danailova-Trainor, and Julia Kennon made major contributions to this report. Martin de Alteriis, Gezahegne Bekele, Christopher Cronin, Neil Doherty, Bradley Hunt, Reid Lowe, and Grace P. Lui provided technical assistance.

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## Public Affairs

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