



Highlights of [GAO-07-559](#), a report to congressional committees

Why GAO Did This Study

To meet urgent needs, the Department of Defense (DOD) can issue undefinitized contract actions (UCA), which authorize contractors to begin work before reaching a final agreement on contract terms. The contractor has little incentive to control costs during this period, creating a potential for wasted taxpayer dollars.

Pursuant to the House of Representatives report on the National Defense Authorization Act for Fiscal Year 2007, we assessed (1) the level of insight DOD has into its use of UCAs, (2) how and when DOD is using UCAs, (3) whether DOD is definitizing UCAs in a timely fashion, and (4) whether contracting officers are documenting the basis for negotiated profit or fee. GAO reviewed 77 randomly-selected contracts at seven locations and interviewed DOD officials.

What GAO Recommends

GAO recommends that the Secretary of Defense take actions to help ensure UCAs are definitized on time and to mitigate associated risks. GAO also recommends that the Administrator of the Office of Federal Procurement Policy, which sets government contracting requirements, improve the level of information needed to oversee UCAs. In written and oral comments, respectively, DOD and the Office of Federal Procurement Policy agreed with the recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-559.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Ann Calvaresi-Barr at (202) 512-4841 or calvaresibarra@gao.gov.

DEFENSE CONTRACTING

Use of Undefinitized Contract Actions Understated and Definitization Time Frames Often Not Met

What GAO Found

DOD faces a potentially large gap in its data and thus does not know the extent to which it is using UCAs. DOD's reported obligations for UCAs increased from \$5.98 billion in 2001 to \$6.53 billion in 2005. However, the government's procurement system does not identify undefinitized task or delivery orders or undefinitized contract modifications. In light of DOD's reported increase in its use of task and delivery orders in recent years, the data gap could be large. Because DOD decentralizes oversight of its UCAs, the department would have to manually obtain data from each of its local commands in order to obtain a complete picture. The local commands GAO visited performed oversight of their UCAs to varying degrees.

DOD is generally using UCAs to rapidly fill urgent needs, as permitted, in a variety of circumstances. Local managements' message to the contracting community is to not use a UCA unless absolutely necessary, but this message is emphasized differently from one location to another. GAO found 10 instances in the 77 UCAs we reviewed where UCAs could have been avoided with better acquisition planning. For example, one UCA for the continuation of ongoing services was awarded the day after the previous contract expired.

DOD did not meet the definitization time frame requirement of 180 days after award on 60 percent of the 77 UCAs reviewed. The most common reasons for the delays were untimely receipt of an adequate proposal from the contractor, acquisition workforce shortfalls, and changing requirements. GAO also found that DOD tends to obligate the maximum amount of funding permitted—up to 50 percent of the not-to-exceed amount—immediately at award of UCAs. As a result, contractors may have little incentive to quickly submit proposals. In addition, since DOD does not track whether it meets the Federal Acquisition Regulation requirement to definitize letter contracts (one type of UCA) before 40 percent of the work is complete, GAO was unable to assess compliance with this requirement.

Contracting officers are not documenting, as required, the basis for the profit or fee prenegotiation objective and the profit or fee negotiated. As such, it is unclear whether the costs incurred prior to definitization are considered when computing the profit rates or fee amounts. For the 40 fixed-price contracts GAO reviewed, profit ranged from 3 to 17 percent, and for the 37 cost-type contracts in our sample, fees ranged from 4 to 15 percent. Generally the rate was applied equally over the entire contract term, including the undefinitized period.