



Highlights of [GAO-10-299](#), a report to congressional committees

## DEFENSE CONTRACTING

### DOD Has Enhanced Insight into Undefined Contract Action Use, but Management at Local Commands Needs Improvement

#### Why GAO Did This Study

To meet urgent needs, DOD can issue undefinitized contract actions (UCA), which authorize contractors to begin work before reaching a final agreement on contract terms. Such actions are considered to be a risky contract vehicle for the government because contractors lack incentives to control costs during this period. Defense regulations provide that the government determination of contractors' allowable profit or fee should reflect any reduced cost risk.

Pursuant to the 2008 National Defense Authorization Act, GAO assessed whether DOD actions taken as required by the act have (1) improved departmental insight and oversight of UCA use and (2) resulted in local commands meeting DOD's standards for documenting the basis for negotiating the contractor profit or fee, definitization timelines, and obligation amounts. GAO reviewed relevant DOD regulations and policies, and contract files for 83 randomly-selected UCAs totaling \$6.1 billion at eight local commands. The findings from this contract file review can not be generalized across DOD.

#### What GAO Recommends

GAO recommends that the Secretary of Defense revise defense regulations to provide specific guidance for how to develop, consider, and document assessments of cost risk for profit or fee for all undefinitized contract actions. In written comments, DOD agreed with the recommendations.

[View GAO-10-299](#) or [key components](#). For more information, contact John P. Hutton at (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov).

#### What GAO Found

DOD has taken several actions since August 2008 to enhance departmental insight into and oversight of UCAs; however data limitations hinder its full understanding of the extent to which they are used. DOD issued policy that requires centralized, semi-annual reporting of undefinitized actions to gain insight in UCA use, including information on reason for award, obligation amounts at award, and definitization timelines. Over time, reporting requirements have evolved as DOD has taken steps to clarify guidance on the types of contract actions to be reported. DOD has also required components to submit management plans to describe actions taken for improved UCA use. Although these actions have helped enhance insight and oversight of UCA use, not all UCAs are included in the reports. Of the 24 UCAs GAO reviewed that should have been included in the April 2009 semi-annual report, 8 actions valued at \$439 million were unreported by the local commands to DOD.

Implementation of DOD's recent policies and guidance on the use of UCAs has varied at the local commands GAO visited and the associated management standards were not fully met. For the 66 UCAs GAO reviewed that were eventually definitized, contracting officers generally did not document their consideration of cost risk to the contractor during the undefinitized period of work as required. In 34 cases, the weighted guideline worksheets were not used when required, nor any other documentation of how any reduced cost risk during the undefinitized period of performance was considered in determining the negotiation objective. This was particularly the case for cost-plus-award fee contracts where defense regulations are not clear about how any cost risks are to be considered and documented. Even for the remaining 32 cases in which weighted guideline worksheets were used, the contracting officers' basis for risk calculations were often not clear due to limitations of the weighted guideline documentation. Other management standards were not always met. Only 41 UCAs—about 50 percent of the actions GAO reviewed—met the 180-day definitization requirement. Moreover, 66 of the 83 UCAs GAO reviewed were awarded with obligations near or above the 50 percent maximum as shown below.

**Initial Obligation Amounts for 83 UCAs Reviewed**  
Number of UCAs

