

## Why GAO Did This Study

DOD, State, and USAID collectively spent approximately \$322 billion on goods and services in fiscal year 2013. Nearly two-thirds of this dollar amount was awarded to prime contractors reportedly having a plan for using subcontractors. Concerns remain that the government could overpay contractors that provide no, or little, added value for work performed by lower-tier subcontractors. Section 802 of the NDAA for fiscal year 2013, mandated DOD, State, and USAID to issue guidance and regulations as necessary to ensure that contracting officers take additional steps prior to awarding pass-through contracts.

The accompanying conference report mandated that GAO evaluate the implementation of these requirements. This report assesses the extent to which DOD, State, and USAID issued guidance and regulations consistent with Section 802. GAO reviewed policies, guidance, and regulations at the three agencies and interviewed acquisition officials.

## What GAO Recommends

To help ensure contracting officers carry out Section 802 requirements, GAO recommends that DOD, State, and USAID take two actions: issue guidance to help contracting officers perform the additional steps required, and revise management review processes and guidance to verify implementation. DOD and State agreed with GAO's recommendations but USAID did not, stating that additional guidance might limit its contracting officers' discretion. GAO maintains that both recommended actions are still warranted for USAID.

View [GAO-15-200](#). For more information, contact Timothy J. DiNapoli at (202) 512-4841 or [DiNapoliT@gao.gov](mailto:DiNapoliT@gao.gov)

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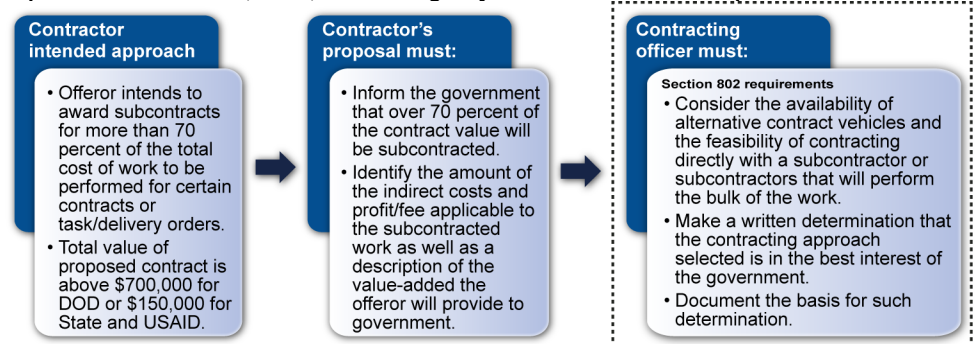
# FEDERAL SUBCONTRACTING

## Further Actions Needed to Improve Oversight of Pass-through Contracts

## What GAO Found

Congress required the Department of Defense (DOD), the Department of State (State), and the United States Agency for International Development (USAID) to issue guidance and regulations as necessary to ensure that contracting officers complete additional analyses prior to awarding pass-through contracts—contracts meeting certain criteria and in which prime contractors plan to subcontract 70 percent or more of the total cost of work to be performed—by July 2013. (See figure.)

### Notification, Review, and Determination Requirements for Pass-through Contracts at the Departments of Defense, State, and U.S. Agency for International Development



Requirements of Section 802 of the National Defense Authorization Act (NDAA) for fiscal year 2013

Source: GAO analysis of FAR 15.408(n), 52.215-22, 52.215-23, and Section 802 of the NDAA for fiscal year 2013. | GAO-15-200

DOD, State, and USAID varied in their implementation of Section 802. Specifically, GAO's analysis of the agencies' policies and regulations found the following:

- USAID issued a policy directive in June 2013 restating Section 802 requirements and is updating checklists used by contracting officers.
- State issued a procurement bulletin in July 2014 that restated Section 802 requirements but has not taken further steps.
- Neither USAID nor State has provided its contracting officers additional information to help them implement these new requirements, such as by identifying how to assess alternative contracting arrangements or how to document their decisions.
- DOD has not taken any actions and is waiting for revisions to the Federal Acquisition Regulation—expected to be completed by March 2015—before deciding what, if any, changes to its guidance are needed.
- As of November 2014, none of the agencies have updated their management review processes to reflect Section 802 requirements.

Federal government internal control standards state that control activities, such as policies and procedures, help to ensure that management directives are carried out and actions are taken to address risk. The lack of guidance and updated management review processes limits the agencies' ability to minimize the potential risk of paying excessive pass-through costs.