



Highlights of [GAO-09-630](#), a report to Congressional Requesters

## Why GAO Did This Study

In prior work, GAO found that contractors were paid billions of dollars in award fees regardless of acquisition outcomes. In December 2007, the Office of Management and Budget (OMB) issued guidance aimed at improving the use of award fee contracts.

GAO was asked to (1) identify agencies' actions to revise or develop award fee policies and guidance to reflect OMB guidance, (2) assess the consistency of current practices with the new guidance, and (3) determine the extent agencies are collecting, analyzing, and sharing information on award fees.

GAO reviewed the Departments of defense (DOD), Energy (DOE), Health and Human Services (HHS), and Homeland Security (DHS) and the National Aeronautics and Space Administration (NASA)—agencies that constituted over 95 percent of the dollars spent on award fee contracts in fiscal year 2008.

## What GAO Recommends

GAO recommends that DOE, HHS, and DHS develop or update implementing guidance on award fees, that DOD promote application of its current guidance, and that all agencies reviewed work together to develop methods to use in evaluating the effectiveness of award fees and sharing successful strategies.

The agencies concurred with each of our recommendations.

View [GAO-09-630](#) or [key components](#). For more information, contact John Hutton at (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov).

## FEDERAL CONTRACTING

### Guidance on Award Fees Has Led to Better Practices but Is Not Consistently Applied

#### What GAO Found

From fiscal year 2004 through fiscal year 2008, agencies have spent over \$300 billion on contracts that include monetary incentives, or award fees, for performance that is evaluated against subjective criteria. OMB's guidance on using award fees includes principles such as limiting the opportunities for earning unearned fees in subsequent periods, linking award fees to acquisition outcomes, designing evaluation criteria to motivate excellent performance, and not paying for performance that is unsatisfactory. These principles are largely reflected in DOD's and NASA's updated guidance on the use of award fees. For example, DOD now prohibits payment of award fees for unsatisfactory performance, and NASA requires a documented cost-benefit analysis to support the use of an award fee contract. However, DOE, DHS, and HHS vary in the extent to which their agency-wide guidance reflects the OMB guidance. These departments generally rely on operational divisions to develop award fee guidance; however, many acquisition professionals at these agencies were unaware of the contents of the OMB guidance.

Current practices for using award fee contracts at agencies GAO reviewed often are inconsistent with the new guidance. However, where the revised policies have been applied, the results have been hundreds of millions of dollars in cost savings and better use of government funds. For example, by limiting second chances at unearned fees in eight programs, GAO estimates that DOD will save over \$450 million through fiscal year 2010. These practices, however, are not being implemented across DOD. NASA programs now document cost benefit analyses to justify using award fee contracts. Without clear guidance, agencies within DOE, HHS, and DHS have developed various approaches to using award fees. For example, while DOE's median award fee paid indicates satisfaction with the results of its contracts, its Office of Science uses a scoring system that could allow for payment of up to 84 percent of an award for performance that does not meet expectations. Most of the agencies we reviewed continue to allow contractors second chances at unearned fees. For example, at DHS, a contractor was able to earn 100 percent of its unearned fee in a subsequent period. Agencies do not always use criteria that are based on measuring results. For example, one HHS contract for a call center included criteria that focused more on efforts, such as maintaining proper staffing levels during hours of operation, rather than on measuring results.

Only DOD collects data on the use of award fees. However, the data are largely used to respond to legislative requirements for award fee information. Agencies generally do not have methods to evaluate the effectiveness of award fees. While individual programs and some offices have taken steps to evaluate award fee criteria, officials stated that identifying metrics to compare performance across programs would be difficult. Further, while GAO found effective practices within some agencies, the lack of a governmentwide or, with the exception of DOD, agencywide forum to share information allows these to remain isolated examples of potential best practices.