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Report to Congressional Committees

January 2010

DEFENSE CONTRACTING

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

GAO-10-299

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GAO Accountability·Integrity·Reliability

Highlights

Highlights of GAO-10-299, a report to congressional committees

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.

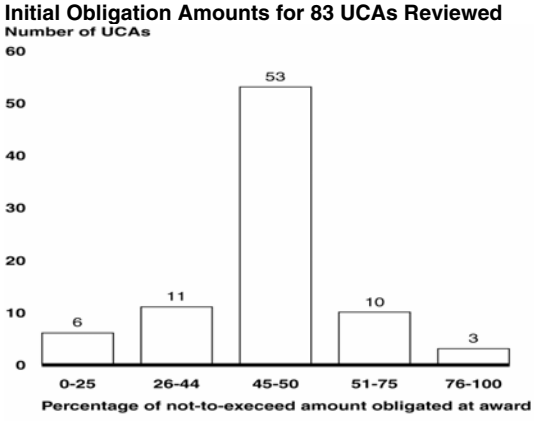
View GAO-10-299 or key components.
For more information, contact John P. Hutton at (202) 512-4841 or huttonj@gao.gov.

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



Source: GAO analysis of DOD data.

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Abbreviations

DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense
FAR	Federal Acquisition Regulation
NAVICP	Naval Inventory Control Point
NAVSEA	Naval Sea Systems Command
OSD	Office of the Secretary of Defense
OUSD (AT&L)	Office of the Under Secretary of Defense for Acquisition, Technology & Logistics
TACOM	Tank-automotive and Armaments Command
UCA	undefinitized contract action

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Congressional Committees

To meet urgent needs, the Department of Defense (DOD) can authorize contractors to begin work and incur costs before reaching a final agreement on the contract terms and conditions—known as an undefinitized contract action (UCA).[1] This type of contract, however, poses risk to the taxpayer as contractors lack incentives to control costs while contract terms and conditions are negotiated and definitized. UCAs are generally required to be definitized within 180 days or before more than 50 percent of the estimated contract price is obligated, whichever occurs first.[2] DOD must ensure that UCAs are used only when necessary and that it negotiates the contract terms and conditions as quickly as possible. According to defense regulations, since the cost risk to the contractor may be low during the undefinitized period, compensation should be adjusted to reflect any reduced cost risk. The department reported $18 billion in potential obligations for undefinitized actions exceeding $5 million, during fiscal year 2008.[3]

In June 2007, we reported that DOD did not know the extent to which it was using UCAs and identified the need to improve DOD's (1) oversight of UCAs, (2) ability to meet required definitization time frames, and (3) contracting officer documentation of the basis for negotiating

[1] A definitized contract action is one in which all conditions and terms are agreed to by the parties to the contract at the time of contract award.

[2] Defense Federal Acquisition Regulation Supplement (DFARS) 217.7404-3(a) (1) and (2). Under the Federal Acquisition Regulation (FAR) 16.603-2(c)(3), letter contracts are to be definitized before 180 days or before 40 percent of the work is completed. DOD has proposed an amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) (Case 2007-D011) to clarify that DOD letter contracts will be definitized using the DFARS procedures (before 180 days or prior to 50 percent or more of the not-to-exceed amount is obligated) applicable to all other undefinitized contract actions. The proposed rule was still pending as of January 21, 2010.

[3] At the time of this analysis, fiscal year 2008 was the most current year for which information was available. $18 billion is the total not-to-exceed amount for the reported undefinitized contract actions, exceeding the $5 million reporting threshold, during fiscal year 2008 and represents the highest value of obligations the government may have to fund for those contract actions once they are definitized. DOD finalized its October 2009 report December 22, 2009.

contractor profit or fee.[4] In January 2008, these findings were reflected in Section 809 of the National Defense Authorization Act (NDAA) for fiscal year 2008.[5] The act requires DOD to issue guidance that would include (1) circumstances in which it is appropriate for DOD to use UCAs, (2) procedures for ensuring compliance with definitization timelines and obligation amounts, (3) procedures for compliance with regulatory limitations on profit or fee with respect to costs incurred prior to definitization, and (4) reporting requirements for UCAs that fail to meet required timelines for definitization or regulatory limitations on the obligation of funds or on profit or fee.

In August 2008, the department issued a policy memorandum on UCA oversight and management, which required DOD components to report semi-annually on contract actions with an estimated value exceeding $5 million to the Office of the Under Secretary of Defense for Acquisition, Technology & Logistics (OUSD (AT&L)), Defense Procurement and Acquisition Policy.[6] In addition, the memorandum advised DOD components to obligate funds for the undefinitized period consistent with the contractor's requirements for the anticipated undefinitized period and to comply with existing Defense Federal Acquisition Regulation Supplement (DFARS) policy on UCA use. The act also required us to assess the extent to which DOD's guidance resulted in improvements to its insight and use of UCAs. Accordingly, we assessed whether actions taken by DOD have (1) improved departmental insight and oversight of UCA use; and (2) resulted in local commands meeting DOD's UCA management standards for documenting the basis for negotiating the contractor profit or fee, definitization time lines and obligation percentages, and the circumstances in which UCAs are used.

To identify and assess the actions DOD has taken to improve departmental insight and oversight, we reviewed relevant DOD policy memoranda, federal and defense acquisition regulations, and proposed changes to DFARS; and interviewed senior-level acquisition officials. We selected eight local commands and developed and reviewed a random selection of

[4] GAO, *Defense Contracting: Use of Undefinitized Contract Actions Understated and Definitization Time Frames Often Not Met*, GAO-07-559 (Washington, D.C.: June 19, 2007).

[5] Pub. L. No. 110-181, § 809, 122 Stat. 217 (2008).

[6] Management Oversight of Undefinitized Contract Actions memorandum from the Director, Office of Defense Procurement and Acquisition Policy (Aug. 29, 2008).

83 contract actions reported as UCAs and valued at a total of $6.1 billion. The findings from this contract file review can not be generalized across DOD but are illustrative of UCA use. We compared information from those contract actions to DOD's semi-annual reports and local commands' UCA reports. We selected four of the local commands based on their placement within the top 50 percent of the total dollar value of UCAs issued over $100,000 during fiscal year 2008. We selected the remaining four commands based on (1) significant UCA use according to the military services, (2) geographic location, and (3) the history of UCA use. For the purposes of this report we refer to the following eight locations as the local commands.

U.S. Army

- Tank-automotive and Armaments Command Contracting Center, Warren, Michigan
- Rock Island Contracting Center, Rock Island, Illinois

U.S. Navy

- Naval Sea Systems Command, Washington, D.C.
- Naval Inventory Control Point, Philadelphia, Pennsylvania

U.S. Air Force

- 303rd Aeronautical Systems Wing (Reconnaissance Systems Wing), Wright-Patterson Air Force Base, Ohio
- 516th Aeronautical Systems Wing (Mobility Systems Wing), Wright-Patterson Air Force Base, Ohio

Defense Agencies

- Missile Defense Agency, Redstone Arsenal, Alabama
- United States Special Operations Command, MacDill Air Force Base, Florida

We selected the 83 UCA contract actions from UCAs reported in the Federal Procurement Data System-Next Generation (FPDS-NG) as awarded during fiscal year 2008 and the first 5 months of 2009. [7] We

[7] The Federal Procurement Data System-Next Generation is a comprehensive, Web-based tool and database which functions as a clearinghouse of information for all of DOD's contract actions, including UCAs, exceeding the micropurchase threshold, which in most cases is $3,000.

determined that the FPDS-NG data were sufficiently reliable for the purposes of this review by comparing the information in FPDS-NG with UCA information from other sources, such as the Electronic Data Access program, DOD's semi-annual reports, local command reports, and information in the contract files.[8]

To determine whether DOD's recent actions have resulted in local commands meeting UCA management standards, we reviewed relevant policies and guidance to identify the standards for documenting the basis for negotiating contractor profit and fee, timeliness of definitization, obligation amounts at the time of contract award, and the circumstances that justify the use of a UCA. We then reviewed contract files for the 83 contract actions in our selection and compared the relevant documentation to the management standards. At each local command we discussed the circumstances for each UCA with contracting officials.

We conducted this performance audit from March 2009 to January 2010 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 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. Appendix I provides details on our scope and methodology, appendix II lists the contract actions we reviewed, and appendix III lists contract actions we reviewed that were unreported in DOD's April 2009 semi-annual report.

Background

GAO designated DOD contract management as a high-risk area in 1992.[9] The lack of well-defined requirements, the use of ill-suited business arrangements, and the lack of an adequate number of trained acquisition and contract oversight personnel contribute to unmet expectations and schedule delays and place the department at risk of potentially paying more than necessary. In fiscal year 2009, DOD spent nearly $384 billion on

[8] DOD's Electronic Data Access is a Web-based system that provides secure online access, storage, and retrieval of contracts and contract modifications to authorized users throughout DOD.

[9] GAO, *High-Risk Series: An Update*, GAO-09-271 (Washington, D.C.: January 2009).

contracts.[10] In response to our prior recommendations and congressional direction, DOD has recently emphasized the need to improve its insight and management of UCAs.

When a requirement needs to be met quickly and there is insufficient time to use normal contracting vehicles, defense regulations permit the use of an undefinitized contract action. These can be quickly entered into, but at a later date, the contract's final price and other terms must be agreed upon by the contractor and government, a process known as definitizing the contract. UCAs can be entered into via different contract vehicles, such as a letter contract (an undefinitized stand-alone contract), a task or delivery order issued against a pre-established umbrella contract, an order against a basic ordering agreement, or a modification for additional supplies or services to an existing contract.

UCAs are considered risky contract vehicles for the government. Our prior work and a DOD Inspector General report found that undefinitized contracts transfer additional cost and performance risks from contractors to the government because contracting officers normally reimburse contractors for all allowable costs they incur.[11] With all allowable costs covered, contractors bear less risk and have little incentive to control costs. The government also risks incurring unnecessary costs as requirements may change before the contract is definitized. Contractors and the government should bear an equitable share of contract cost risk.[12] UCAs shift much of the burden of cost risk onto the government during the undefinitized portion of the contract. Because the cost risk to the contractor may be reduced during this undefinitized period, compensation should be priced accordingly and negotiations should reflect any reduced cost risk to the contractor in determining the government's profit or fee objective, according to defense regulations.[13]

[10] According to the Federal Procurement Data System-Next Generation, DOD's total obligations in fiscal year 2009 were about $370 billion. However, this figure reflects an approximately $13.9 billion downward adjustment made by DOD to correct an administrative error made in fiscal year 2008. As this adjustment significantly affected DOD's reported obligations in fiscal year 2009, the $384 billion figure we report reflects what DOD's total obligations would have been had the error not occurred.

[11] GAO-07-559 and Department of Defense, Office of the Inspector General, *Audit Report: Undefinitized Contract Actions*. Report Number D-2004-112, Arlington, Va. (Aug. 30, 2004).

[12] GAO-07-559, 6.

[13] DFARS 217.7404-6.

DOD's acquisition organization consists of several levels including department, service or agency, and local contracting commands or activities where acquisition policy and oversight take place. At the departmental level, the Under Secretary of Defense for Acquisition, Technology and Logistics is responsible for supervising and establishing policy for all DOD matters relating to procurement and acquisition policy through the Office of Defense Procurement and Acquisition Policy. At the component or agency level, each military service has its own senior acquisition executives and acquisition offices that are to establish contracting policies and conduct oversight of the local contracting commands or activities for each service. The defense agencies and combatant commands, such as the Missile Defense Agency and the U.S. Special Operations Command, also have procurement or contracting directorates within their organization that are to perform similar functions as the service senior acquisition executives in terms of establishing policy and conducting oversight. Within each military service there are numerous local contracting commands or activities that provide contracting support to many service acquisition and operational commands.

DOD Steps to Enhance Insight and Oversight of UCAs Are Hampered by Incomplete Data

DOD has taken a number of steps aimed at enhancing its insight into and oversight of UCA use among the components and local commands; however, data limitations hinder its full understanding of the extent to which UCAs are used. DOD implemented a policy in August 2008 to require centralized periodic reporting of UCA information and related management plans to the Defense Procurement and Acquisition Policy office within OUSD (AT&L). The department's reporting requirements have evolved over time to include other types of contract actions that should be reported and DOD has instituted contract peer reviews for contracts above $1 billion, which may include UCAs. Although these steps have helped increase insight into UCA use, information gaps remain. For instance, we found DOD's centralized reporting did not include 8 of 24 UCAs we reviewed that should have been reported in the April 2009 semi-annual report.

DOD Has Implemented Policies and Proposed Changes to Enhance UCA Insight and Oversight

DOD has instituted policies and proposed additional changes intended to enhance its departmental insight and oversight of UCA use. See Figure 1 for the recent changes to policies and guidance intended to increase insight and oversight of the use of UCAs.

Figure 1: DOD UCA Policy and Associated Guidance

August 2008 Policy Memorandum
- Consolidated UCA Management Report
  - Semi-annual reporting for UCAs above $5 million
- UCA Management Plans
  - Semi-annual plans submitted by components
- UCA reporting format established

DFARS
- DFARS Section 217.74
  - Updated in July 2009 to codify August 2008 policy
- DFARS Section 201.170
  - Peer review of contracts above $1 billion

October 2009 Policy, Guidance, and Instructions
- Contract actions exempt from DFARS requirements related to definitization schedules and initial obligation amounts should be reported
- Formalized template to report key information including:
  - award, definitization, and receipt of qualifying proposal dates
  - not-to-exceed and obligation amounts
  - reason for award

Source: GAO analysis of DOD information.

DOD's August 2008 policy memorandum established centralized semi-annual reporting for UCAs with a not-to-exceed price above $5 million to the OUSD (AT&L) Defense Procurement and Acquisition Policy. According to DOD, the purpose of this centralized reporting is to enhance departmental insight into and management of UCAs. Starting October 31, 2008, undefinitized contract actions were required to be reported if the contract action's not-to-exceed value was above $5 million and it was undefinitized at any point during a 6-month reporting period— either April through September, or October through March. These semi-annual reports are to include data on the reason for award, not-to-exceed amounts, obligation amounts, date of scheduled definitization, days past definitization deadline, and date the qualifying proposal is received. DOD finalized its October 2009 semi-annual report December 22, 2009.

In addition to semi-annual reporting, the August 2008 policy memorandum also required each DOD component to update and submit a UCA

management plan, each April and October, along with the semi-annual report as a way to improve oversight of UCA use. These management plans are required to describe the actions taken by DOD components to help ensure

- appropriate use,
- timely definitization,
- minimum obligation at time of award (consistent with the contractor's requirements for the undefinitized period),
- appropriate recognition and documentation of the contractor's reduced risk during the undefinitized period in the profit and fee negotiations, and
- milestones for completing planned actions.

In October 2009, DOD updated its detailed guidance to clarify that UCAs to be recorded in the semi-annual report include undefinitized contracts awarded for foreign military sales, congressionally mandated long-lead procurement items, initial spares, special access programs, and contingency operations. A Defense Procurement and Acquisition Policy official also told us that once UCAs over $100 million are definitized, components must also submit the weighted guidelines worksheets along with their semi-annual report. Weighted guideline worksheets are an organized and structured approach to establish and document a prenegotiation objective for profit or fee based on an assessment of contractor risk. In preparing government estimates where profit is negotiated as an element of price, a reasonable profit shall be negotiated or determined for each procurement action, according to defense regulations. Requiring the worksheets to be submitted is intended to provide departmental insight into whether or not contracting officers are documenting their assessment of the contractor's reduced risk when determining profit or fee negotiation objectives. Although we were told that weighted guidelines are to be submitted for UCAs over $100 million once definitized, we could not find documentation of this requirement in the UCA management Procedures, Guidance, and Instructions. On December 23, 2009, the department revised DFARS procedures, guidance, and instruction to require military departments and defense agencies to submit, with their semi-annual reports, a copy of the record of weighted guidelines for each definitized UCA with a value of $100 million or more.

DOD also has finalized one amendment to DFARS and has proposed two additional changes which will affect how UCAs are managed within DOD. In July 2009, DFARS was amended to codify the changes communicated in

the August 2008 policy memorandum. Also, in July 2009, DOD proposed a change to clarify that the existing DFARS requirement that letter contracts be definitized within 180 days or before more than 50 percent of the not-to-exceed amount is obligated will apply rather than Federal Acquisition Regulation (FAR) policy.[14] Finally, although unpriced change orders are not UCAs, DOD has proposed a change to DFARS in recognition of the need for increased insight into and oversight of unpriced change orders to require that unpriced change orders be managed and overseen in a manner consistent with UCAs.[15]

DOD's recent peer review process initiative may also improve DOD's insight into and oversight of UCAs. Under the peer review process, contracts above $1 billion are to be reviewed by senior DOD officials at three points prior to contract award and then periodic post-award reviews. This peer review process is intended to increase departmental awareness of the significant events occurring with contracts valued at $1 billion or more across DOD.[16] According to a DOD official, at least one UCA contract has been selected as part of the peer review process.

Centralized Reporting Is Incomplete

Despite DOD's efforts to collect information on UCAs, not all UCAs were in the most recent semi-annual report. For example, we found that of the 83 contract actions we reviewed, 24 met DOD's criteria for being included in the April 2009 semi-annual report—those contracts that exceeded $5 million between October 1, 2008, and March 31, 2009. However, only 16 of them were actually reported in April 2009, leaving 8 contract actions valued at $439 million unreported.[17] For example, because the Naval Sea Systems Command's (NAVSEA) local list of undefinitized actions was not

[14] The FAR requires letter contracts be definitized within 180 days after the award date or before 40 percent of the work is complete, whichever occurs first. See FAR 16.603(2)(c)(3).

[15] For purposes of this report, an unpriced change order is a unilateral, within scope order on which the parties have not yet reached agreement on an equitable adjustment. It includes change orders, administrative changes, funding modifications, or any other contract modifications that are within the scope and under the terms of the contract, e.g., engineering change proposals, and value engineering change proposals. DFARS 217.7401.

[16] GAO, *Defense Acquisitions: Further Actions Needed to Address Weaknesses in DOD's Management of Professional and Management Support Contracts*, GAO-10-39 (Washington, D.C.: Nov. 20, 2009).

[17] For more specific information on the UCAs omitted from the April 2009 semi-annual report see appendix III.

complete, the local command was not aware it missed four UCAs valued at $153 million in its submission to the Defense Procurement and Acquisition Policy office for the April 2009 semi-annual report. Also, at the Tank-automotive and Armaments Command (TACOM), we reviewed 4 undefinitized actions valued at $286 million that were not included in the semi-annual report. According to TACOM officials, 2 actions valued at $271 million went unreported because local officials did not report actions that were definitized during the reporting period despite DOD's requirements to include them. The other 2 contract actions, valued at $15 million, were overlooked. In contrast, all of the 16 contract actions in our selection at the U.S. Special Operations Command and the Army's Rock Island Contracting Center were included in local reports and reported to DOD for the April 2009 semi-annual report as required.

DOD's reporting requirements are still in flux as it takes steps to gain insight into and oversight of UCA use. For example, when DOD introduced the new reporting requirements in its August 2008 policy memorandum, UCAs over $5 million were required to be reported, but there was some confusion at the local commands as to what type of contract action this requirement applied. DOD released detailed guidance to commands for their use in time for the October 2009 report specifying that contract actions exempt from definitization and obligation limitations, such as foreign military sales and long-lead procurement items, were to be included in the semi-annual report. In addition, the proposed July 2009 amendment to DFARS is intended to increase DOD's insight of unpriced change orders by requiring these contract actions to be reported semi-annually and managed in a manner consistent with UCAs. According to DOD, unpriced change orders pose similar risks as UCAs, therefore, increased insight and oversight are warranted. While reporting of unpriced change orders is not yet required, we identified nine unpriced change orders, within the 83 contract actions we reviewed, with a not-to-exceed value totaling $499 million, which would fit DOD's proposed reporting criteria. Five of these—totaling $231 million—at the Aeronautical Systems Center are being tracked locally similarly to UCAs with regard to approval, obligation, and definitization requirements, but these were not included in DOD's semi-annual reporting. Another unpriced change order awarded by the Missile Defense Agency for $14 million is also tracked according to local command policies but was not included in DOD semi-annual reporting. In contrast, we found three unpriced change orders, totaling $254 million at the Rock Island Contracting Center, that were tracked similarly to UCAs at the local level and reported to DOD.

Notwithstanding the inaccurate data and evolving refinement of UCA reporting requirements, DOD has begun to use its semi-annual UCA report to oversee the extent to which local commands are using UCAs. For example, based on increased use reported in the April 2009 semi-annual report, the Director, Defense Procurement and Acquisition Policy, visited the Aeronautical Systems Center in September 2009 to better understand the situation there, reemphasize the importance of UCA management, and discuss ideas for how the contracting center can improve.

Local Commands Are Generally Not Meeting DOD's Management Standards

Despite DOD's recent UCA management policy, guidance, and instructions designed to improve their use, implementation varied at local commands we visited and the management policy standards were not fully met. DOD's August 2008 policy designed to improve UCA management reemphasized requirements governing their use, including:

- allowable profit during the undefinitized period when determining the government's objective for profit or fee,
- documenting any reduced cost risk and profit or fee determinations in the contract file,
- definitization time frames, and
- obligation limits.

For 66 of the 83 UCAs we reviewed that were definitized, contracting officers generally did not document the profit or fee negotiation objective or consideration of reduced cost risk to the contractor during the undefinitized period of work as required.[18] In addition, the 180-day requirement for UCA definitization was not met in half the UCAs we reviewed. Furthermore, despite DOD policy to limit obligations to the planned work during the anticipated undefinitized period, the local commands typically obligated at or near the maximum amount permitted—up to 50 percent of the not-to-exceed amount—immediately at

[18] Documentation of the government's proposed profit or fee is typically found in the contract file's price negotiation memorandum and weighted guideline worksheet. The price negotiation memorandum details the negotiations between the government and the contractor to reach final terms of definitization and typically includes the government's objective, summaries of the contractor's proposals, and the profit or fee negotiated.

award of UCAs.[19] Despite the risks involved, we also found situations when the government may have been able to avoid the use of undefinitized contract actions.

Commands Varied in How They Implemented DOD's Policy Designed to Improve UCA Management

The local commands we visited managed their UCA use to varying degrees. All of the locations used some sort of local management report to track information about the contracts awarded. A majority of the locations reported UCA awards and status to local acquisition management regularly ranging from weekly to monthly. Local commands also varied in the dollar threshold amounts requiring higher-level approval, such as the head of contracting authority rather than a division chief or department head, for their use of UCAs. For example, the Rock Island Contracting Center, TACOM Contracting Center, U.S. Special Operations Command, and Missile Defense Agency require management approval at the highest-level, i.e, the head of contracting activity, within the command for all UCAs regardless of price, while other commands only require management approval at the highest level for UCAs above a $10 million threshold.

The local commands we visited also emphasized key aspects of UCA management standards to varying degrees. Some commands appear to have increased their focus in one of the areas identified in the August 2008 policy. For example, the Rock Island Contracting Center has decreased the 180-day requirement for definitization to 150 days. According to local command officials, if 150 days from UCA award is surpassed, management expects continuous updates on the status of definitization. Table 1 compares UCA management policies for the commands we visited.

[19] DOD may obligate up to 50 percent immediately at award and up to 75 percent upon receipt of a qualifying proposal from the contractor. DFARS 217.7404-4. According to DOD policy, contracting officers should also limit obligating the maximum permissible funding at the time of the award to discourage extended periods of performance prior to definitization. DOD may waive limitations on obligations if the head of the agency determines a waiver is necessary to support a contingency, humanitarian, or peacekeeping operation. DFARS 217.7404-5(b).

Table 1: Differences in Local UCA Management Policies

Local command	Local command reporting requirement			
	Weekly	Monthly	Highest level contracting official approval required for all UCAs [a]	Planned definitization schedule under 180 days
303rd Aeronautical Systems Wing	√	√		
516th Aeronautical Systems Wing	√	√		
Rock Island Contracting Center		√	√	√
TACOM Contracting Center		√	√	
Naval Inventory Control Point	√			
Naval Sea Systems Command	√			
U.S. Special Operations Command	√	√	√	
Missile Defense Agency [b]		√	√	

Source: GAO analysis of local contracting command UCA management policies.

[a] All undefinitized contract actions require management approval. However, some commands authorize lower level management officials, such as division chiefs or department heads, to approve use of undefinitized contract actions under $10 million.

[b] Missile Defense Agency requires biweekly and monthly reporting.

Mandatory Consideration of Incurred Cost Prior to Contract Definitization Is Not Typically Documented in the Contract File

According to DOD regulations, contracting officers are required to consider any reduced cost risk to the contractor for costs incurred before negotiation of the final price. Further, contracting officers must document this risk assessment in the contract files. Sixty-six of the 83 contract actions we reviewed were definitized and should have documented a risk assessment in their contract file and used the weighted guideline worksheet or an alternative method to determine allowable profit or fee for negotiation purposes.[20]

About half of the cases we reviewed—34 of 66—did not use the weighted guidelines or document any consideration of cost risk to the contractor during the undefinitized period when establishing profit or fee negotiation objectives. Instead, we found these contracting officers based their profit

[20] Seventeen of the 83 UCAs we selected were not definitized or government negotiation objectives had not been prepared before or during our review. Therefore, 66 UCAs should have had a weighted guidelines worksheet or a risk assessment in the contract file, according to DOD regulations. This number includes the 12 cost-plus-award-fee contracts which, although not required to use a weighted guidelines worksheet, were still required to consider any reduced risk borne by the contractor during the undefinitized period and document this risk assessment in the contract file.

or fee negotiation objectives on previously negotiated rates under contracts for similar work or other factors. None of these included the required consideration of any reduced cost risk to determine whether the contractor's proposal included fair and reasonable prices. For example, in 12 cost-plus-award-fee contract actions, the contracting officers used the base and award fee structure in contracts previously awarded for similar work, or in one case, accepted the contractor's proposal when determining their negotiation fee objectives prior to contract definitization. However, DOD's contract pricing reference guide notes that automatically applying predetermined profit or fee percentages without regard to the unique circumstances of the immediate negotiation is inconsistent with government profit or fee goals. Although not required to use a weighted guidelines worksheet for cost-plus-award-fee contracts, contracting officers are still required to consider and document any reduced cost risk borne by the contractor during the undefinitized period.[21] For these contract actions we did not see evidence in the contract file that there was consideration of any reduced cost risk. However, in one case a contracting officer was aware of the requirement to document and consider reduced cost risk, but did not know how to account for any reduced cost risk because defense regulations do not provide a procedure for how to consider any reduced cost risk for cost-plus-award-fee type contracts.

In the remaining 32 of 66 UCAs we reviewed, the contract files included weighted guideline worksheets, but it was not always clear whether the contracting officers considered any reduced cost risk to the contractor during the undefinitized period as a factor when determining allowable profit or fee as required.[22] Because of the weighted guideline worksheet design it did not show the contracting officer's basis for risk calculations or indicate the reason for assigning a particular contract-type risk value. The contract-type risk value reflects the relative risk to the government associated with the specific contracting method. Therefore, we also reviewed the contract files for documentation of a risk assessment. In 15 of these 32 contract files, we found no risk assessment documentation in the file that provided a rationale for the values assigned to the contract-type risk in the weighted guidelines worksheet, making it difficult to verify what consideration, if any, the contracting officer made for incurred costs.

[21] 216.405-2, procedures, guidance, and instruction to DFARS 216.405-2 and DFARS 217.7404-6.

[22] DFARS 217.7404-6.

In addition, within these 15 files the contracting officers did not acknowledge the requirement to ensure that the profit or fee negotiation objectives reflected any reduced cost risks to the contractor.

In the remaining 17 of the 32 contract files, the contracting officers' rationale for their decisions on the assigned contract-type risk value and, when applicable, their consideration of incurred costs during the undefinitized period, were documented in the contract file. Contracting officers are required to use the contract-type risk value in the weighted guidelines worksheet to reflect any reduced contractor cost risk during the undefinitized period. A higher contract-type risk value represents a higher risk to the contractor. For example, a contracting officer may assign a fixed-price type contract a value ranging from zero to six, while a cost-plus type contract will range from zero to two.[23] If costs have been incurred prior to definitization, the contracting officer should account for the shift in risk from the government to the contractor by assigning a contract-type risk value that is typically lower than the normal range. According to the department's August 2008 UCA policy, contracting officers should generally regard the contract-type risk to be in the low end of the designated range when costs have been incurred prior to definitization.[24] Further, if a substantial portion of the cost has been incurred prior to definitization, contracting officers may assign a value as low as zero, regardless of contract-type.

In 8 of these 17 contracts, contracting officers reduced the allowable profit or fee negotiation objectives based on costs incurred by the contractor during the undefinitized period. For example, in a firm-fixed-price UCA awarded by the Navy for compact solid state antennas, the contracting officer used the weighted guidelines worksheet to assign low contract-type risk values based upon incurred and projected costs resulting in a lower profit objective than normal values would have calculated. In the remaining 9 cases, the contracting officers considered making an adjustment but indicated a reduction to the contractor profit or fee negotiation objectives was not warranted. For example, in a cost-plus-incentive-fee UCA awarded by the Air Force to develop and test a Global Hawk sensor package, the contracting officer acknowledged the requirement to consider any reduced cost risk to the contractor during the undefinitized period, but determined the government shared responsibility

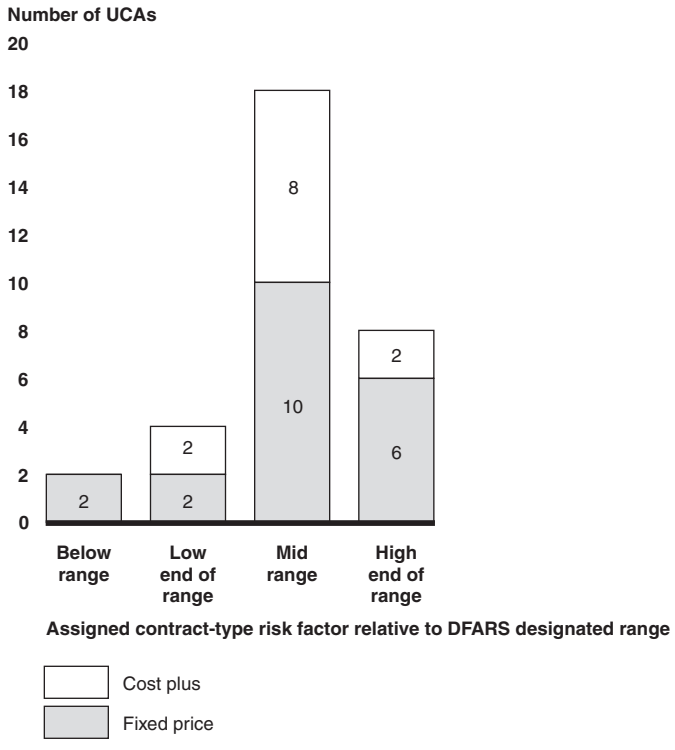
[23] DFARS 215.404-71-3(c).

[24] DFARS 215.404-71-3(d)(2).

for the definitization delay. Therefore, the contracting officer assigned a normal contract-type risk value for this contract.

Despite DOD policy guidance, our analysis of the 32 UCAs that used the weighted guideline worksheets indicated that the contract-type risk factors were skewed toward the middle and high end of the DFARS designated ranges, indicating higher risk for the contractors. In the absence of documentation of the contracting officers' analysis, we were unable to determine why the contract risk types were arrayed toward the middle and high end of the designated ranges. Our analysis indicated that contracting officers tended to assign middle and high values for fixed-price contracts rather than cost reimbursement contracts. Figure 2 shows the distribution of the contract-type risk values assigned for those UCA contract files containing weighted guideline worksheets.

Figure 2: Distribution of Assigned Contract-type Risk Factors for Definitized Contract Actions Reviewed



Source: GAO analysis of DOD data.

UCAs Were Not Definitized within Required Time Frames

Local commands we visited did not meet the 180-day requirement in the federal and defense regulations for 51 percent of the UCAs we reviewed. We have previously reported that this situation places the government at risk of paying increased costs, thus potentially wasting taxpayers' money.[25] Table 2 shows the number and percentage of UCAs we reviewed that were not definitized within the 180-day requirement.

Table 2: Definitization Status of UCAs Reviewed

Component	Definitized within 180 days	Definitized beyond 180 days	Undefinitized beyond 180 days	Total	Percentage of UCAs not definitized within 180 days
Army	23	6	0	**29**	21%
Air Force	8	10	7	**25**	68%
Navy	4	4	10	**18**	78%
USSOCOM	2	3	1	**6**	67%
MDA	4	1	0	**5**	20%
Totals	**41**	**24**	**18**	**83**	**51%**

Source: GAO analysis of DOD data.

Note: Information in the table was collected during our on-site contract file reviews from June 2009 through October 2009. Those UCAs we found to be undefinitized beyond 180 days may have subsequently been definitized after our file review.

We found 24 contract actions that took more than 180 days to be definitized, including 4 that took over a year. The longest took over 582 days to definitize. We also found 18 contract actions that were undefinitized beyond 180 days, including one from the Aeronautical Systems Center awarded in February 2008, which as of December 2009 had yet to be definitized after more than 645 days. Officials at the local commands stated that they attempt to follow defense acquisition requirements for definitization within 180 days. However, we found increased management emphasis on definitization time frames at the Rock Island Contracting Center. Specifically, the Rock Island Contracting Center focused on definitizing UCAs within 150 days. Of the 12 UCAs we reviewed at this location, 11 were definitized within the 180-day time frame. We found no relationship between the dollar value of the contract action and the length of time it took to definitize. Likewise, final contract-

[25] GAO-07-559, 12.

type did not appear to influence the timeliness of definitization. We found both fixed-price and cost-reimbursable contracts that exceeded the 180-day definitization requirement.

Contracting officers cited several reasons why UCAs may not be definitized within the 180-day time frame. The most common reasons cited were problems with contractor and subcontractor proposals, protracted negotiations between the government and contractor, timeliness of government audits, and unstable requirements and funding. Several contracting officers told us that delays were the result of a combination of these issues.

The Majority of UCAs Were Awarded with Maximum Obligation Allowed at the Time of Award

Most of the contract actions we reviewed were awarded at or near the maximum not-to-exceed price authorized under DFARS.[26] Of the 83 UCAs we reviewed, 66 had initial obligation amounts of 45 percent or more of the not-to-exceed price at award. As we have noted in prior work, contractors may have little incentive to quickly submit proposals and agencies have little incentive to demand their prompt submission, since funds are available to proceed with the work.[27] Of the 66 actions that obligated near 50 percent of the not-to-exceed price, 34—52 percent—exceeded the 180-day time frame for definitization. By limiting the amount of funding obligated at award to reflect contractors' requirements during the anticipated undefinitized period, the contractor may be incentivized to work with the government to submit proposals quickly and enter negotiations sooner, potentially saving the government money.

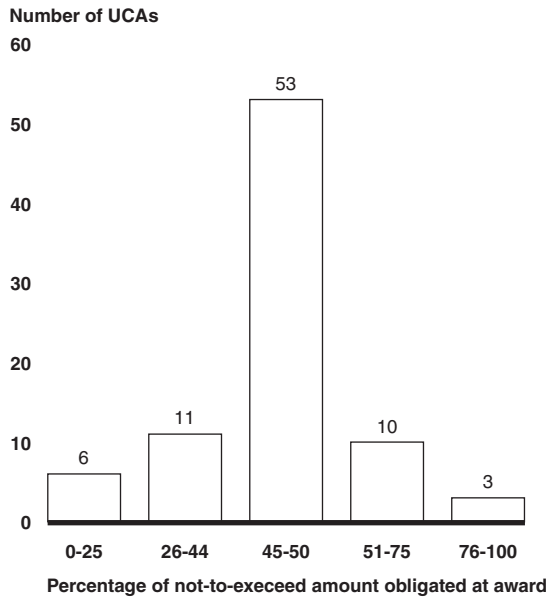
Contracting officers at each of the eight commands we visited told us that it was standard practice to obligate at or near the maximum funds allowed when issuing the UCA. At one command we visited, one contracting officer told us that obligating at 50 percent has become force of habit and noted that contractors have come to expect the maximum allowed at award. Some commands have issued guidance on assessing the contractor's requirement during the anticipated undefinitized period. For example, the Aeronautical Systems Center issued guidance in July 2008 instructing contracting officers to only obligate the percentage of funds needed by the contractor during the undefinitized period. At the Aeronautical Systems Center, 17 of the 25 contract actions we reviewed

[26] DFARS 217.7404-4.

[27] GAO-07-559, 16.

initially obligated 45 percent or more at award—totaling more than $335 million—including 2 with 100 percent of funds obligated at award.[28] At the Missile Defense Agency, contracting officers told us they are encouraged by the Director of Acquisition to obligate only what is needed during the undefinitized period; however, formal instructions implementing this policy have not been issued. Three of 5 UCAs we reviewed at the Missile Defense Agency were obligated with 45 percent or more at award—totaling almost $18 million—1 of which was obligated at 100 percent. Figure 3 shows the distribution of the initial obligation percentages of the not-to-exceed amounts for the UCAs we reviewed.

Figure 3: Obligation Amounts for UCAs Reviewed



Source: GAO analysis of DOD data.

Although contracting officers are authorized to obligate up to 50 percent or more at award, we found instances where it may not have been necessary. For example, an Aeronautical Systems Center UCA for aircraft modernization kits obligated 50 percent at award. However, the contractor

[28] Fifteen of the 17 contract actions were awarded before the Aeronautical Systems Center's guidance that provided additional instructions and reemphasized DFARS limitations on obligation amounts at award. In two cases, the Head of Contracting Activity approved a waiver allowing for obligating of 100 percent at award for Operation Iraqi Freedom /Operation Enduring Freedom requirements.

only incurred costs equal to 2.4 percent of the not-to-exceed amount during the 13-month undefinitized period. At the same command, a UCA to procure ground control stations for unmanned aircraft was given approval to obligate 100 percent at award due to the fact this equipment was required for contingency operations. However, the contractor incurred costs of only slightly more than 1 percent of the not-to-exceed amount during the 11-month undefinitized period. Given the low amount of incurred costs during the anticipated undefinitized period, obligating at or above 50 percent may encourage extended periods of performance prior to definitization.

UCAs Used to Purchase a Range of Goods and Services but Some Use May Have Been Avoided

The UCAs we reviewed were used to fill a variety of goods and services needs, from providing immediate support to the warfighter in theater to procuring long-lead items to keep weapon system program schedules on time. In several cases UCAs were used to prevent a lapse in service or allow for equipment used in contingency operations to be upgraded. In one example, the Navy issued a UCA to fund an engineering study on spares and repair parts to prevent the grounding of helicopters. In another, the U.S. Special Operations Command used a UCA to expand the ammunition capacity and add ballistic protective armor on vehicles already in theater. In yet another example, the Army issued a UCA to create a forward-deployed water packaging system capable of producing 7,000 bottles of water per day.

The majority of UCAs we reviewed—64 percent—were used to purchase goods. Examples of goods acquired with UCAs include:

- UCA awarded by Rock Island Contracting Center to fill ammunition shortages for the F-15, F-16, F/A-18, and AH-1 Cobra aircraft;
- UCA awarded by NAVSEA to procure five compact solid state antennas to support the Marine Corp's and the Army's ground-based network radar system; and
- UCA awarded by the U.S. Special Operations Command to procure a small armored vehicle to increase survivability, and guard forces with increased protection.

The other UCAs we reviewed—36 percent—were used to purchase services. Examples of services acquired with UCAs include:

- UCA awarded by the Rock Island Contracting Center for basic life support services (e.g., camps, dining facilities, waste, water, other services/utilities) necessary to support the Logistics Civil Augmentation Program in Iraq;

- UCA awarded by TACOM for the design, development, and fabrication of a rocket-propelled grenade active protection system for integration onto the mine-resistant ambush-protected vehicle; and
- UCA awarded by the Air Force Aeronautical Systems Center to provide contract logistics support for unmanned aerial systems efforts known as Predator/Reaper.

Table 3 provides a list of categories of goods and services, as reported in FPDS-NG, procured with UCAs at the eight local commands we visited.

Table 3: Categories of Goods and Services Procured with the Contract Actions Reviewed at Eight Local Commands, October 2008 through February 2009

Supplies, equipment, and services codes	Not-to-exceed amount	Percentage of total
Research & development	$4,642,002,079.00	68.40%
Professional, administrative, and management support services	$634,412,427.82	9.35%
Aircraft and airframe structural components	$421,031,453.20	6.20%
Ground effect vehicles, motor vehicles, trailers and cycles	$369,459,721.74	5.44%
Communication, detection, and coherent radiation equipment	$275,766,796.00	4.06%
Ammunition and explosives	$123,282,074.00	1.82%
Vehicular equipment components	$98,476,002.33	1.45%
Other goods	$138,549,210.45	2.04%
Other services	$83,180,815.00	1.23%
Total	**$6,786,160,579.54**	**100.00%**

Source: FPDS-NG and GAO analysis of DOD data.

According to DFARS, UCAs should only be used when the negotiation of a definitized contract is not possible to meet government requirements and the government's interest demands the contractor be given a binding commitment so contract performance can begin immediately. For the 83 files we reviewed, it appeared that the use of a UCA may have been avoided in some cases. In one example, the Air Force awarded a UCA for $54.9 million in April 2008 for an upgrade to the Global Hawk program that was necessary to meet the September 30, 2008, initial operational test and evaluation deadline. However, as of November 2009, the Global Hawk program had yet to undergo that testing and evaluation process due to other program delays. In another example, the Army justification for awarding a UCA for almost $50 million was to reevaluate a contractor who was determined to be performing poorly. It was determined that rather

than using provisions in the existing contract allowing for an extension of services, it would be best if the contract was extended for a 6-month review period using a UCA, a contracting tool that is to be used only when time does not permit the negotiation of a contract action and contractor performance must begin immediately to meet the government's requirements.

Conclusion

Undefinitized contract actions can be an important tool for DOD to meet urgent contracting needs. However, when UCAs are used the government bears the majority of the cost risk during the undefinitized period. DOD has issued new policies and guidance and now requires components to report semi-annually on UCA use as well as submit updated management plans detailing actions taken to ensure appropriate use. Such efforts are intended to enable better departmental insight into the extent to which UCAs are used and how to manage their use to minimize the risk to the government. While DOD's recent actions are a positive step and are still evolving, clear guidance and accurate reporting are key. Further, despite DOD's call for increased management attention of UCA use at DOD components, management standards and tools designed to help mitigate UCA-related cost risk have not always been met or used. Weighted guideline worksheets, a tool designed to help contracting officers determine allowable profit or fee for negotiation purposes, have not been used consistently or included with information for the semi-annual report as required. When guidelines have been used, it was not always clear whether contracting officers considered any reduced risk to the contractor during the undefinitized period because the required weighted guideline worksheet documentation, as designed, does not show the calculation and basis for any reduced profit or fee. Also, in instances when cost-plus-award-fee contracts were awarded and weighted guidelines were not required, guidance was not clear as to how to consider and document any reduced risk borne by the contractor during the undefinitized period. DOD's sustained attention on strengthening its reporting and insight into the extent UCAs are used and ensuring UCA management is improved at the component level is essential to minimizing the government's risk of paying unnecessary costs and excessive profit or fees.

Recommendations for Executive Action

We recommend the Secretary of Defense take the following two actions.

To mitigate the risks of paying increased costs when using an undefinitized contract action, revise DFARS to provide specific guidance

on how to perform an assessment of any reduced cost risk for profit or fee during the undefinitized period for cost-plus-award-fee UCAs.

To ensure DOD officials are able to gain insight into the risk assessment that is required to be documented in the contract file and the basis for the government's profit or fee negotiation objective, redesign the weighted guidelines worksheet to explicitly show the incurred cost calculations and a narrative description of the reason for assigning a specific contract-type risk value.

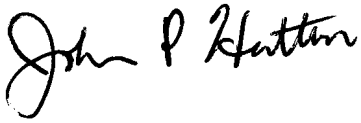
Agency Comments and Our Evaluation

We provided a draft of this report to DOD for review and comment. In written comments, DOD concurred with our recommendations and cited planned actions to address them. Specifically, DOD plans to revise either the DFARS regulations or its corresponding Procedures, Guidance, and Instruction to provide specific guidance on how to perform an assessment of any reduced cost risk for profit or fee during the undefinitized period for cost-plus-award-fee UCAs. In addition, the department plans to redesign the weighted guidelines worksheet to explicitly identify the incurred cost calculations and justification for the assigned contract-type risk value. The draft report also contained a recommendation for DOD to clarify that weighted guideline worksheets are to be submitted with the semi-annual UCA report submission for all definitized UCAs which equal or exceed $100 million. In its written comments, DOD informed us on December 23, 2009 they revised the DFARS Procedure, Guidance, and Instruction 217.7405 to require military departments and defense agencies to submit, in conjunction with their semi-annual UCA reports, weighted guideline worksheets for each definitized UCA with a value of $100 million or more. Because of DOD's action on this recommendation, we have removed it from the report. In addition, DOD provided technical comments, which we incorporated as appropriate. The department's comments are included in their entirety in appendix IV.

We are sending copies of this report to the Secretary of Defense; the Secretaries of the Air Force, Army, and Navy; the Administrator of the Office of Federal Procurement Policy; and interested congressional committees. In addition, the report will be made available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions concerning this report, please contact me at (202) 512-4841. 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 major contributions to this report are listed in appendix V.



John P. Hutton
Director
Acquisition and Sourcing Management

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Appendix I: Scope and Methodology

To identify and assess the actions the Department of Defense (DOD) has taken to improve departmental insight into and oversight of undefinitized contract actions (UCA), we interviewed senior DOD and service acquisition policy officials as well as local officials at the selected commands to identify new policies and guidance that would affect the amount of insight senior DOD officials have. We reviewed the August 2008 Defense Procurement and Acquisition Policy memorandum along with the updated October 2009 guidance, which provided additional Office of the Secretary of Defense (OSD) policy and guidance for UCAs. In addition, we reviewed the relevant sections of the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement (DFARS), as well as service-level guidance pertaining to the use and management of UCAs. We also reviewed relevant proposed changes to DFARS.

To determine the accuracy of UCA information available to senior officials, we analyzed and compared information on UCAs from the Federal Procurement Data System-Next Generation (FPDS-NG), DOD's newly implemented semi-annual UCA reports, and the local acquisition command-generated UCA reports. We noted any differences in information among the various sources and documented those contract actions which did not appear in DOD's semi-annual report, but were recorded in FPDS-NG and the local reports. We also discussed these discrepancies with DOD officials at both the local level and OSD level to try to understand the underlying cause of these differences.

To identify whether DOD's recent actions have resulted in local commands meeting DOD's UCA management standards with regard to documenting the basis for negotiating the contractor profit or fee, definitization time lines and obligation percentages, and the circumstances in which UCAs are used, we conducted a contract file review using a randomized list of UCAs from among six military commands, one joint service combatant command, and a defense agency. In order to choose the locations of the contract file reviews, we analyzed UCA information from FPDS-NG for fiscal year 2008. We used these data to compile a random selection of UCAs.

We selected the locations for our UCA file review based on two criteria. First, we selected one contracting command from each of the three military services (Air Force, Army, and Navy) and one defense agency based on its placement within the top 50 percent of total-dollar value of UCAs issued during fiscal year 2008 as recorded in the FPDS-NG system. Second, for comparative purposes, we selected one contracting command from each of the three military services (Air Force, Army, and Navy) and

one defense agency that fell outside of the top 50 percent of total-dollar value of UCAs issued during fiscal year 2008 as recorded in the FPDS-NG system. The contracting commands in this second group were then selected using subjective criteria which included commands with significant UCA use recommended by the services, the command's geographic location, and the command's history of UCA use. The specific contracting commands we selected for our review were:

U.S. Army

- Tank-automotive and Armaments Command Contracting Center, Warren, Michigan
- Rock Island Contracting Center, Rock Island, Illinois

U.S. Navy

- Naval Sea Systems Command, Washington, D.C.
- Naval Inventory Control Point, Philadelphia, Pennsylvania

U.S. Air Force

- 303rd Aeronautical Systems Wing (Reconnaissance Systems Wing), Wright-Patterson Air Force Base, Ohio
- 516th Aeronautical Systems Wing (Mobility Systems Wing), Wright-Patterson Air Force Base, Ohio

Defense Agencies

- Missile Defense Agency, Redstone Arsenal, Alabama
- United States Special Operations Command, MacDill Air Force Base, Florida

Using the data provided by FPDS-NG, we established a population of undefinitized contract actions at each location. We identified all actions that were either coded in FPDS-NG as letter contracts or other undefinitized actions for fiscal year 2008 and the first 5 months of fiscal year 2009. We also identified UCAs in FPDS-NG that referenced an undefinitized action in the description of the requirement or reason for modification fields. Using these methods, we derived a random selection of contract actions to review. For some commands we verified whether or not a contract action was a UCA through DOD's Electronic Document Access database, a Web-based system that provides secure online access, storage, and retrieval of contracts and contract modifications to authorized users throughout DOD. In addition, the selections were also

checked for accuracy against lists maintained in DOD's semi-annual report as well as those maintained at each local command. Over 200 potential UCAs were selected for this review. From this selection, we expected to collect data on approximately 10 to 12 at each command we visited for a total of 80 to 96 UCAs. In the end, we collected data on 92 UCAs from which we eliminated 9 and analyzed the remaining 83 UCAs valued at a total of $6.1 billion.[1] Observations made from our review cannot be generalized to the entire population of undefinitized contract actions issued by DOD.

We omitted UCAs for foreign military sales, purchases that did not exceed the simplified acquisition threshold, special access programs, and initial spares purchases, since these actions are not subject to compliance with the definitization requirements we were reviewing. To assess the data reliability of FPDS-NG for the purpose of selecting locations and identifying UCA contracts, we verified UCA information in FPDS-NG with other data systems, such as Electronic Data Access, local command UCA reports, the semi-annual DOD reports, and with the information recorded in the contract files. On the basis of this, we determined that the FPDS-NG data were sufficiently reliable for the purposes of this report.

At each location, we reviewed contract document files and interviewed responsible contracting officials. During these interviews we asked the contracting officials to explain the rationale for using a UCA and the circumstances which led to the decision, as well as the events and circumstances involved with definitizing the contract action. We also reviewed local command UCA management policies to determine whether they were consistent with DOD's management standards and whether these policies differed from one command to another.

To determine whether contracting officers considered and documented the basis for their determination of the government's profit or fee negotiation objective to reflect any reduced risk to the contractor for the undefinitized period, we analyzed the contract file documents, including

[1] Eight UCAs at the Naval Inventory Control Point were removed from our analysis because they were used to purchase initial spares. One UCA at the Rock Island Contracting Center was removed because we found that it was the responsibility of the TACOM Contracting Center and should not have been included in our review of UCAs at Rock Island. Additionally, at the TACOM Contracting Center and Naval Inventory Control Point locations, we reviewed a total of seven UCAs that as of February 2009 had been transferred to the Defense Logistics Agency as part of the latest Base Realignment and Closure process.

the price negotiation documentation and weighted guidelines worksheets. We used this information to determine whether the contracting officers considered and adjusted the contract-type risk factor using incurred cost and projected cost information.

To determine whether UCAs were meeting definitization timelines, we recorded data from the contract files on when the contract actions were awarded and subsequently definitized. We aggregated these data to determine the number of contracts definitized in less than 180 days, definitized over 180 days, and those still undefinitized over 180 days. To determine how DOD's policy to limit initial obligations to only the amount required for the undefinitized period of work was being implemented, we recorded initial obligation amounts from the contract files. We analyzed these data to determine how many contract actions in our review were obligated at or near the 50 percent limit at the time of award. Finally, to determine how and when UCAs were being used, we reviewed the contract files and analyzed the types of requirements being filled with UCAs and the circumstances behind the decision to use this contracting method. We also discussed each case with the contracting officers to obtain their rationale for using a UCA.

We conducted this performance audit from March 2009 to January 2010 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 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.

Appendix II: Undefinitized Contract Actions Reviewed

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
Army								
Rock Island Contracting Center								
1	W52P1J07D0010 -0015	LOGCAP[b] program management	2/13/09	Definitized within 180 days	$30,580,953	$15,815,183	$29,715,055	CPAF
2	W52P1J06D0030 -0003 Mod 22	Support services for left behind equipment	1/28/09	Definitized within 180 days	$49,999,999	$25,000,000	$48,375,366	T&M
3	DAAA0902D0007 -0147 Mod 22	LOGCAP [b] support services in Kuwait	11/30/07	Definitized within 180 days	$184,820,468	$19,999,489	$171,754,437	CPAF
4	DAAA0902D0007 -0147 Mod 37	LOGCAP [b] support services in Kuwait	12/11/08	Definitized within 180 days	$56,039,142	$25,000,000	$53,712,769	CPAF
5	W52P1J05C0072 - Mod 13	PGU-28-A/B-30A/B and PGU-28A/B rounds for Navy and Air Force aircraft	12/17/07	Definitized within 180 days	$13,632,524	$6,816,262	$13,047,770	FFP
6	W52P1J08C0008	Qatar-based military personnel support services	4/1/08	Definitized within 180 days	$42,000,000	$7,500,000	$37,230,387	CPAF
7	W52P1J08C0008 Mod 2	Qatar-based postal services	5/22/08	Definitized within 180 days	$2,718,707	$1,359,354	$1,747,895	FFP
8	DAAA0902D0007 -159	LOGCAP [b] support services	9/24/08	Definitized within 180 days	$4,125,682,123	$618,589,889	$4,031,862,544	CPAF
9	W52P1J08C0011	Tank ammunition for training activities	2/21/08	Definitized within 180 days	$51,849,900	$38,887,425	$52,549,592	FFP
10	W52P1J08C0010	Tank ammunition for training activities	3/27/08	Definitized beyond 180 days	$57,799,650	$28,899,825	$48,227,200	FFP

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
11	W52P1J08D0063 -0001 Mod 2	Radioactive and hazardous waste disposal for the Navy	11/14/08	Definitized within 180 days	$1,288,414	$966,311	$1,162,037	FFP
12	W52P1J08C0003 Mod 3	Production and support of CH-47F helicopter simulators	2/29/08	Definitized within 180 days	$37,479,706	$28,100,000	$37,165,112	CPFF
TACOM Contracting Center								
1	W56HZV08C0114	Crew protection kits for M915 Tactical Wheeled Vehicle	11/29/07	Definitized beyond 180 days	$57,196,000	$28,598,000	$40,823,152	FFP
2	W56HZV07C0621 Mod 1	Procure steel armor for Mine Resistant Ambush Protected (MRAP) vehicles	11/1/07	Definitized within 180 days	$21,000,000	$10,499,998	$20,242,872	FFP
3	W56HZV08C0537	Tires for MRAP vehicles	7/16/08	Definitized within 180 days	$4,288,140	$2,144,070	$4,108,536	FFP
4	W56HZV08C0447	Procure critical spare parts for MRAP vehicles	8/7/08	Definitized within 180 days	$919,333	$450,473	$838,795	FFP
5	W56HZV05C0313 Mod 13	Procure Tactical RPG Airbag Protection System units for MRAP vehicles	7/21/08	Definitized within 180 days	$7,200,000	$3,592,800	$7,104,634	CPFF
6	W56HZV05C0313 Mod 15	Procure Tactical RPG Airbag Protection System units for MRAP vehicles	9/25/08	Definitized within 180 days	$3,171,000	$1,582,300	$2,996,116	CPFF

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
7	W56HZV08D0072 -0002	Track Shoe Assembly for Army Track Wheeled vehicle fleet	7/25/08	Definitized within 180 days	$35,054,057	$17,527,029	$32,438,336	FFP
8	W56HZV09C0215	Tires for MRAP vehicles	12/23/08	Definitized within 180 days	$1,137,805	$568,903	$1,102,875	FFP
9	W56HZV07C0576 Mod 1	Retrofit of the Palletized Load System and Heavy Equipment Mobility Tactical Truck	1/8/08	Definitized within 180 days	$800,000	$400,000	$720,150	FFP
10	W56HZV05G0005 -0021 Mod 6	Electronic jamming systems to protect against radio-controlled IEDs	8/8/08	Definitized beyond 180 days	$5,701,088	$2,850,544	$2,506,609	FFP
11	W56HZV08C0138	Operation of a forward-deployed water packaging system	12/10/07	Definitized beyond 180 days	$2,447,743	$1,223,638	$2,847,498	FFP
12	DAAE0701CS001 Mod 1488	Enhanced suspension and improved door handles for High Mobility Multipurpose Wheeled Vehicle (HMMWV)	5/12/08	Definitized beyond 180 days	$3,052,200	$1,526,100	$3,004,200	FFP
13	DAAE0701CS001 Mod 1489	Fuel kits for HMMWV	5/22/08	Definitized within 180 days	$13,847,000	$6,923,500	$13,802,365	FFP
14	DAAE0701CS001 Mod 1509	Frag kit for HMMWV	6/26/08	Definitized within 180 days	$257,008,930	$128,504,465	$143,105,028	FFP

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
15	DAAE0701CS001 Mod 1515	Authorized stockage list parts and frag kit for HMMWV	7/31/08	Definitized beyond 180 days	$9,260,602	$4,630,301	$6,778,753	FFP
16	DAAE0701CS001 Mod 1516	Enhanced armor for HMMWV	7/30/08	Definitized within 180 days	$493,796	$246,898	$437,892	FFP
17	DAAE0701CS001 Mod 1536	Armored personnel troop carrier kits for HMMWV	8/6/08	Definitized within 180 days	$73,714,289	$36,857,144	$71,416,828	FFP
Air Force								
ASC/303rd AESW								
1	FA8620-08-C-4061	Acquire, pilot, modify, repair, and support C-12 aircraft	8/5/08	Definitized within 180 days	$119,600,000	$35,880,000	$117,235,013	FFP
2	FA8620-08-C-3004	Development of Airborne Signals Intelligence Payload configuration to meet requirements for Predator and Reaper unmanned aircraft	12/5/07	Definitized beyond 180 days	$54,900,000	$16,678,757	$71,147,842	CPIF
3	FA-8620-06-G-4033-0006	Mission operation and logistics support for Angel Fire System	8/29/08	Definitized beyond 180 days	$17,102,522	$3,459,832	$17,448,992	CPFF
4	FA8620-04-C-3430 Mod 39	Upgrade to Common Airborne Modem Assembly communicatio n link	3/31/08	Definitized within 180 days	$332,748	$166,374	$326,550	FFP/FPIF

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
5	FA-8620-06-G-4041-0006	Multi-Spectral Targeting System Target Location Accuracy improvements for Predator and Reaper unmanned aircraft	10/17/07	Definitized beyond 180 days	$3,200,000	$3,200,000	$3,123,206	CPFF
6	FA-8620-06-G-4026-0057	Procurement and missionization of 3 aircraft	12/26/07	Definitized within 180 days	$14,797,440	$10,950,000	$21,171,897	FFP
7	FA8620-05-G3028-0050	Procurement of Reaper unmanned aircraft	11/26/08	Undefinitized beyond 180 days	$115,158,656	$52,927,284	N/A	FFP
8	FA8620-05-G3028-0036	Ground Control Stations and other related equipment for Predator and Reaper unmanned aircraft	10/30/07	Definitized beyond 180 days	$59,544,953	$59,544,953	$53,444,927	CPFF/FFP
9	FA8620-08-C4015	Provide Remote Piloted Vehicle (RPV) Pilots and Sensor Operators for training exercises	12/21/07	Definitized within 180 days	$5,031,654	$2,515,827	$5,031,654	FFP
10	FA8620-06-G4026-0110	Procure M-28 aircraft for US Special Operations Command	12/23/08	Definitized within 180 days	$16,380,000	$12,121,200	$16,278,109	FFP
11	FA8620-05-G3028-0035	Provide Contractor Logistics Support for Predator and Reaper unmanned aircraft	12/21/07	Definitized within 180 days	$63,779,273	$47,834,454	$170,253,578	CPFF/T&M

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
12	F33657-01-C4600 Mod 249	Perform durability tests to Global Hawk unmanned aircraft	4/2/08	Definitized beyond 180 days	$1,800,000	$900,000	$1,793,330	CPAF
ASC/516th AESW								
1	FA8625-07-C-6473 Mod 3	Procurement and installation of C-5 aircraft Large Aircraft Infrared Countermeasures (LAIRCM) kits	1/14/08	Definitized beyond 180 days	$24,839,778	$12,419,889	$16,339,046	FFP/T&M
2	FA8625-06-D-6453-0010	Guardian Laser Transmittal Assembly	10/15/07	Definitized beyond 180 days	$93,239,931	$46,619,966	$83,511,661	FFP
3	FA8614-04-C-2004 Mod 196	Guardian Laser Transmittal Assembly	2/22/08	Undefinitized beyond 180 days	$77,000,000	$34,650,000	N/A	CPFF/FFP
4	FA8614-04-C-2004 Mod 245	Wing Pylon Fairing kits	6/12/08	Undefinitized beyond 180 days	$16,300,000	$8,000,000	N/A	CPFF/FFP
5	FA8614-04-C-2004 Mod 236	Aeromedical Stations Litter Augmentation System	3/27/08	Undefinitized beyond 180 days	$13,769,216	$6,196,147	N/A	FFP
6	FA8625-04-D-6452-0003 Mod 8	Replace aircraft flight system to include pilot vehicle interface	11/24/08	Undefinitized beyond 180 days	$5,000,000	$1,000,000	N/A	CPAF
7	FA8625-06-D-6453-0014	Design, installation, and flight test support of LAIRCM pod	2/22/08	Definitized beyond 180 days	$923,071	$461,535	$860,843	T&M

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
8	F33657-01-D2000-0020 Mod 25	Develop replacement for the C-17 aircraft Global Positioning System Inertial Reference Unit	12/27/07	Definitized within 180 days	$6,979,931	$3,489,965	$4,409,376	CPAF
9	FA8625-05-C6459 Mod 13	Upgrade current Guardian Laser Transmittal Assembly and LAIRCM processor	2/29/08	Definitized beyond 180 days	$2,618,240	$602,000	$2,354,406	CPFF/T&M
10	F33657-98-C0006 Mod 206	Procure C-5 aircraft Avionics Modernization Program kits	3/14/08	Definitized beyond 180 days	$66,935,000	$33,467,500	$58,653,217	FFP
11	FA8625-08-C6481	Procure C-130 aircraft Avionics Modernization Program kits	9/30/08	Undefinitized beyond 180 days	$27,200,000	$7,160,000	N/A	FFP/T&M/ CPIF/ CPFF
12	FA8625-06-C6456 Mod 49	C-130J aircraft contractor support equipment	4/24/08	Definitized within 180 days	$3,379,105	$1,182,687	$39,070,592	FFP
13	FA8625-06-C6456 Mod 68	Configure C-130J aircraft into MC-130J configuration.	12/9/08	Undefinitized beyond 180 days	$56,560,000	$19,634,000	N/A	FFP
Navy								
NAVICP								
1	N0038306G067B - 5290	Truss assembly	9/23/08	Undefinitized beyond 180 days	$5,113,350	$2,556,675	N/A	FFP
2	FA810405G0003 - GJ72	TF34 engine blades	5/5/08	Definitized within 180 days	$1,110,725	$833,044	$1,036,234	FFP
3	N0038305G003H - 0013	Production tooling for F/A-18 Inner Wing Panels spares	9/23/08	Undefinitized beyond 180 days	$4,350,000	$2,175,000	N/A	FFP

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
4	N0038304D028N - 0007	Engineering study for Spares and Repair Parts for H-60 overhaul and repairs	7/17/08	Undefinitized beyond 180 days	$450,000	$225,000	N/A	CPAF/ CPFF
5	N0038305G003H - 0012	Production tooling for F/A-18 Inner Wing Panels spares	9/23/08	Undefinitized beyond 180 days	$3,250,000	$1,625,000	N/A	FFP
6	N0038306D001J - 0004 Mod 08	AESA radar spares for F/A-18 aircraft	3/31/08	Undefinitized beyond 180 days	$38,540,436	$19,270,218	N/A	FFP
7	N0038306D001J - 0004 Mod 18	AESA radar repairs for F/A-18 aircraft	9/26/08	Undefinitized beyond 180 days	$8,010,880	$4,005,440	N/A	CPFF
8	N0038306D001J - 0004 Mod 25	AESA radar repair lay-in material for F/A-18 aircraft	11/26/08	Undefinitized beyond 180 days	$1,929,649	$964,825	N/A	FFP
9	FA810405G0003 - GK27	T34 engine blades, turbines, and rotors	5/15/08	Definitized within 180 days	$709,877	$532,460	$633,826	FFP
NAVSEA								
1	N0002408C5202	Procurement of the Cooperative Engagement Capability Design Agent sensor netting system for anti-air warfare capability	1/17/08	Definitized within 180 days	$62,579,000	$24,714,360	$53,967,986	CPFF
2	N0002409C5103	Evolve and maintain the Aegis Combat System (ACS) at the platform level for the Aegis CG-47 and DDG-51 ship classes	1/9/09	Undefinitized beyond 180 days	$51,000,000	$25,115,346	N/A	CPFF

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
3	N0002405C4208 Mod 19	Design, fabrication, testing and documentation for Submarine Decompressio n Chambers	12/21/07	Definitized beyond 180 days	$769,025	$384,512	$1,092,962	CPAF
4	N0002405C4208 Mod 23	Procure Submarine Rescue System - Rescue Capable System spares	2/28/08	Definitized within 180 days	$121,134	$60,567	$121,134	CPAF
5	N0002409C5101	Multi-Mission Signal Processor, Ballistic Missile Defense equipment, and Aegis Weapon System hardware upgrades	2/9/09	Undefinitized beyond 180 days	$78,623,236	$38,918,503	N/A	CPIF/ CPFF/FFP
6	N0002408C5122	Procurement of software, maintenance, equipment, and documentation necessary to support the Ship Self Defense System	9/30/08	Undefinitized beyond 180 days	$8,322,695	$4,161,347	N/A	CPFF
7	N0002407D5222 Mod 4	Enhancements for the Common Display Systems System	10/22/08	Definitized beyond 180 days	$2,820,097	$1,410,048	$2,271,907	CPAF

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
8	N0002409C5100	Ship Self Defense System kits to support aircraft carrier and amphibious ship modernization efforts.	12/23/08	Definitized beyond 180 days	$14,909,781	$7,084,666	$13,303,184	FFP
9	N0002408C5203 Mod 1	Procurement of Compact Solid State Antennas for the Cooperative Engagement Capability subsystem of both the USMC Composite Tracking Network and the US Army Joint Land Attack Cruise Missile Defense Elevated Netted Sensor System	11/26/08	Definitized beyond 180 days	$4,070,000	$2,035,000	$4,058,660	FFP
U.S. Special Operations Command								
1	H9222209C0003	Procure Hatch Lighting Orientation systems for the RG31 and RG33 Armored Fighting Vehicles	10/31/08	Undefinitized beyond 180 days	$9,350,750	$3,282,598	N/A	FFP
2	H9222208C0034	Procure Remote Weapon Station installation kits	9/5/08	Definitized beyond 180 days	$4,303,797	$1,300,000	$3,049,898	FFP

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
3	H9222208C0028	Stealth Reconnaissance Assault Transport System vehicles	8/26/08	Definitized beyond 180 days	$5,462,484	$2,458,118	$4,624,974	FFP
4	H9222207D0015-0014	Procure Psychological Operations Print System – Light, along with spares and training	9/5/08	Definitized within 180 days	$7,508,394	$5,631,295	$7,449,873	FFP
5	H9222208C0022	Unmanned Aircraft System Information Gathering, Target Surveillance, and Reconnaissance Services	4/14/08	Definitized within 180 days	$8,890,000	$4,445,000	$22,853,974	FFP
6	H9222207D0015-0013	Procure Psychological Operations Print System – Light, along with spares and training	7/3/08	Definitized beyond 180 days	$4,110,182	$3,082,637	$4,052,534	FFP
Missile Defense Agency								
1	HQ000603C0047 Mod 112	Common X-Band Radar Software for Ballistic Missile Defense System	10/9/08	Definitized within 180 days	$14,000,000	$14,000,000	$35,340,206	CPAF
2	HQ000604C0004 Mod 61	Provide support for Ballistic Missile Defense System Requirements Review	2/29/08	Definitized within 180 days	$24,000,000	$10,000,000	$22,849,959	CPFF

	Contract no.	Description of goods or services	Award date	Definitization status	Not-to-exceed amount	Obligation amount at award	Total dollar value at definitization	Contract/ order pricing type[a]
3	HQ014707C0196 Mod 6	Configuration changes to Canister Kill Vehicle for the Terminal High Altitude Area Defense program	4/16/08	Definitized within 180 days	$2,500,000	$1,250,000	$1,668,779	CPAF/ CPIF
4	HQ014708C0001	Security services for the Sea-Based X-Band radar program	3/14/08	Definitized beyond 180 days	$5,000,000	$2,450,000	$6,542,887	CPFF
5	HQ014709C0008	Bridge contract for the development of the Ground-based Midcourse Defense system	12/30/08	Definitized within 180 days	$397,800,000	$175,000,000	$325,308,538	CPFF/ CPAF
Total					**$6,786,160,580**	**$1,845,093,925**	**$6,073,506,557**	

Source: GAO analysis of DOD contract files.

[a] CPAF - Cost plus award fee

CPFF - Cost plus fixed fee

CPIF - Cost plus incentive fee

FFP - Firm fixed price

FPIF - Firm fixed price incentive fee

T&M - Time-and-Materials

[b] The Logistics Civil Augmentation Program (LOGCAP) is a program of the U.S. Army to use civilian contractors to provide the Army with an additional means to adequately support the current and programmed force by performing selected services in wartime and other operations.

Appendix III: Information for UCAs Omitted from DOD's April 2009 Semi-Annual Report

No.	Contract number	Description of goods or services	Not-to-exceed amount	Award date
TACOM Contracting Center				
1	DAAE0701CS001 Mod 1489	Fuel Kits for HMMWV	$13,847,000	5/22/2008
2	DAAE0701CS001 Mod 1509	Frag Kit for HMMWV	$257,008,930	6/26/2008
3	DAAE0701CS001 Mod 1515	Authorized Stockage List Parts and Frag Kit for HMMWV	$9,260,602	7/31/2008
4	W56HZV05G0005-0021	Electronic Jamming Systems to Protect against Radio-Controlled IEDs	$5,701,088	8/8/2008
NAVSEA				
5	N0002409C5103	Evolve and Maintain the Aegis Combat System at the Platform Level for the Aegis CG-47 and DDG-51 Ship Classes	$51,000,000	1/9/2009
6	N0002409C5101	Multi-Mission Signal Processor, Ballistic Missile Defense Equipment, and Aegis Weapon System Hardware Upgrades	$78,623,236	2/9/2009
7	N0002408C5122	Procurement of Software, Maintenance, Equipment, and Documentation Necessary to Support the Ship Self Defense System	$8,322,695	9/30/2008
8	N0002409C5100	Ship Self Defense System Kits to Support Aircraft Carrier and Amphibious Ship Modernization Efforts.	$14,909,781	12/23/2008

Source: GAO analysis of DOD data.

Appendix IV: Comments from the Department of Defense

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION, TECHNOLOGY AND LOGISTICS

JAN 27 2010

Mr. John Hutton
Director, Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Hutton:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-10-299, "DEFENSE CONTRACTING: DoD Has Enhanced Insight into Undefinitized Contract Action Use, but Management at Local Commands Needs Improvement," dated December 29, 2009 (GAO Code 120819). Detailed comments on the report recommendations are enclosed.

We appreciate GAO's assessment of our progress in adopting and executing policies and procedures to better manage the Department's use of undefinitized contract actions (UCAs). As your report indicates, the actions we have taken in the past 18 months have resulted in enhanced insight and improved oversight of UCAs. In the coming year, we will build upon this foundation to ensure that when UCAs are used, they are used properly.

Finally, in reviewing the draft, we identified technical comments to call to your attention. We have provided informal feedback to your staff on these technical points of clarification.

Sincerely,

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Enclosure:
As stated

GAO Draft Report Dated DECEMBER 29, 2009
GAO-10-299 (GAO CODE 120819)

"DEFENSE CONTRACTING: DoD HAS ENHANCED INSIGHT INTO UNDEFINITIZED CONTRACT ACTION USE, BUT MANAGEMENT AT LOCAL COMMANDS NEEDS IMPROVEMENT"

DEPARTMENT OF DEFENSE COMMENTS TO THE GAO RECOMMENDATIONS

RECOMMENDATION 1: The GAO recommends that the Secretary of Defense revise the Defense Federal Acquisition Regulation Supplement to provide specific guidance regarding how to perform an assessment of any reduced cost risk for profit or fee during the undefinitized period for cost-plus-award-fee undefinitized contract actions (UCAs).

DoD RESPONSE: Concur. The Department will revise the Defense Federal Acquisition Regulation Supplement (DFARS) or the associated DFARS Procedures, Guidance and Instruction (PGI) to provide specific guidance regarding how to perform an assessment of any reduced cost risk for profit or fee during the undefinitized period for cost-plus-award-fee UCAs.

RECOMMENDATION 2: The GAO recommends that the Secretary of Defense redesign the weighted guidelines worksheet to explicitly show the incurred cost calculations and a narrative description of the reason for assigning a specific contract type risk value.

DoD RESPONSE: Concur. The Department will redesign the weighted guidelines worksheet to explicitly show the incurred cost calculations and a narrative description of the reason for assigning a specific contract type risk value.

RECOMMENDATION 3: The GAO recommends that the Secretary of Defense clarify in guidance the requirement that DoD components are to submit the weighted guidelines worksheets for all definitized UCAs which equal or exceed $100 million to the Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) Defense Procurement and Acquisition Policy Office along with their semiannual UCA report submissions.

DoD RESPONSE: Concur. On December 23, 2009, the Department revised DFARS PGI 217.7405 to require military departments and defense agencies submit, in conjunction with their semi-annual reports, a copy of the record of weighted guidelines for each definitized UCA with a value of $100 million or more. The Department considers this recommendation to be complete.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

John P. Hutton, (202) 512-4841, huttonj@gao.gov

Acknowledgments

In addition to the individual named above, key contributors to this report were Penny Berrier Augustine, Assistant Director; Megan Hill; Rob Miller; Brian Smith; J. Andrew Walker; Julia Kennon; John Krump; Ken Patton; and Bob Swierczek.

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