

GAO Highlights

Highlights of [GAO-15-230](#), a report to the Ranking Member, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

In fiscal year 2014, the federal government obligated almost \$32 billion for construction projects using primarily competitive, fixed-price contracts. In these contracts, the government holds the prime contractor fully responsible for project delivery at the agreed-to price and schedule. Once a construction contract is awarded, the prime contractor must manage subcontractors that typically perform 60 to 90 percent of the work on a construction project. Bid shopping—whereby a prime contractor uses one subcontractor's price in its proposal but negotiates a lower price with a subcontractor after the contract award for the purpose of retaining the difference for its benefit—is considered an unethical business practice by the construction industry. Subcontractors have alleged that bid shopping leads to poor quality construction.

GAO was asked to review the government's insight into subcontractor selection and oversight of subcontractor performance on federal construction contracts. This report covers (1) what is known about the prevalence of bid shopping on federal construction projects and (2) what tools the federal government has to monitor and address contractor performance.

GAO judgmentally selected and reviewed construction contracts from three of the four federal agencies that obligated the most funds for construction contracts in fiscal year 2013. GAO also interviewed agency and state contracting officials and construction industry representatives. GAO is not making recommendations in this report. The agencies in this review did not provide comments on this report.

View [GAO-15-230](#). For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

January 2015

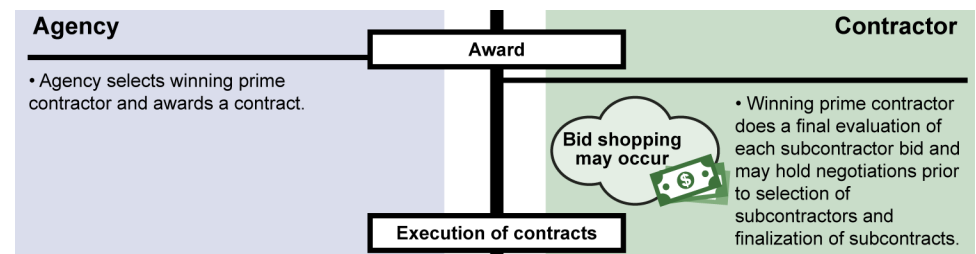
FEDERAL CONSTRUCTION SUBCONTRACTING

Insight into Subcontractor Selection Is Limited, but Agencies Use Oversight Tools to Monitor Performance

What GAO Found

GAO was not able to determine if bid shopping occurs or does not occur when prime contractors select subcontractors on federal construction projects, but found that the selection process could lead to subcontractors' perceptions of bid shopping. GAO's review of selected contract files did not reveal evidence of bid shopping. Further, officials at the agencies GAO reviewed stated they were not aware of bid shopping occurring on their contracts. Many of the construction contractors that GAO spoke with said that bid shopping occurs, but could not furnish evidence of specific instances. Negotiation procedures between prime contractors and subcontractors may create the impression of bid shopping among subcontractors that submit bids. Specifically, prime contractors explained that they receive multiple subcontractor bids for each trade (e.g., electrical, plumbing) up to minutes before their proposal is submitted to the government; and they typically do not use a specific subcontractor's price in their proposal, but a price informed by the subcontractors' bids. After award, the prime contractor negotiates and selects a subcontractor for each trade during the "buyout process," as shown below.

Construction Prime Contractor's Buyout Process



Source: GAO review of Federal Acquisition Regulation and interviews. | GAO-15-230

To hold the prime contractor accountable for a project's work quality and progress, selected agencies use oversight tools such as

- agency representatives deployed on site,
- daily progress reports, and
- periodic inspections.

When performance is unsatisfactory, agencies use a number of methods to address or correct deficiencies. For example, agencies can withhold progress payments to the prime contractor or report poor contractor performance in government databases. Further, the government can be protected from poor quality construction if it appropriately uses the oversight tools at its disposal. To address bid shopping, some states are using bid listing, which requires the prime contractor to name certain subcontractors in its proposal to the state government. But the benefit of requiring bid listing in the proposal solely for the prevention of bid shopping is not certain, as past analyses of its use in the federal government have found it adversely affects the timeliness and cost of contract performance, and increases the government's administrative expenses.