

GAO Highlights

Highlights of [GAO-19-243](#), a report to congressional requesters

Why GAO Did This Study

The federal government obligated approximately \$507 billion on contracts in fiscal year 2017. Businesses, including federal contractors, pay billions of dollars in taxes each year. Some businesses, however, do not pay owed taxes, contributing to what is known as the tax gap. Federal contractors owe some of the taxes that contribute to the tax gap, and, since 2015, federal law prohibits agencies, under certain circumstances, from using appropriated funds to contract with those who have qualifying tax debt. The IRS also has authority to levy certain payments of contractors with qualifying federal tax debt.

GAO was asked to review issues related to federal contractors and tax debt. Among other things, GAO examined whether, in calendar years 2015 and 2016, (1) selected federal agencies had control activities that ensured contractors' reported federal tax debts were considered before contract award and (2) the IRS levied selected federal contractors' payments. GAO analyzed contract and IRS data from 2015 and 2016 (the most-recent data available), reviewed five agencies that represent 51 percent of contract obligations, and reviewed seven awards to contractors reporting tax debt.

What GAO Recommends

GAO is making 12 recommendations, including that selected agencies enhance controls for considering contractors' qualifying federal tax debt before awarding contracts and that the IRS evaluate options to obtain comprehensive contract-payment information. All the agencies generally agreed with GAO's recommendations.

View [GAO-19-243](#). For more information, contact Rebecca Shea at (202) 512-6722 or shea@gao.gov.

April 2019

FEDERAL CONTRACTING

Opportunities to Improve Compliance with Regulations and Enhance Tax Collections

What GAO Found

The five selected agencies GAO reviewed have control activities—such as policies and procedures—to help ensure they consider qualifying federal tax debts as defined by Federal Acquisition Regulation (FAR) § 52.209-11 and § 52.209-5 before awarding contracts. However, these controls were potentially ineffective in ensuring compliance with relevant laws and regulations. According to GAO's analysis, in 2015 and 2016 the Departments of Energy, Health and Human Services, and Veterans Affairs, and the Army and Navy, awarded 1,849 contracts to contractors that reported qualifying federal tax debts, such as delinquent debts over \$3,500 (see table). When a contractor reports qualifying tax debts under these regulations, the contracting officer must take several actions, including notifying the agency suspension and debarment official (SDO). However, SDOs at all five agencies told GAO they did not receive any notifications of contractors reporting tax debt in this period. As a result, these contracts may have been awarded without potential required actions, indicating potential violations of federal regulations and, in some cases, appropriations law.

Number of Contract Awards to Contractors Reporting Qualifying Tax Debt under FAR § 52.209-11 and § 52.209-5 in Calendar Years 2015 and 2016, by Selected Agency

Agency	Contract awards under § 52.209-11	Contract awards under § 52.209-5
Department of Defense, Army	73	324
Department of Defense, Navy	54	266
Department of Energy	0	22
Department of Health and Human Services	7	78
Department of Veterans Affairs	9	1,016
Total	143	1,706

Source: GAO analysis of General Services Administration data. | GAO-19-243

GAO's nongeneralizable review of seven contracts illustrate two cases where contractors were collectively awarded more than \$510,000 in contract obligations while having more than \$250,000 in tax debt, including tax penalties for willful noncompliance with tax laws. Officials from the selected agencies were unable to explain why their control activities were potentially ineffective without reviewing each contract to determine whether FAR requirements were applicable and whether control activities were applied. Understanding why existing control activities did not operate effectively will help these agencies enhance controls to avoid future misuses of appropriated funds. GAO plans to provide information on the instances of potential noncompliance GAO identified to the selected agencies.

Of the over 2,700 executive-branch contractors GAO found to have likely qualifying federal tax debt as of December 2016, the Internal Revenue Service (IRS) had identified over 2,000 for levy through its automated Federal Payment Levy Program (FPLP). However, the FPLP cannot levy all contractors because not all payments are processed by the system the FPLP uses. The data the IRS receives from agencies does not allow it to readily identify payments made using other systems—information the IRS needs for agency outreach about inclusion in the FPLP and to more quickly initiate a manual levy. With this information, the IRS may be able to improve its levy capacity and enhance tax collections.