

Why GAO Did This Study

When awarding a contract competitively, DOD may use the LPTA process, under which the lowest price is the determining factor when selecting an offer. Section 813, as amended, contained a provision for GAO to submit four annual reports on DOD's use of the LPTA process for contracts exceeding \$5 million as well as how contracting officials considered eight specific criteria. GAO issued its first report in response to this provision in November 2017.

This second report, among other things, assesses the extent to which (1) DOD used the LPTA process in fiscal year 2017 and (2) contracting officials considered Section 813 criteria when using the LPTA process.

GAO selected a generalizable sample of 172 DOD contracts and orders valued at \$5 million and above that were competitively awarded in fiscal year 2017. GAO verified that 46 of these contracts and orders used the LPTA process by reviewing solicitations. GAO selected 14 contracts and orders from the 46 based on the most frequently purchased products and services, reviewed documents, and interviewed officials to determine if the Section 813 criteria were considered.

What GAO Recommends

GAO recommends that DOD address, as regulations are updated, how contracting officials should apply two Section 813 criteria that were generally not considered. DOD concurred with the recommendations and plans to revise its regulations and issue additional guidance by the end of fiscal year 2019.

View [GAO-19-54](#). For more information, contact Timothy J. DiNapoli at (202) 512-4841 or tinapoli@gao.gov.

DEFENSE CONTRACTING

DOD Should Clarify Criteria for Using Lowest Price Technically Acceptable Process

What GAO Found

GAO estimates that about 26 percent of the Department of Defense's (DOD) contracts and orders valued \$5 million and above in fiscal year 2017 were competitively awarded using the lowest price technically acceptable (LPTA) process. DOD used the LPTA process to buy such things as equipment, fuel, information technology services and construction services.

Section 813 of the National Defense Authorization Act for Fiscal Year 2017, as amended, mandated that DOD revise its regulations to require that eight criteria be considered when using the LPTA process. As of September 2018, DOD had not yet done so. Accordingly, a DOD acquisition policy official stated that contracting officers are not yet required to consider these criteria. Nevertheless, GAO found that contracting officials generally considered five of the eight criteria for the 14 contracts and orders GAO reviewed (see table).

Criteria Considered by DOD Contracting Officials in 14 Contracts and Orders GAO Reviewed

Criteria in Section 813 of the National Defense Authorization Act for Fiscal Year 2017	Generally considered?
DOD can clearly describe the minimum requirements in terms of performance objectives, measures, and standards that will be used to determine acceptability of offers.	Yes
DOD would realize no, or little, value from a proposal exceeding the solicitation's minimum technical requirements.	Yes
DOD would realize little or no additional innovation or future technological advantage by using a different methodology.	Yes
The proposed technical approaches can be evaluated with little or no subjectivity as to the desirability of one versus the other.	Yes
There is a high degree of certainty that a review of technical proposals other than that of the lowest-price offer or would not identify factors that could provide other benefits to the government.	Yes
A written justification for the use of the lowest price technically acceptable process is in the contract file.	No
For procurement of goods, the goods being purchased are predominantly expendable in nature, nontechnical, or have a short life expectancy or shelf life	No
The lowest price reflects full life-cycle costs, including for operations and support.	No

Source: GAO analysis of Section 813, DOD source selection guidance, contract file documents and interviews with contracting officials. | GAO-19-54

A DOD official stated that the updated regulations will reflect these eight criteria, including that justifications be documented. However, the official could not comment on whether the revisions will clarify how DOD contracting officials should implement the two other criteria that were generally not considered. Some contracting officials GAO interviewed were confused about how to apply these two criteria. Four of the 14 contracting officials stated that they did not understand how to apply the criterion regarding whether purchased goods are predominantly expendable in nature, nontechnical, or have a short life expectancy or shelf life. Additionally, 8 of the 14 contracting officials stated the criterion regarding an assessment of life-cycle costs was not applicable to their acquisitions. Absent clarification on how to consider these two criteria, DOD increases the risk that its contracting officials will not consistently implement the requirements in Section 813, as amended.