



June 2022

FEDERAL CONTRACTING

Opportunities Exist to Reduce Use of Time-and-Materials Contracts

GAO Highlights

Highlights of [GAO-22-104806](#), a report to congressional committees

Why GAO Did This Study

The government buys services with a variety of different contract types, with varying risks and benefits. From fiscal years 2017 to 2021, the government obligated \$139 billion on time-and-materials contracts. Prior GAO work highlighted the risks associated with these contract types, which lack incentives for contractors to control costs or use labor efficiently.

A Congressional committee included a provision in a report for GAO to review DOD's use of T&M contracts, which GAO expanded to include civilian agencies. This report addresses how extensively and under what circumstances agencies awarded T&M contracts, and any measures taken to reduce the use of T&M contracts.

GAO analyzed federal procurement data from 5 prior fiscal years and identified four defense and three civilian agencies with higher obligations on T&M contracts. From these seven agencies, GAO selected a non-generalizable sample of 21 T&M contracts awarded in fiscal year 2020—the most recent data available when it conducted this analysis—reviewed contract documents, and interviewed contracting and policy officials.

What GAO Recommends

GAO is making four recommendations, including that the Air Force, Department of State, and the Social Security Administration assess steps they can take to use lower-risk contract types. DOD, Department of State, and the Social Security Administration agreed with the recommendations.

View [GAO-22-104806](#). For more information, contact Timothy J. DiNapoli at (202) 512-4841 or tinapoli@gao.gov.

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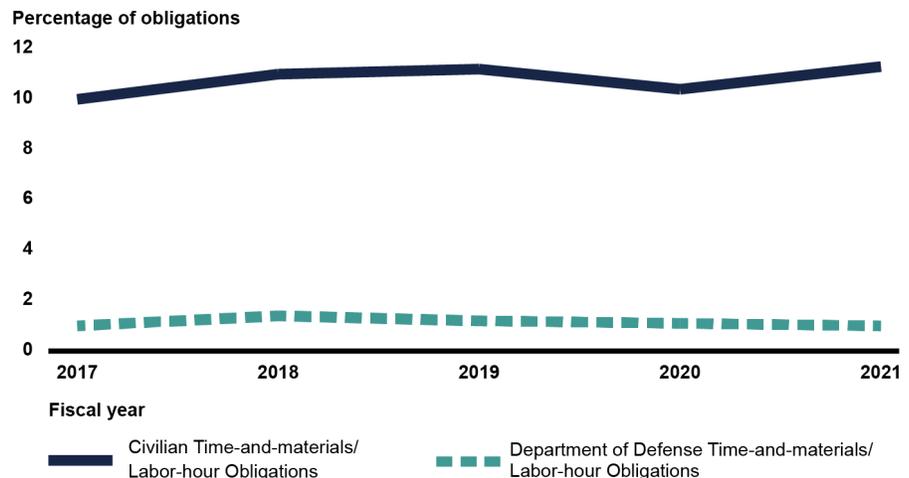
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What GAO Found

When the government buys services, such as engineering or consulting services, contracting officers try to use a contract type that provides the right balance of risk and flexibility. As GAO previously reported, time-and-materials and labor-hour contracts (collectively referred to here as T&M contracts) are considered riskier since contractors bill the government by the hour and could conceivably work less efficiently so that they could charge more hours. GAO found that civilian agencies use T&M contracts more often than defense agencies. For fiscal years 2017 through 2021, about 11 percent of civilian agencies' contract obligations were for T&M contracts, compared to just 1 percent of Department of Defense (DOD) obligations (see figure).

DOD and Civilian Agency Use of Time-and-Materials and Labor-Hour Contracts



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104806

Contract documents GAO reviewed identified uncertain requirements—such as unpredictable mission needs—as a primary reason for using T&M contracts, which is consistent with federal regulations on use of T&M contracts.

To reduce risk, federal regulations encourage assessing T&M contracts periodically, such as when enough knowledge is available to convert portions or all of the work to a fixed price. GAO found instances of contracting officials finding opportunities to convert portions of their requirements to firm-fixed-pricing by identifying repetitive tasks or tasks with stable labor hours. GAO also found that some agencies—such as the Army and the Department of Homeland Security—have taken steps to ensure that they consistently take advantage of these opportunities. For instance, an Army command established a process that prompts contracting officers and their customers to consider if aspects of the work are sufficiently predictable for firm-fixed-pricing. In contrast, GAO found that some agencies, including the Air Force, the Department of State, and Social Security Administration, did not have additional efforts in place to identify similar opportunities, and increased their use of T&M contracts over the period GAO reviewed. Without increased leadership attention, these agencies may miss opportunities to use lower-risk contract types.

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Abbreviations

D&F	determination and findings
DFARS	Defense Federal Acquisition Regulation Supplement
DFAS	Defense Finance and Accounting Service
DHS	Department of Homeland Security
DOD	Department of Defense
DPC	Defense Pricing and Contracting
EXPRESS	Expedited Professional and Engineering Support Services
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
GSA	General Services Administration
IT	information technology
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
OUSD (AT&L)	Office of the Under Secretary of Defense for Acquisition, Technology and Logistics
SSA	Social Security Administration
SSCM	Strategic Services and Category Management
T&M	time-and-materials
WHS	Washington Headquarters Services

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June 7, 2022

Congressional Committees

Federal agencies spend billions of dollars on time-and-materials and labor-hour contracts to acquire a range of services, including emergency repair and engineering services. Under these contracts, payments to contractors are based on the number of labor hours billed at a fixed hourly rate—which includes wages, overhead, general and administrative expenses, and profit—and the cost of materials, if applicable. Time-and-materials and labor-hour contracts are considered higher-risk to the government than other types because the government is not guaranteed a completed end item or service and these contracts provide little incentive to the contractor to work efficiently or control costs. For example, as we previously reported, a contractor operating under a time-and-materials or labor-hour contract could conceivably work less efficiently so that more hours could be charged to the government.¹ We refer to time-and-materials and labor-hour contracts collectively as time-and-materials (T&M) contracts throughout this report for simplicity.²

The House Armed Services Committee report that accompanied the National Defense Authorization Act for Fiscal Year 2021 included a provision for us to review the Department of Defense’s (DOD) use of T&M and labor-hour contracts, including the use of these contracts to acquire commercial services.³ After our initial work identified differences between the use of T&M contracts by DOD and civilian agencies, we expanded the review to include civilian agencies.⁴

This report addresses (1) how federal agencies used T&M contracts for fiscal years 2017 through 2021, (2) what factors selected agencies’ contracting officials considered when awarding T&M contracts, and (3)

¹GAO, *Defense Contracting: Improved Insight and Controls Needed over DOD’s Time-and-Materials Contracts*, [GAO-07-273](#) (Washington, D.C.: June 29, 2007).

²A labor-hour contract is a variation of the time-and-materials contract, differing only in that the contractor does not supply materials.

³H.R. Rep. No. 116-442, pt. 1, at 171-2 (2020).

⁴For the purposes of this report, the term agency is also used to refer to a field activity.

the extent to which the selected agencies took measures to reduce use of T&M contracts.

To determine how federal agencies used T&M contracts, we analyzed Federal Procurement Data System (FPDS) data for fiscal years 2017 through 2021.⁵ We assessed the reliability of FPDS data by reviewing existing information about the FPDS system and the data it collects—specifically the data dictionary and data validation rules—and performing electronic testing. We determined that the FPDS data were sufficiently reliable to summarize agencies' annual use of T&M contracts, as well as government-wide information on obligations, the types of services agencies purchased, and the use of commercial item procedures to award T&M contracts. We analyzed FPDS data to identify agencies with the largest T&M obligations and the types of services agencies purchased using T&M contracts. Based on our analysis of T&M obligations and commonly used services, we selected four DOD agencies and field activities to include in our review: the Air Force, Army, Defense Finance and Accounting Service (DFAS), and Washington Headquarters Services (WHS). We also selected three civilian agencies to include in our review: the Social Security Administration (SSA), the Department of Homeland Security (DHS), and the Department of State. We reviewed applicable policies and guidance, including the Federal Acquisition Regulation (FAR); memoranda from the Office of Management and Budget's (OMB) Office of Federal Procurement Policy (OFPP); and agency regulations, policies, and guidance.

To identify examples of factors contracting officials from the selected agencies considered when awarding T&M contracts, we reviewed a nongeneralizable sample of 21 T&M contracts or orders for three of the most common categories of services acquired by DOD and the civilian agencies we reviewed. These contracts and orders were awarded in fiscal year 2020, the most recent year for which complete data were available when we conducted this analysis. For this sample of contracts, we interviewed agency policy and contracting officials and reviewed key contract documents such as the determination and findings (D&F), acquisition plan, and performance work statements.

To determine the extent to which the selected agencies took measures to reduce use of T&M contracts, including reducing T&M line items, we

⁵FPDS is the central repository for capturing information on federal procurement actions. Dollar amounts reported by federal agencies to FPDS represent the net amount of funds obligated and deobligated as a result of procurement actions.

analyzed the initial awards of the selected contracts. We also interviewed agency contracting and policy officials to determine whether their agencies put into place any additional measures, such as review processes or training, to help identify opportunities to reduce the use of T&M contracts. Our work, although not generalizable, is intended to illustrate the types of services that agencies purchased using T&M contracts, what factors influenced decisions to use this contract type, and potential opportunities for agencies to assess ongoing use of T&M contracts in their acquisition portfolios. We present a more detailed description of our objectives, scope, and methodology in appendix I.

We conducted this performance audit from February 2021 to June 2022 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.

Background

Contract Types Allocate Cost Risk

Determining the appropriate contract type is the principal means that agencies have for allocating cost risk between the government and the contractor. Figure 1 summarizes select types of contracts available for use by federal agencies.

Figure 1: Select Contract Types

		CONTRACT TYPES		
		FIXED-PRICE 	COST-REIMBURSEMENT 	TIME-AND-MATERIALS 
Government		Pays a fixed price regardless of whether the actual cost of producing the product or providing the services differs from the agreed-to price.	Pays contractor's allowable costs. Also may pay a fee, which may be related to performance.	Pays fixed per-hour labor rates that include wages, overhead, general administrative costs, and profit; government might reimburse contractor for other direct costs, such as travel and materials costs.
	Contractor	Provides an acceptable deliverable at the time, place, and price specified in the contract.	Makes good faith effort to meet government's needs within the estimated cost.	Makes good faith effort to meet government's needs within the ceiling price.
Who assumes the risk of cost increases?		Contractor	Government	Government

Source: GAO analysis of the Federal Acquisition Regulation. | GAO-22-104806

Note: The government's assumption of risk under cost-reimbursement and time-and-materials contracts is generally limited to an estimated cost or ceiling, respectively.

Contracting Officers Consider Several Factors in Selecting Contract Type

According to the FAR, when contracting officers are selecting a contract type, they should consider the complexity and urgency of the requirement; acquisition history; and uncertainties of contract performance and their possible impact on cost, among other factors. Contracting officers can employ and even combine various contract types and mechanisms to meet the government's needs. For example, a T&M contract can be an order issued against an indefinite-quantity contract, including those under General Services Administration (GSA) schedules,

or a blanket purchase agreement.⁶ A contracting officer may also elect to use T&M for certain line items of a given contract, while using other contract types—such as firm-fixed-price—for other line items. A contract that uses different line items in this way may be called a hybrid contract. In a hybrid contract, a portion of the requirement that has sufficient information for firm pricing can be awarded as firm-fixed-price while the portion of the requirement that has considerable uncertainty can be acquired on a cost-reimbursement or T&M basis.

Federal Regulations Govern the Use of T&M Contracts

The FAR establishes the conditions in which each contract type can be used. For example, the FAR states that a T&M contract may be used only when it is not possible, at the time of awarding the contract, to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.⁷ The FAR also provides specific directions for the acquisition of commercial services using T&M contracts.⁸ For example, the FAR states that T&M contracts can be used for the acquisition of commercial services under certain circumstances, such as if the contract is awarded using:

- competitive procedures;
- procedures for other than full and open competition, provided the government receives offers from two or more responsible offerors; or
- fair opportunity procedures when placing an order under a multiple award delivery-order contract.⁹

⁶Indefinite-quantity contracts provide for an indefinite quantity, within stated limits, of products and services during a fixed period and allow the government to place orders for individual requirements. The GSA schedules, also known as the Federal Supply Schedule program, establish long-term government-wide contracts with commercial firms, providing government buyers access to commercial products and services at volume discount pricing. Blanket purchase agreements are a simplified method of filling anticipated repetitive needs for products and services by allowing agencies to establish charge accounts with qualified vendors. Blanket purchase agreements are not contracts.

⁷FAR § 16.601(c).

⁸Commercial services, as defined by the FAR, include services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices. FAR § 2.101.

⁹FAR § 12.207(b). Contracting officers have broad discretion to develop appropriate order placement procedures that provide multiple-award contract awardees a fair opportunity to be considered for each order. FAR § 16.505(b).

The FAR requires the contracting officer to prepare a written D&F—which includes specific information about the contracting officer’s reasoning why no other contract type is suitable—and ensure the T&M contract or order has a ceiling price that the contractor exceeds at its own risk.¹⁰ The FAR also requires varying levels of approval of the D&F based on the period of performance of the contract, such as:

- when the base period with any option periods is 3 years or less, the D&F shall be signed by the contracting officer prior to the execution of the base period or any option periods of the contract; and
- when the base period with any option periods exceeds 3 years, the D&F must be approved by the Head of the Contracting Activity prior to the execution of the base period.¹¹ The Head of Contracting Activity is the official who has overall responsibility for managing a contracting activity. This official is designated by the agency head and delegated broad authority regarding acquisition functions.

The FAR requires additional detail in the D&F when T&M contracts or orders are used to acquire commercial services. In this case, among other things, the FAR requires the contracting officer to also

- justify that no other contract type is suitable;
- establish that the requirement has been structured to maximize the use of firm-fixed-price contracts (e.g., by limiting the value or length of the T&M contract or order; establishing fixed prices for portions of the requirement) on future acquisitions for the same or similar requirements; and
- describe actions planned to maximize the use of firm-fixed-price contracts on future acquisitions for the same requirements.¹²

The FAR prohibits the use of cost-reimbursement contracts for the acquisition of commercial services. As a result, firm-fixed-price contracts and T&M are generally the only contract types available to contracting officers to purchase commercial services.

Finally, the FAR states that contracting officers should avoid protracted use of T&M contracts after experience provides a basis for firmer pricing.

¹⁰FAR § 16.601(d).

¹¹FAR § 16.601(d).

¹²FAR § 12.207. Fixed-price with economic price adjustment contracts may also be used.

For example, historical data may provide sufficient information to enable converting to a lower-risk contract type. For instance, a T&M contract could be converted to fixed-price during the period of performance, when exercising a contract option, or when awarding a follow-on contract.

DOD established additional procedures and higher-level approvals for the use of T&M contracts beyond the FAR.¹³ Specifically, the Defense Federal Acquisition Regulation Supplement (DFARS) requires more detail in the D&F to justify use of a T&M contract, such as:

- a description of market research conducted for the requirement;
- reasons other contract types are not appropriate; and
- a description of efforts to structure the requirement to minimize the use of time-and-materials contracts (e.g., by limiting the value or length of the time-and-materials contract or order; establishing fixed prices for portions of the requirement).¹⁴

The DFARS also requires higher-level approval of the D&F based on contract value and period of performance.¹⁵ For example, for a contract with a base period and any option periods that exceed 3 years, the DFARS requires approval of the D&F by the Head of the Contracting Activity prior to contract award. The DFARS also established limitations on the use of T&M contracts for commercial item acquisitions.¹⁶

¹³In 2016, Congress passed legislation establishing a preference for fixed-price contracts at DOD. Congress repealed this language in 2021. National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 829 (2016), *repealed by* National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 817 (2021).

¹⁴DFARS § 216.601(d).

¹⁵DFARS § 216.601(d).

¹⁶According to the DFARS, DOD contracting officers may only use T&M contracts to procure services in support of a commercial item, emergency repair services, and any other commercial services as determined by the head of the agency in accordance with the following: when such services are deemed to be consistent with the definition of commercial services in the FAR; when the offeror submits sufficient information, as applicable, in accordance with the FAR; when such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and when the use of a time-and-materials or labor-hour contract type is in the best interest of the government. DFARS § 212.207.

GAO and the Office of Management and Budget Have Highlighted Risks Associated with Use of T&M Contracts

In 2007, we reported that despite the risks associated with using T&M contracts, most DOD contracting officers' written determinations did not include a rationale as to why a less risky contract type could not be used.¹⁷ In addition, we found that little attempt was made to convert follow-on work to a different contract type, even when historical data existed to help define requirements. We recommended that DOD:

- require more diligence in justifying the use of T&M for indefinite-quantity contracts and orders;
- analyze the use of T&M on indefinite-quantity contracts to ensure that it does not become the default contract type if other pricing arrangements are appropriate; and
- require monitoring plans to reflect the risks inherent in this contract type.

DOD concurred with our recommendations. In response, DOD amended its acquisition regulations to require contracting officers to include more detail in the D&F for use of T&M contracts and orders for commercial services.

In 2009, we reported that agencies were not applying the FAR D&F requirements regarding the use of T&M contracts for commercial services to GSA schedule contracts or orders.¹⁸ We also found that some contracting officers improperly coded T&M contracts as fixed-price contracts in FPDS. We recommended that OFPP take steps to amend the FAR to explicitly apply the commercial services D&F requirements to T&M contracts awarded under the GSA Schedules program, and that OFPP provide guidance to contracting officials on the D&F requirements for T&M contracts for commercial services. In response, the FAR Council amended the FAR, requiring that contracting officers use a D&F similar to the one required for commercial services when placing a T&M order

¹⁷[GAO-07-273](#).

¹⁸GAO, *Contract Management: Minimal Compliance with New Safeguards for Time-and-Materials Contracts for Commercial Services and Safeguards Have Not Been Applied to GSA Schedules Program*, [GAO-09-579](#) (Washington, D.C.: June 24, 2009).

under the GSA schedules program.¹⁹ Specifically, the FAR changes clarified that the D&F must contain several elements, including a description of the market research performed for the acquisition and a description of the actions planned to maximize the use of fixed-price contracts on future or follow-on acquisitions.

In 2011, we reviewed OMB's 2009 acquisition savings initiative designed to reform government contracting and reduce spending on new, high-risk contracts.²⁰ We found that agencies generally conducted analysis on new contract awards—based on OFPP's directions—to determine the potential to transition to lower-risk contract types with firmer pricing.²¹ We also identified cases where agencies reevaluated contracts to determine whether a lower-risk contract type could be used, which could help agencies achieve savings. In one case, procurement officials at the Department of Energy's National Nuclear Security Administration reported reduced risk and more than \$40 million in cost savings by doing so. We reported that option years could present an opportunity for the contracting agency to review the work performed in the previous year.²² At that point, agencies could establish, for example, whether the contract requirements could be firmer or redefined so that a lower-risk contract type could be used. We recommended that OFPP clarify guidance and revise the focus of the high-risk contract reduction effort to include all high-risk actions and not just new awards. OFPP stated it would adopt our recommendations,

¹⁹The FAR Council—which is currently chaired by the Acting Administrator of the Office of Federal Procurement Policy, and whose members currently include DOD Principal Director of Defense Pricing and Contracting, NASA's Assistant Administrator for Procurement, and GSA's Senior Procurement Executive—oversees maintenance and issuance of changes in the FAR.

²⁰In 2009, President Obama directed OMB to provide guidance to assist agencies in reviewing, and creating processes for ongoing review of, existing contracts to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agencies' needs, and to formulate appropriate corrective actions in a timely manner. The White House, *Memorandum for the Heads of Executive Departments and Agencies: Government Contracting* (Mar. 4, 2009). In response, OMB issued guidance to federal agencies to reach the administration's net savings goal of \$40 billion annually in contracting and reduce the share of dollars obligated under new high-risk contracts. OMB, *Improving Government Acquisition*, M-09-25 (July 29, 2009).

²¹GAO, *Federal Contracting: OMB's Acquisition Savings Initiative Had Results, but Improvements Needed*, [GAO-12-57](#) (Washington, D.C.: Nov. 15, 2011).

²²*Option* is defined in the FAR as a unilateral right in a contract by which, for a specified time, the U.S. Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract. FAR § 2.101.

as appropriate, and subsequently issued guidance to agencies reinforcing the administration's commitment to reducing expenditures for management support services contracts, where spending had grown at an accelerated pace with a disproportionate reliance on high-risk contracts.

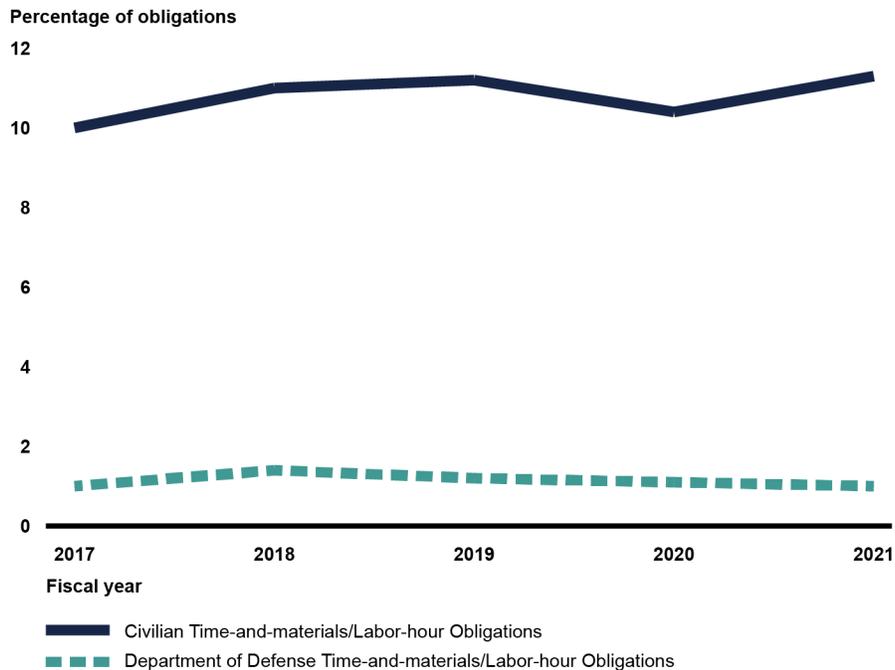
More recently, a January 2021 OMB memorandum reminded federal contracting officials that T&M contracts are considered high-risk because the contractor is paid a fixed labor rate for the number of hours worked plus actual materials costs incurred, so there is little incentive to control costs.²³ The memorandum restated the preference for competitively awarded fixed-price contracts, consistent with long-standing policy, because they minimize risk and maximize value for the taxpayer. OMB noted that fixed-price contracts provide the contractor with the greatest incentive for efficient and effective performance while minimizing the administrative burden on both parties. OMB also noted that T&M contracts could be useful for research studies, open-and-inspect repair efforts, and investigative efforts, which cannot be predicted with certainty. The memorandum further stated that hybrid contracts combining multiple pricing types can be a useful tool to minimize higher-risk contract types such as T&M.

Civilian Agencies Generally Use Time- and-Materials Contracts More Frequently Than DOD

Civilian agencies, as a whole, collectively obligated \$115.8 billion on T&M contracts for fiscal years 2017 through 2021—about 11 percent of total civilian contract obligations during this time. DOD obligated \$23.3 billion in the same period—or about 1 percent of its contract obligations. This pattern held relatively steady over this period, as shown in figure 2.

²³OMB, *Memorandum to the Heads of Executive Departments and Agencies M-21-11, Increasing Attention on Federal Contract Type Decisions* (Jan. 5, 2021).

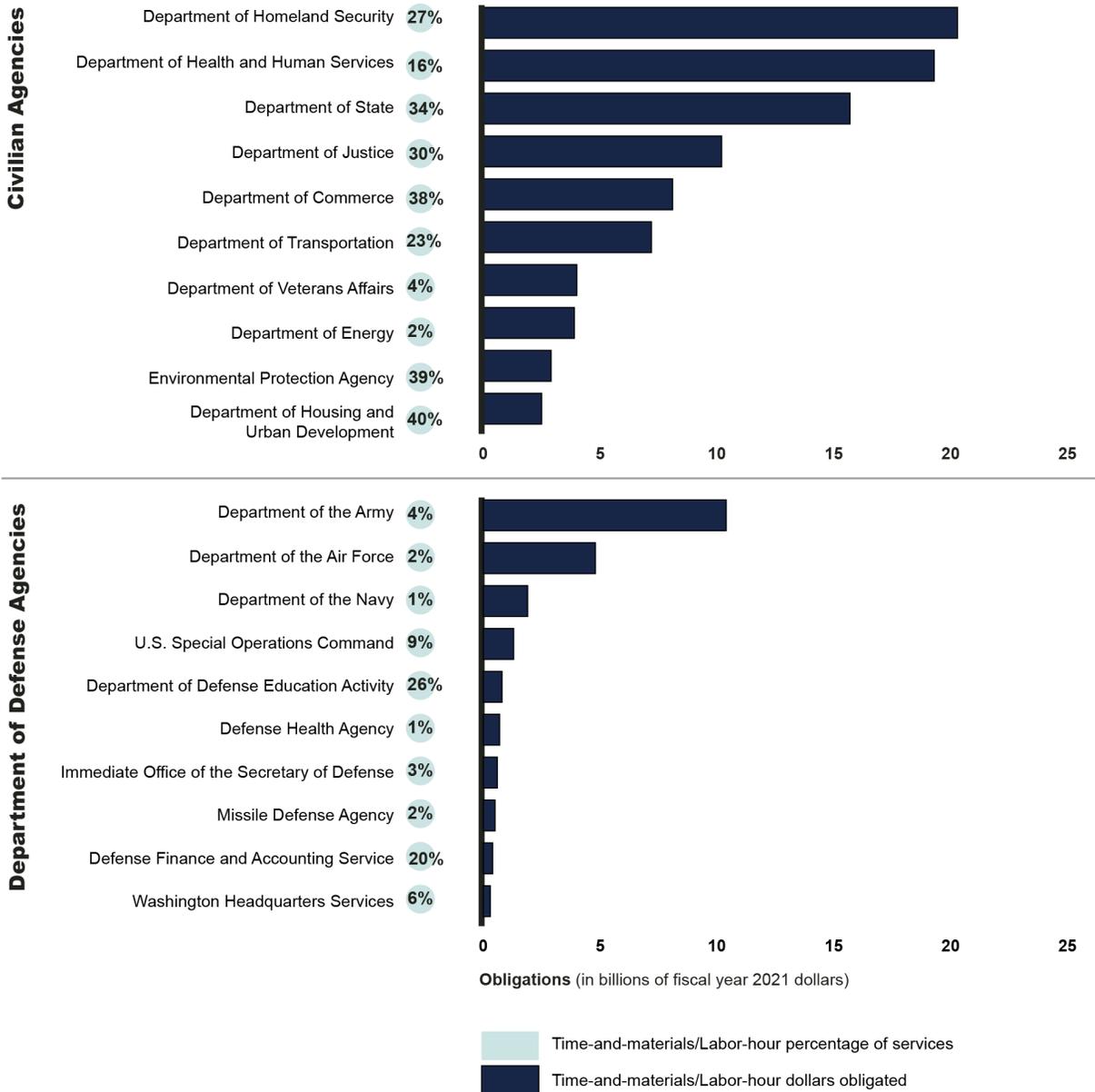
Figure 2: Department of Defense (DOD) and Civilian Agencies' Obligations on Time-and-Materials and Labor-Hour Contracts as a Percentage of Total Contract Obligations



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104806

In terms of agencies' use of T&M as a percent of obligations on service contracts, the level of T&M usage varied across agencies. Figure 3 provides details for the top 10 defense and civilian agencies and their use of T&M contracts.

Figure 3: Top 10 DOD and Civilian Agencies by Time-and-Materials and Labor-Hour Obligations as Percentage of Obligations for Services (Fiscal years 2017-2021)



Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104806

For example, among obligations for service contracts, the Army, Air Force, and WHS T&M contracts accounted for up to 6 percent of their collective obligations from fiscal years 2017 through 2021, whereas DFAS's T&M contracts accounted for 20 percent of its service contract obligations. Among civilian agencies, the Department of Housing and Urban Development, Department of Commerce, and the Environmental Protection Agency's T&M contracts accounted for up to 40 percent of their contract obligations. T&M contracts in the selected civilian agencies we reviewed in detail—State, DHS, and SSA—accounted for 34, 27, and 33 percent, respectively, of their service contract obligations.

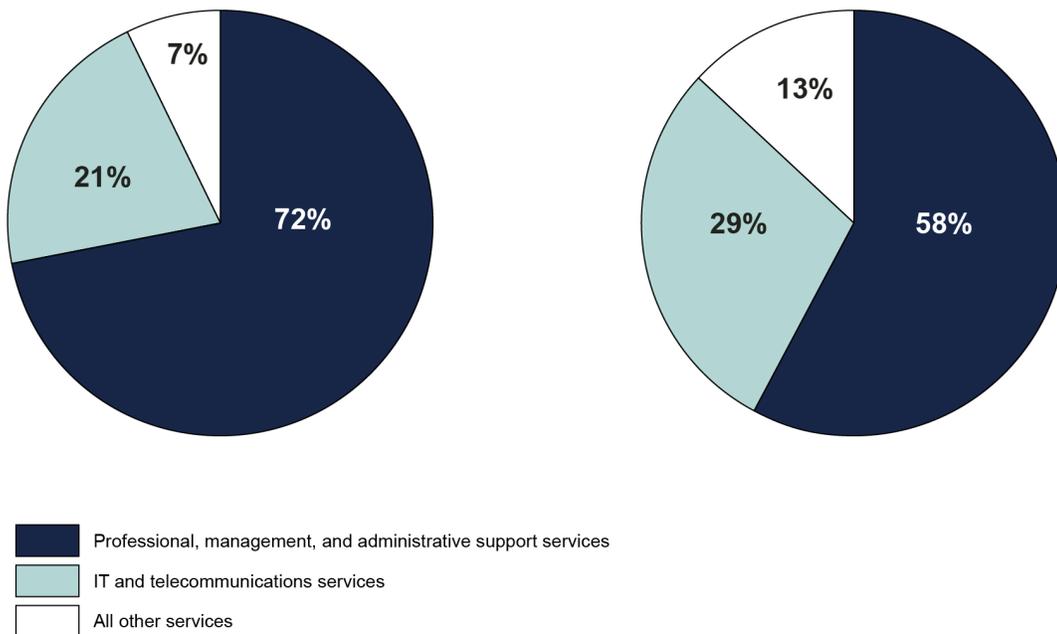
Our analysis of FPDS data from fiscal years 2017 through 2021 found that use of T&M contracts declined for some of the selected agencies. For example, DFAS's use of T&M decreased 63 percent from fiscal years 2017 to 2021. The Army and WHS also exhibited overall decreases in T&M use during this period but to a lesser degree. For instance, WHS dropped 47 percent during the same period. In contrast, the Air Force, SSA, and State's use of T&M increased over 20 percent during the same period while DHS had a smaller increase of 3 percent.

For fiscal years 2017 through 2021, the majority of DOD and civilian agency obligations for T&M contracts were concentrated in professional and IT services, as shown in figure 4.

Figure 4: Types of Services Purchased on Time-and-Materials and Labor-Hour Contracts (Fiscal Years 2017-2021)

Department of Defense

Civilian



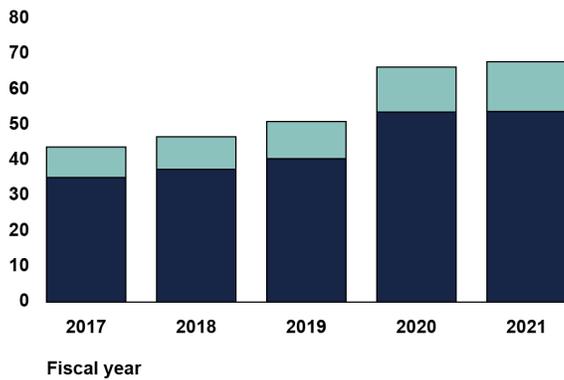
Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104806

Our analysis of FPDS data for fiscal years 2017 through 2021 also found that civilian agencies used commercial item procedures to award contracts for services more often than DOD and a greater proportion of those obligations were made on T&M contracts. As previously noted, the FAR requires agencies to take additional steps to justify the use of T&M when contracting for commercial services. Among civilian agencies' obligations on service contracts awarded using commercial item procedures during this period, 20 percent were made on T&M contracts. In contrast, DOD obligations for T&M contracts awarded using commercial item procedures were 6 percent over the same period. Figure 5 summarizes the use of commercial item procedures to award T&M contracts from fiscal years 2017 through 2021.

Figure 5: Use of Commercial Item Procedures to Award Time-and-Materials and Labor-Hour Contracts

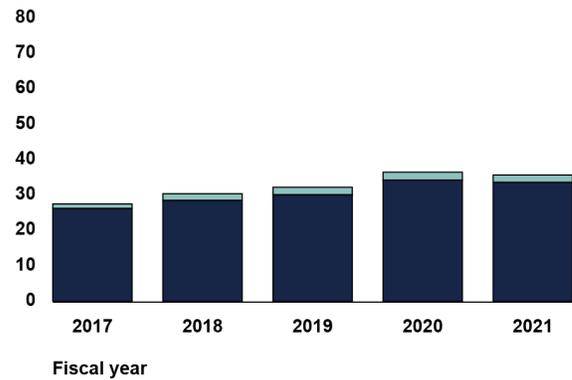
Civilian Commercial Services

Dollars (in billions of fiscal year 2021 dollars)



Department of Defense Commercial Services

Dollars (in billions of fiscal year 2021 dollars)



Time-and-materials/Labor-hour contract service acquisitions using commercial item procedures
 Service acquisitions using commercial item procedures

Source: GAO analysis of Federal Procurement Data System data. | GAO-22-104806

DOD officials from selected agencies attributed their relatively lower use of T&M contracts to a number of factors, including a long-standing emphasis on reducing or minimizing the use of T&M contracts. Officials from DOD’s Office of Defense Pricing and Contracting (DPC)—which is responsible for policy, guidance, and oversight of DOD’s contracting efforts—told us that DOD policy is intended to convey this emphasis. DPC issued memorandums dating back almost 2 decades to highlight and mitigate the risks associated with the use of T&M contracts.²⁴ For example:

- A September 2004 memorandum directed procurement and contracting officials to work with contracting officers to revisit contract type when preparing follow-on cost-reimbursement and T&M

²⁴At the time these memorandums were issued, this office’s name was Defense Procurement and Acquisition Policy.

contracts to determine if any portion can be broken out and ordered on a fixed-price basis.²⁵

- A March 2008 memorandum regarding proper use of T&M contract types directed military departments and DOD agencies to establish procedures to assess whether T&M contracts and orders under indefinite-delivery contracts were used when other contract types were suitable.²⁶
- An October 2012 memorandum established a \$1 million threshold for T&M contract review by the senior contracting official, noting that the additional internal approval would increase oversight and management of T&M contracts and orders.²⁷ DOD has since incorporated this review requirement into its acquisition regulation.²⁸

DOD and military department officials we spoke with said they understand these policies are intended to limit use of T&M to instances where it is truly necessary. For example, an official from the office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) told us that DOD has been working under such enhanced controls for years, including from congressional direction. For instance, Section 805 of the National Defense Authorization Act for Fiscal Year 2008 placed additional

²⁵Office of the Under Secretary of Defense (OUSD) for Acquisition, Technology and Logistics (AT&L), *Memorandum: Requirements for Service Contracts* (Sept. 13, 2004).

²⁶OUSD (AT&L), *Memorandum: Proper Use of Time-and-Materials Contract Types* (Mar. 20, 2008).

²⁷OUSD (AT&L), *Memorandum: Class Deviation – Approval Threshold for Time-and-Materials and Labor-Hour Contracts and Preference for Cost-Plus-Fixed-Fee Term Contracts* (Oct. 11, 2012).

²⁸The DFARS requires that the determination and findings: justifies use of a time-and-materials or labor-hour contract based on the inability to estimate the extent or duration of the work or to anticipate costs with any reasonable degree of certainty; describes the market research that was conducted; addresses why a cost-reimbursement, fixed-price, or other applicable contract or order is not appropriate; and, among other things, describes efforts to structure the requirement to minimize the use of a time-and-materials (for example, by limiting the value or length of the time-and-materials contract or order and establishing fixed prices for portions of the requirement. DFARS § 216.601(d).

limitations on DOD's use of T&M contracts for commercial services.²⁹ Other Army policy officials said that they are required to show that other contract types are not appropriate to fulfill the requirement, not simply that a T&M contract is appropriate. In practice, they explained, this means that fixed-price and cost-reimbursement contract types must be considered prior to contemplating the use of a T&M contract. They said that while there is a place for T&M contracts in DOD, it is generally considered the last resort.

In contrast, officials from the civilian agencies we interviewed generally discussed their use of T&M contracts as being a tool in the toolkit that contracting officers should use when appropriate. For example, SSA officials told us that many of their service contracts support efforts that have shifting priorities, and a T&M contract is better able to adjust to those changes than a fixed-price contract. Similarly, a DHS official told us that the use of T&M is mission-specific but certain types of services may lend themselves to this contract type. These officials told us that contracting officers still needed to justify the use of T&M contracts, consistent with the FAR and agency policy.

Documentation for Selected Contracts Cited Uncertainty as a Reason to Use a T&M Contract Type

Nineteen of the 21 contracts we reviewed identified some form of uncertainty as the primary reason for selecting a T&M contract type, consistent with FAR requirements. Additional factors that contributed to the uncertainty and use of the T&M contract type were:

- workforce issues,
- budgetary limitations, and
- grouping requirements for multiple programs.

²⁹The National Defense Authorization Act for Fiscal Year 2008 directed the Office of the Secretary of Defense to modify its regulations regarding time-and-materials and labor-hour contracts for commercial item acquisitions. Pub. L. No. 110-181, § 805(c) (2008). In response, DOD amended its regulations to ensure procedures applicable to time-and-materials and labor-hour contracts for commercial item acquisition may be used only for: services procured in support of a commercial item, emergency repair services, and any other commercial services as determined by the head of the agency in accordance with the following: when such services are deemed to be consistent with the definition of commercial services in the FAR; when the offeror submits sufficient information, as applicable, in accordance with the FAR; when such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and when the use of a time-and-materials or labor-hour contract type is in the best interest of the government. DFARS § 212.207.

We found that two of the selected contracts did not include the documentation required by the FAR to justify use of a T&M contract.

Documentation in
Selected Contract Files
Generally Cited
Uncertainty as a Reason
to Use T&M

Nineteen of the 21 contracts we selected identified some form of uncertainty as the primary reason for selecting a T&M contract type. For example, the D&F justifying a \$300 million WHS contract to obtain monitoring and evaluation services for security cooperation programs stated that it was nearly impossible to predict the extent, duration, and cost of the requirement due to the unpredictable mission, changing intelligence, and evolving technologies. Further, WHS's D&F stated that having flexibility to make ad-hoc purchases on an as-needed basis was critical to the mission. The FAR says T&M contracts are appropriate to use when uncertainties in the scope of work, cost of services, or level of effort prevent the use of fixed-price contract types. We previously reported that agency officials said T&M contracts can help agencies remain flexible and better respond to unforeseeable or emergency situations.³⁰

For nine of the 21 contracts, contracting officials cited additional factors beyond the technical requirements that contributed to uncertainty and their decision to use T&M contracts, such as workforce issues, budgetary limitations, or grouping multiple requirements together.

Workforce Issues. We identified five IT-related contracts in which contracting officers cited workforce issues as a reason for using a T&M contract.³¹ For example:

- Two DFAS contracts, valued at approximately \$1.3 million and \$2.2 million, contained plans to transition contracted IT support to federal employees in 3 years. We found documentation that stated a T&M contract was appropriate for the requirement because the amount of work depended on the number of federal staff hired to do the work and the rate at which federal employees were trained and able to replace contracted support. Although DFAS planned to transition the contracted support to federal employees, a DFAS contracting official said neither program was able to hire the needed federal staff nor reduce contracted support as planned. According to a DFAS contracting official, the agency experienced challenges hiring qualified

³⁰[GAO-09-579](#).

³¹In 2007, we reported that DOD used T&M contracts to acquire services to supplement its workforce. See [GAO-07-273](#).

staff familiar with older computer languages because of competition with the private sector.

- Similarly, the three SSA contracts we reviewed were to provide support services for the agency's major IT systems and communication engineering initiatives due to a shortage of qualified government staff. For example, the acquisition plan for a \$178.7 million contract stated that the agency had a shortage of technically qualified in-house personnel necessary to support the projects planned for fiscal years 2017 through 2026. Contracting officials told us that they used a T&M contract because it allowed flexibility in technical direction.

Budgetary Limitations. Contracting officials at two agencies described funding processes as limiting their ability to use contract types other than T&M in three of the selected contracts. DHS contracting officials stated that the funding for their contract was allocated on a quarterly basis rather than an annual basis. They noted that the uncertainty inherent in this funding allocation method prompted them to use a T&M contract since they could not anticipate the level of funding in future quarters. Similarly, Army contracting officials for the Expedited Professional and Engineering Support Services (EXPRESS) program said that the program's support activities were customer-funded, and as a result, converting T&M contracts to firm-fixed-price would require customers to fund the contract fully at the time of award.³² According to the Army contracting officials, not all customers are able to do so.

Grouping requirements for multiple programs. One Air Force contract we reviewed grouped requirements for multiple platforms from various organizations and units, which according to officials, complicated the agency's ability to define the scope and duration of work to be completed. This \$184.1 million contract provided information and mission assurance, as well as information systems security for up to 5 years. Contracting officials said that uncertainty was inherent in the contract because of the way the program offices established their requirements.

³²The Army established a blanket purchase agreement using the GSA Federal Supply Schedule for its EXPRESS program in 2003. The EXPRESS program allows Army contracting officers to purchase a broad range of commercial services, including technical and programmatic support services for its customers.

Two Selected Contracts Did Not Include Required Documentation of Contract Type Determination

Of the 21 contracts we reviewed, 19 included the D&F required by the FAR, including the determination that no other contract type was appropriate. In the two remaining cases, we did not find a D&F supporting the use of a T&M contract in the contract files.

- A DHS bridge contract (valued at \$1.8 million, with a 3-month base period and four 1-month options) provided IT services that included project management support, project artifact development, and artifact organization and configuration management.³³ Contracting officials told us that the contract continued IT support services while the agency was preparing a follow-on contract. We did not find a D&F in the contract files. Contracting officials told us that even though the agency's policies and procedures required a D&F, the contracting officer did not complete one for this contract.
- State awarded a delivery order valued at \$75 million off a blanket purchase agreement for professional graphic design supporting the department's public diplomacy communications bureau for up to 5 years. We did not find a D&F in the contract files, and other contract documents we reviewed did not state why a T&M contract was necessary for the specific requirement. State policy officials in the Office of the Procurement Executive told us that agency policy requires a D&F for any contract type other than firm-fixed-price, as outlined in the FAR. These officials explained that this requirement also pertains to orders off a blanket purchase agreement that allows multiple order types, as it did in this case. However, contracting officials incorrectly told us that a D&F was not required because State's Quality Assurance Plan does not include blanket purchase agreements as one of the contract types for which a D&F is required.³⁴

Federal standards for internal control state that management should communicate quality information down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and supporting the internal control system. In these

³³A bridge contract extends an existing contract beyond the period of performance (including option years) or awards a short-term contract on a sole-source basis to the current vendor to avoid a lapse in service caused by a delay in awarding a follow-on contract. For additional information on bridge contracts, see GAO, *Sole Source Contracting: Defining and Tracking Bridge Contracts Would Help Agencies Manage Their Use*, [GAO-16-15](#) (Washington, D.C.: Oct. 14, 2015).

³⁴Department of State, *Quality Assurance Plan* (June 2021).

communications, management assigns the internal control responsibilities for key roles.³⁵ Our analysis of FPDS data shows that State obligated more than \$544 million across 70 delivery orders off T&M blanket purchase agreements in fiscal year 2021. Given that the contracting officers we interviewed did not correctly understand State's Quality Assurance Plan, additional clarification could help State ensure this policy is consistently implemented for blanket purchase agreement orders. This could help contracting officers determine whether the use of higher-risk contracts such as T&M are appropriate for the requirement.

Opportunities Exist to Reduce Use of T&M Contracts and Increase Use of Lower-risk Hybrid Contracts

Several contracting officials responsible for the contracts we reviewed proactively took steps to convert some work from T&M contracts to lower-risk hybrid contracts, but there are opportunities to do so more consistently. Contracting officials described reviewing requirements to identify tasks that were recurring or stable enough to use firm-fixed-pricing, such as certain project management tasks, but noted that converting to fixed-pricing requires buy-in from the customer. We found that three of the seven agencies we reviewed dedicated resources and leadership attention to assist contracting officers in identifying opportunities to use firm-fixed-priced line items.

Close Analysis of Requirements Reduced the Use of T&M Contracts

While the FAR gives contracting officers broad discretion for selecting an appropriate contract type, including the use of T&M contracts, it encourages them to assess the contract type periodically, particularly after experience obtained during the performance of a T&M contract provides a basis for firmer pricing.³⁶ The FAR also states that one factor in selecting contract types is that, if the entire contract cannot be firm-fixed-price, the contracting officer shall consider whether or not a portion of the contract can be established on a firm-fixed-price basis.³⁷ Similarly, the January 2021 OMB memorandum on increasing attention on federal contract type decisions discourages agency reliance on high-risk contracts, such as cost-reimbursement and T&M contracts.³⁸ The memorandum also highlights the use of hybrid contracts as an alternative that allows portions of work to transition to lower-risk contracts, such as

³⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

³⁶FAR § 16.103(c).

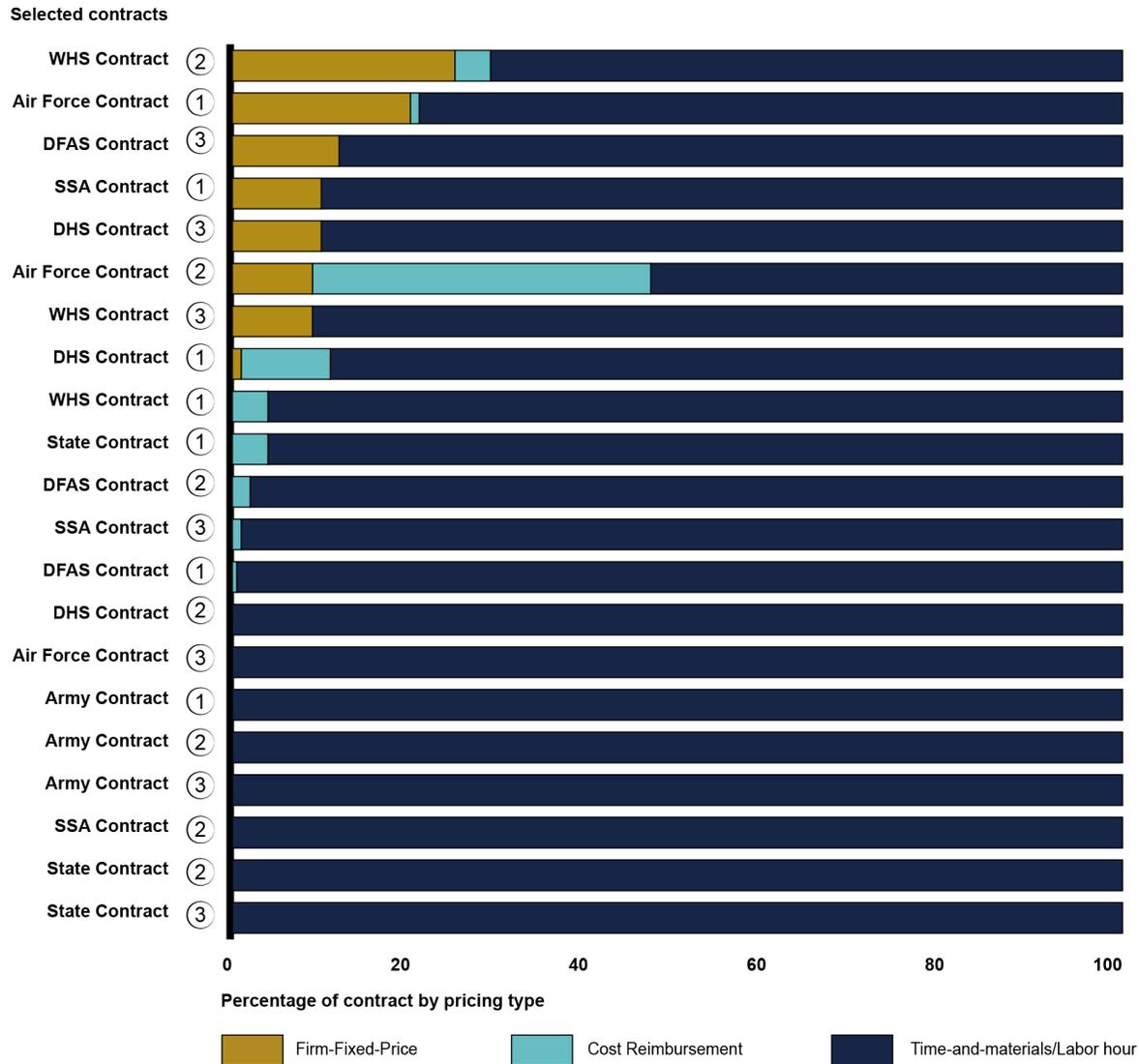
³⁷FAR § 16.104(e).

³⁸OMB, *Memorandum to the Heads of Executive Departments and Agencies. M-21-11, Increasing Attention on Federal Contract Type Decisions* (Jan. 5, 2021).

firm-fixed price type. Specifically, the memorandum states that agencies should look for opportunities to strengthen or clarify agency policies that support reduction of risk in association with contract type decisions.

Our review of the selected contracts found that some used multiple types of pricing. Of the 21 contracts we reviewed, eight had firm-fixed-price line items in the base period (see figure 6).

Figure 6: Percentage of Contract Pricing Approaches Used in the Base Period of the 21 Time-and-Materials and Labor-Hour Contracts GAO Reviewed



Source: GAO analysis of selected agency contracts. | GAO-22-104806

Note: GAO reviewed three contracts from each agency (labeled as 1, 2, or 3). Air Force refers to the Department of the Air Force. Army refers to the Department of the Army. DFAS refers to the Defense Finance and Accounting Service. DHS refers to the Department of Homeland Security. State refers to the Department of State. SSA refers to the Social Security Administration. WHS refers to the Department of Defense's Washington Headquarters Services.

Contracting officials for five contracts stated it is often not feasible or advantageous for the government to try to use firm-fixed-price contracts when there is a degree of risk or uncertainty. Specifically, they told us that using firm-fixed-price contracts for requirements that have uncertainty would result in the contractors increasing their offers to account for the uncertainty. Similarly, contracting staff for eight of the 21 contracts we reviewed told us that selecting a contract type required customers' buy-in. However, they stated that their customers often prefer to use a T&M contract over a firm-fixed-price contract. For example, a State contracting officer said that customers often get used to the flexibility of a T&M contract, because they can add work to the contract as long as it is within the scope of the performance work statement.³⁹ Further, the contracting officer said that program offices often struggle to define requirements, which complicates the contracting officer's ability to identify portions of the requirement that could be awarded as firm-fixed-price.

Eight of the contracts we reviewed had firm-fixed-price line items. Some contracting officials responsible for the T&M contracts we reviewed described how they identified opportunities to increase the use of firm-fixed-pricing, thereby creating hybrid contracts that combined T&M and firm-fixed-price line items. For example:

- A \$10.4 million WHS contract provided linguists, stenographers, transcribers, and lawyers to support military tribunals. Contracting officials said that they structured the contract to provide firm-fixed-price line items for baseline levels of support, whereas the T&M line items were intended to provide surge support, such as when the government was preparing for a trial. Overall, we found that about 25 percent of the contract was priced on a firm-fixed-price basis.
- For an Air Force base-period hybrid contract with an approximate \$20 million ceiling, the requirements to operate, maintain, and develop command and control mission systems were originally met with a cost-reimbursement contract. The new hybrid contract was managed as an assisted acquisition by GSA contracting officials, who said their review of this contract's historical invoices indicated that the requirement was unstable and thus supported the use of a T&M contract. The contracting officials said most of the contract was planned to use T&M pricing for software development and similar

³⁹The FAR establishes specific procedures for post-award actions such as an increase in the ceiling price or changes that fall within the general scope of the contract or order, such as changes to the description of the services to be performed. FAR §§ 16.601(e) and 52.243-3.

operations, and cost-reimbursement pricing was to be used for travel. However, they said they were able to price one contract line item on a firm-fixed-price basis for the steady state work, such as help desk operations.

The contracting officials told us they were able to identify these opportunities to use multiple contract types by breaking down the work into seven separate tasks in the performance work statement. By doing so, they were able to identify tasks that could be done under different contract types. The contracting officers said they estimated they achieved between 20 and 25 percent cost savings compared to the independent government cost estimate for prior contracts for this requirement, attributed, in part, to changing the contract structure.

Our review of the 21 contracts identified a number of characteristics that could indicate opportunities to price portions of these requirements on a firm-fixed-price basis for follow-on contracts. For example, documentation for 18 of the contracts we reviewed indicated the existence of a recurring requirement, in whole or in part. We define recurring requirements as follow-on efforts or recurring services. Some of those contracts went back multiple years or iterations. Contracts for recurring requirements would have historical information to determine whether some aspects of the contract could be done on a firm-fixed-price basis. Additionally, 15 contracts included project or program managers, who typically work consistent hours and may present opportunities for firm-fixed-pricing. Of these contracts, 10 planned to have a consistent number of hours for the project or program manager roles. Three of the 10 contracts used firm-fixed-pricing for the project or program manager role, while the remainder did not.

Increased Leadership Attention Helped Promote the Reduced Use of T&M Contracts in Three Agencies We Reviewed

Increased leadership attention has the potential to help contracting officers identify more such opportunities to reduce use of T&M contracts. Our prior work found that organizations seeking to significantly improve acquisition outcomes must begin with an established vision and commitment from senior management.⁴⁰ The Army's Contracting Command, DHS's Procurement Innovation lab, and DFAS have taken steps to assess opportunities to reduce the use of T&M contracts.

- **Army's Contracting Command.** Army leadership set a 3-year goal to halve its use of T&M contracts by the end of fiscal year 2023, with

⁴⁰GAO, *Defense Acquisitions: Tailored Approach Needed to Improve Service Acquisition Outcomes*, [GAO-07-20](#) (Washington, D.C.: Nov. 9, 2006).

interim annual goals. Among our selected Army contracts, we found evidence that this priority had been communicated to contracting officials, as contracting officials for two Army contracts told us that T&M contracts are regularly reviewed for opportunities to transition to a firm-fixed-price basis, in whole or in part.

Specifically, the Army dedicated resources and created a new internal process focused on reducing T&M pricing wherever possible. In early 2020, the Army Contracting Command established the Strategic Services and Category Management (SSCM) division to provide oversight of Army's EXPRESS program within Redstone Arsenal and implement category management acquisition planning. The SSCM division chief told us that a key function of the division is early engagement with customers to assist with market research and explore strategic sourcing options to support category management implementation. The chief said the division has been most successful in converting program management and administrative support tasks to firm-fixed-price line items. He told us that an effective method to reduce the use of T&M pricing is to review the performance work statement line-by-line with the customer and ask why each line item cannot be defined sufficiently to make it firm-fixed-price. SSCM also created training to help its customers with this process. See the text box for additional information.

Training to Help Contracting Officials Spot Opportunities to Reduce Usage of Time-and-Materials Contracts

The Army's Strategic Services and Category Management division developed training on how to analyze whether a firm-fixed-price contract could be appropriate for a requirement under an Expedited Professional and Engineering Support Services blanket purchase agreement. For example, training slides highlight the following tasks as being suitable for firm-fixed-pricing:

- quantifiable activities;
- repetitive activities with task details;
- stable duty hours;
- less complex requirements with definable products or services; and
- tasks inherent to manage the blanket purchase agreement task order (i.e., fixed project management costs, mandatory reporting, mandatory meetings, and other common fixed administration tasks).

Minor changes to the performance work statement can increase the use of firm-fixed-price contracting, according to the division chief. The division's training states that when developing a firm-fixed-price performance work statement, more details will result in more realistic pricing, clearer objectives and goals for contractors to propose to, and a better understanding of the requirement. For example, the performance work statement should:

- quantify requirements;
- describe the requirement and identify the outcome or goals in terms of the results you want to achieve; and
- separate and clearly define tasks and subtasks.

Source: Army Strategic Services and Category Management training material. | GAO-22-104806

The Army has been able to increase firm-fixed-pricing in follow-on T&M contracts for recurring requirements by as much as 58 percent by restructuring some paragraphs in the performance work statement, according to the SSCM division chief. The official said that a team member analyzes data sheets completed at contract award and at each modification under the EXPRESS program. In addition, the official said that the Army's Contracting Command is working to develop an automated mechanism to track the division's efforts, but as of December 2021, the division was still in the process of developing it.

- **DHS's Procurement Innovation Lab.** Similarly, officials from DHS's Procurement Innovation Lab have ongoing efforts to engage with acquisition and contracting officials within DHS to encourage use of hybrid contracts to reduce risk. Officials from the lab provide resources and support for contracting officers to increase use of hybrid contracts. For example, training materials provided by the lab suggest ways to word solicitations and provide examples of techniques that can make it easier to transition from T&M pricing to firm-fixed-pricing during a contract's period of performance. These materials are incorporated into the Federal Acquisition Institute's online repository of innovative acquisition practices.⁴¹ In addition, DHS training slides on T&M mention using hybrid contracts.
- **DFAS's Additional Leadership Review of D&F for T&M contracts.** DFAS has a process where all T&M contracts must be approved by the Head of Contracting Activity, regardless of the contract value or the period of performance. DFAS contracting officials stated that they seek to limit use of T&M contracts to cases where it is necessary and said the higher-level contract review discourages the use of T&M contracts. Overall, our analysis of FPDS data found that DFAS's use of T&M contracts decreased by 63 percent from fiscal year 2017 to fiscal year 2021.

Agency officials from the Air Force, State, and SSA stated that their agencies do not have any initiatives to encourage contracting staff to pursue opportunities to use firm-fixed-price line items on T&M contracts. As previously noted, our analysis found that the Air Force, State, and SSA showed increases in T&M contract use over the last 5 years. While DOD officials acknowledged they did not have specific initiatives in place

⁴¹These materials are listed in the Solicitation section under Enhanced Contract Type Conversion on <https://www.fai.gov/periodic-table>.

beyond the Army's SSCM initiative, we found that WHS substantially decreased its use of T&M contracts between fiscal years 2017 and 2021.

We found that contracting officials generally justified their use of the T&M contract type in D&Fs for the selected contracts, consistent with the FAR—but our review of the contract files illustrated the potential opportunities for these three agencies to reduce their use of T&M contracts, such as by pricing portions of the requirements on a firm-fixed-price basis. Taking advantage of such opportunities in future contract actions—whether for the requirements we reviewed or more generally—requires agency leadership to encourage contracting and program staff to invest the necessary time and effort. Understanding what steps are needed to enable contracting officials to identify candidates for firm-fixed pricing—for example, recurring requirements currently priced as T&M—would better position these agencies to systematically reduce the use of T&M contracts overall. Additional management attention on this issue could better balance cost risk to the government and save taxpayer dollars. Taking such actions would be consistent with existing FAR requirements and OMB's January 2021 memorandum.

Conclusions

Limiting use of T&M contracts to only situations where such an approach is justified reduces the government's exposure to cost risk and better incentivizes contractors to control costs. It is important that agency policy clearly identify when contracting officers are to prepare a determination and findings document, a key internal control already required by the FAR. Clearly identifying in State's Quality Assurance Plan when a determination and findings is required would help ensure that contracting officers act in accordance with State's policies.

More broadly, we found that increased leadership attention and a closer review of contracts can provide opportunities to reduce the use of T&M contracts. These opportunities can include cases when requirements are recurring or include tasks and services that are likely to be provided on a full-time basis, such as program management. We found instances of individual contracting officers at the Air Force and SSA using firm-fixed-price line items on predominantly T&M contracts we reviewed. However, neither these agencies nor State identified specific initiatives in place to more systematically examine existing T&M-priced requirements, and each experienced increases in its use of T&M contracts over the last 5 years. Without additional leadership attention, these agencies could miss further opportunities to reduce risk to the government and save taxpayer dollars.

Recommendations for Executive Action

We are making a total of four recommendations, including two to State, one to the Air Force, and one to SSA. Specifically:

The Secretary of State should ensure that the Department of State's Head of Contracting Activity updates the Department's Quality Assurance Plan policy by clarifying that a determination and findings justifying the use of a time-and-materials or labor-hour contract is required for orders placed under blanket purchase agreements. (Recommendation 1)

The Secretary of the Air Force should ensure that the Department of the Air Force's Heads of Contracting Activities assess steps they can take to identify opportunities to reduce the use of time-and-materials and labor-hour contracts by pricing all or part of such contracts on a firm-fixed-price basis. (Recommendation 2)

The Secretary of State should ensure that the Department of State's Heads of Contracting Activities assess steps they can take to identify opportunities to reduce the use of time-and-materials and labor hour contracts by pricing all or part of such contracts on a firm-fixed-price basis. (Recommendation 3)

The Commissioner for the Social Security Administration should ensure that the Social Security Administration Heads of its Contracting Activities assess steps they can take to identify opportunities to reduce the use of time-and-materials and labor hour contracts by pricing all or part of such contracts on a firm-fixed-price basis. (Recommendation 4)

Agency Comments and Our Evaluation

We provided a draft of this report to the DOD (for Air Force, Army, DFAS, and WHS), DHS, SSA and Department of State for review and comment. In written comments (reproduced in appendixes II, III, and IV, respectively), DOD, SSA, and Department of State concurred with our recommendations. DHS provided technical comments, which we incorporated as appropriate. GSA provided no comments.

DOD, the Department of State, and SSA described steps they will be taking to address our recommendations. For example, DOD stated that the Air Force senior contracting official would issue guidance to address the recommendation. The Department of State plans to take steps to ensure the Quality Assurance Plan is clear that a determination and findings justifying the use of time-and-materials or labor hour type of contract is applicable to all action types, including orders placed against blanket purchase agreements. In addition, the Department of State plans to prepare and disseminate a communication to the acquisition workforce

to identify opportunities to reduce the use of time-and-materials and labor-hour contracts by pricing all or part of such contracts on a firm-fixed-price basis. SSA stated it is taking actions to identify opportunities to convert T&M contracts to firm-fixed-price, such as providing training to contracting officers and representatives on identifying opportunities to reduce the use of T&M contracts

We are sending copies of this report to the appropriate congressional committees; the Secretaries of the Air Force, Army, Defense, Homeland Security, and State; the Acting Commissioner for the Social Security Administration; and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4841 or dinapolit@gao.gov. 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 key contributions to this report are listed in appendix V.



Timothy J. DiNapoli
Director, Contracting and National Security Acquisitions

List of Congressional Committees

The Honorable Jack Reed
Chairman
The Honorable James M. Inhofe
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Jon Tester
Chairman
The Honorable Richard C. Shelby
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Adam Smith
Chairman
The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Betty McCollum
Chair
The Honorable Ken Calvert
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The House Armed Services Committee report that accompanied the National Defense Authorization Act for 2021 included a provision for GAO to review the Department of Defense's (DOD) use of time-and-materials and labor-hour contracts, including the use of these contracts to acquire commercial services.¹ We refer to time-and-materials and labor-hour contracts collectively as time-and-materials (T&M) contracts for simplicity. After our initial work identified differences between the use of T&M contracts by DOD and civilian agencies, we expanded the review to include civilian agencies. This report addresses (1) how federal agencies used T&M contracts for fiscal years 2017 through 2021, (2) what factors selected agencies' contracting officials considered when awarding T&M contracts, and (3) the extent to which selected agencies took measures to reduce use of T&M contracts.

To determine how federal agencies used T&M contracts, we reviewed the Federal Procurement Data System (FPDS) data on agency-funded T&M contract obligations from fiscal years 2017 through 2021, the most recent full fiscal years for which data were available during our review.² We assessed the reliability of FPDS data by reviewing existing information about the FPDS system and the data it collects—specifically the data dictionary and data validation rules—and performing electronic testing. We determined that the FPDS data were sufficiently reliable to summarize agencies' annual use of T&M contracts as well as government-wide information on obligations, the types of services agencies purchased, and the use of commercial item procedures to award T&M contracts. We analyzed the FPDS data to identify agencies with the largest obligations and the types of services agencies purchased using T&M contracts.

To select agencies to include in our review, we analyzed FPDS data for fiscal years 2015 through 2019, the most recent data available at the start of our review. We identified three product and service codes with the greatest degree of overlap among the T&M obligations of defense and civilian agencies: D399 Information Technology (IT) and Telecommunications-Other IT and Telecommunications, R425 Engineering and Technical Services, and R499 Other Professional Services. We selected a nongeneralizable sample of DOD and civilian

¹H.R. Rep. No. 116-442, pt. 1, at 171-2 (2020).

²FPDS is the central repository for capturing information on federal procurement actions. Dollar amounts reported by federal agencies to FPDS represent the net amount of funds obligated and deobligated as a result of procurement actions.

agencies based on total T&M contract obligations for this period and representation of these three product and service codes. We selected four agencies and field activities from DOD: Air Force, Army, Defense Finance Accounting Service, and Washington Headquarters Services. We also selected three civilian agencies to include in our review: the Department of Homeland Security (DHS), the Department of State, and the Social Security Administration (SSA).

To determine what policies apply to the use of T&M contracts, we reviewed the Federal Acquisition Regulation and Office of Management and Budget's Office of Federal Procurement Policy memorandums related to contract selection type. We also reviewed any supplementary regulations issued by the selected agencies, such as DOD's Defense Federal Acquisition Regulation Supplement (DFARS), DHS's Homeland Security Acquisition Regulation, the Department of State Acquisition Regulation, and the Social Security Acquisition Handbook. We also identified and reviewed policies and guidance issued by the selected agencies pertaining to decisions or documentation for T&M contracts such as: memorandums issued by the Office of the Under Secretary of Defense; the Homeland Security Acquisition Manual, SSA's Administrative Instructions Manual, and State's Procurement Information Bulletins and Quality Assurance Plan. We interviewed selected agencies' policy officials, contracting officers, and other contracting officials to obtain information about agency policies regarding the use of T&M contracts.

To identify examples of factors contracting officers from the selected agencies considered when awarding selected T&M contracts, we selected a non-generalizable sample of 21 T&M contracts or orders, three from each of the seven agencies included in our review. To make these selections, we analyzed FPDS data for fiscal year 2020—the most recent complete fiscal year available at the time we conducted this analysis—to identify contract actions funded by each selected agency coded as T&M within the three shared product service codes. We then randomly selected three contract actions from each agency. Some of those contracts were priced predominantly on a T&M basis but also contained line items with other types of pricing. Our analysis of FPDS data found that the majority of the Air Force's T&M contract actions were awarded as assisted acquisitions—that is, another agency awarded contracts on behalf of the Air Force. Accordingly, we randomly selected two Air Force contract actions that were General Services Administration assisted acquisitions.

For each of the 21 selected contract actions, we reviewed documents from the contract files provided by agency officials such as the base contract or order, modifications, determination and findings used to justify the use of a T&M contract, acquisition plan, and statement of work or performance work statement. The Army provided access to GAO analysts to their web-based records management application called Paperless Contract Files. For the three Army contracts, a GAO analyst extracted relevant documents from the selected contracts' files. We interviewed contracting officers for each of the selected contract actions to obtain information about their use of T&M contracts such as what factors the contracting officer considered when they decided to use T&M for the requirement, the history of the requirement, contract administration, and any challenges associated with using this contract type. For the two Air Force assisted acquisitions, we interviewed General Services Administration contracting officials who were responsible for managing the contract. Finally, we also interviewed the Air Force contracting officer representatives to obtain Air Force program officials' perspectives on these two contracts. Although the information we obtained from the selected contract files is not generalizable, it is intended to illustrate the types of services agencies purchased using T&M contracts, what factors influenced decisions to use this contract type, and potential opportunities for agencies to assess ongoing use of T&M contracts in their acquisition portfolios.

To determine the extent to which selected agencies took measures to reduce their use of T&M contracts, we analyzed the initial base contract awards—which in some cases was an order off an indefinite-delivery contract or blanket purchase agreement—to determine the percent of obligations by contract types among the various line items and identify instances of stable labor hours over time. To obtain information about agency efforts to review the use of T&M contracts, we interviewed contracting and policy officials from selected agencies as well as officials from the Office of Management and Budget's Office of Federal Procurement Policy, and the Acting Director of DHS's Procurement Innovation Lab to describe what, if any, measures officials took to reduce the use of T&M contracts. Based on information provided in interviews with Army contracting officials, we also interviewed the Chief of the Army's Strategic Sourcing and Category Management Division to obtain information about the office's efforts to review T&M contract actions under the Expedited Professional and Engineering Support Services Program.

We conducted this performance audit from February 2021 to June 2022 in accordance with generally accepted government auditing standards.

**Appendix I: Objectives, Scope, and
Methodology**

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: Comments from the Department of Defense



ACQUISITION
AND SUSTAINMENT

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

Mr. Timothy J. DiNapoli
Director, Contracting and National Security Acquisition
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Mr. DiNapoli:

This is the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report, GAO-22-104806, "Federal Contracting: Opportunities Exist to Reduce Use of Time-And-Material Contracts," dated April 15, 2022 (GAO Code 104806).

The Department acknowledges receipt of the draft report and has reviewed it for technical accuracy. The Department has no technical comments. The Department's response to Recommendation 2 is enclosed.

My point of contact is Ms. Sara Van Gorder, who can be reached at 571-722-8265 or sara.c.vangorder.civ@mail.mil.

Sincerely,

TENAGLIA Digitally signed by
.JOHN.M.1 TENAGLIA,JOHN.
154945926 M.1154945926
Date: 2022.05.23
14:22:28 -04'00'

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Enclosure:
As stated

Enclosure

**GAO DRAFT REPORT DATED APRIL 15, 2022
GAO-22-104806 (GAO CODE 104806)**

**"FEDERAL CONTRACTING: OPPORTUNITIES EXIST TO REDUCE USE OF
TIME-AND-MATERIALS CONTRACTS"**

**DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION**

RECOMMENDATION 2: The Secretary of the Air Force should ensure that the Department of the Air Force's Heads of Contracting Activities assess steps they can take to identify opportunities to reduce the use of time-and-materials and labor-hour contracts by pricing all or part of such contracts on a firm-fixed-price basis.

DoD RESPONSE: Concur. The Air Force senior contracting official will issue guidance to address this recommendation.

Appendix III: Comments from the Social Security Administration



SOCIAL SECURITY
Office of the Commissioner

May 10, 2022

Timothy J. DiNapoli
Director, Contracting and National Security Acquisitions
United States Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Director DiNapoli:

Thank you for the opportunity to review the draft report "FEDERAL CONTRACTING: Opportunities Exist to Reduce Use of Time-and-Materials Contracts" (GAO-22-104806). We agree with the recommendation.

We are taking actions to identify opportunities to convert portions of our time-and-material (T&M) contracts to firm fixed price (FFP) contracts. For example, in October 2021, we negotiated an information technology services blanket purchase agreement call order from a full labor-hour (LH) call order to a hybrid LH/FFP call order. We will train approximately 100 contracting staff and 1,100 contracting officer's representatives, and include information about the use of hybrid contracts to minimize the risks of T&M contracts.

Please contact me at (410) 965-2611 if I can be of further assistance. Your staff may contact Trae Sommer, Director of the Audit Liaison Staff, at (410) 965-9102.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Frey".

Scott Frey
Chief of Staff

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

Appendix IV: Comments from the Department of State



United States Department of State
Comptroller
Washington, DC 20520
MAY 11 2022

Thomas Melito
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, "FEDERAL CONTRACTING: Opportunities Exist to Reduce Use of Time-and-Materials Contracts" GAO Job Code 104806.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

A handwritten signature in black ink, appearing to read "William B. Davisson".

William B. Davisson (Acting)

Enclosure:
As stated

cc: GAO – Timothy DiNapoli
A – Alaina B. Teplitz
OIG - Norman Brown

Department of State Comments on GAO Draft Report

**FEDERAL CONTRACTING: Opportunities Exist to Reduce Use of Time-
and-Materials Contracts**
(GAO-22-104806, Job Code 104806)

Thank you for the opportunity to comment on the GAO draft report, *“Federal Contracting: Opportunities Exist to Reduce Use of Time-and-Materials Contracts.”*

Recommendation 1: The Secretary of State should ensure that the Department of State’s Head of Contracting Activity updates the Department’s Quality Assurance Plan policy by clarifying that a determination and findings justifying the use of a time-and-materials, or labor-hour contract is required for orders placed under blanket purchase agreements.

Response: The Department of State concurs with this recommendation and will take the necessary steps to ensure the Quality Assurance Plan is clear that a determination and findings justifying the use of time-and-materials or labor hour type of contract is applicable to all action types, including orders placed against blanket purchase agreements.

Recommendation 3: The Secretary of State should ensure that the Department of State’s Heads of Contracting Activities assess steps they can take to identify opportunities to reduce the use of time-and-materials and labor hour contracts by pricing all or part of such contracts on a firm-fixed price basis.

Response: The Department of State concurs with this recommendation and plans to prepare and disseminate a communication to the acquisition workforce to identify opportunities to reduce the use of time-and-materials and labor hour contracts by pricing all or part of such contracts on a firm-fixed price basis.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Timothy J. DiNapoli, (202) 512-4841 or DiNapoliT@gao.gov

Staff Acknowledgments

In addition to the contact name above, Teague Lyons (Assistant Director), LeAnna Parkey (Analyst-in-Charge), Marie Ahearn, Peter Anderson, Breanne Cave, Scott Hiromoto, Julia Kennon, Joy Kim, Phillip Oyoo, Miranda Riemer, Jackie Wade, and Robin Wilson made significant contributions to this report. Beth Reed Fritts, Nicholas Jones, TyAnn Lee, Megan Setser, Jenny Shinn, and Lauren Wright also contributed to this report.

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