

NDIA Annual National Logistics Forum

Best Contracting Practices
Focus Area

Agenda

- Department Highlights
- Best Contracting Practices
- 2015 GAO Defense Contracting Report
- 2011-2015 DOD Letter Contract Awards

Department Highlights

- Proof Point Assessment (2010)
- Next Generation PBL IPT (2012)
- Better Buying Power Initiatives (2010-2015)
- PBL Integrated Team Training / Program Assistance (Training + Implementation) (2015)

Best Contracting Practices (DFARS Subpart 217.74)

- **Undefinitized Contract Actions**
 - Any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. Examples are letter contracts, orders under basic ordering agreements, and provisioned item orders, for which the price has not been agreed upon before performance has begun.
- **Definitized Contract Actions**
 - The agreement on, or determination of contract terms, specifications, and price which converts the undefinitized contract action to a definitive contract.

Best Contracting Practices

- According to DOD Policy, undefinitized contract actions shall—
 - (a) Be used only when—
 - (1) The negotiation of a definitive contract action is not possible in sufficient time to meet the Government's requirements; and
 - (2) The Government's interest demands that the contractor be given a binding commitment so that contract performance can begin immediately.
 - (b) Be as complete and definite as practicable under the particular circumstances

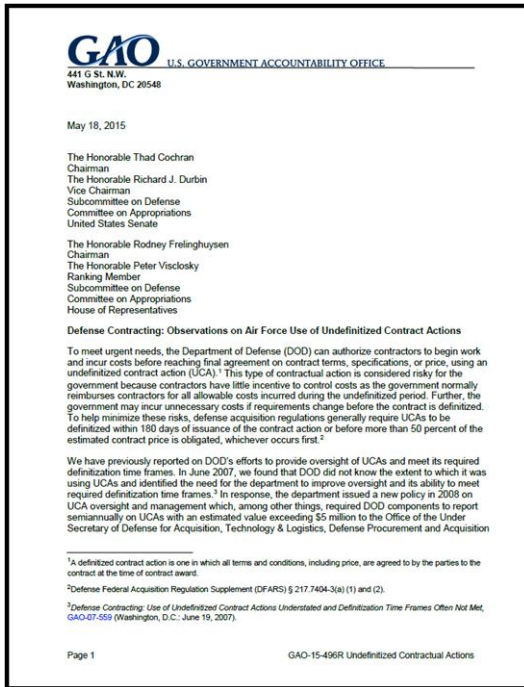
Best Contracting Practices

- UCAs shall contain definitization schedules that provide for definitization by the earlier of
 - (1) The date that is 180 days after issuance of the action (this date may be extended but may not exceed the date that is 180 days after the contractor submits a qualifying proposal); or
 - (2) The date on which the amount of funds obligated under the contract action is equal to more than 50 percent of the not-to-exceed price.

Best Contracting Practices

- Per DFARS 217.7404-6, when the final price of a UCA is negotiated after a substantial portion of the required performance has been completed, the head of the contracting activity shall ensure the profit allowed reflects—
 - (a) Any reduced cost risk to the contractor for costs incurred during contract performance before negotiation of the final price;
 - (b) The contractor's reduced cost risk for costs incurred during performance of the remainder of the contract;

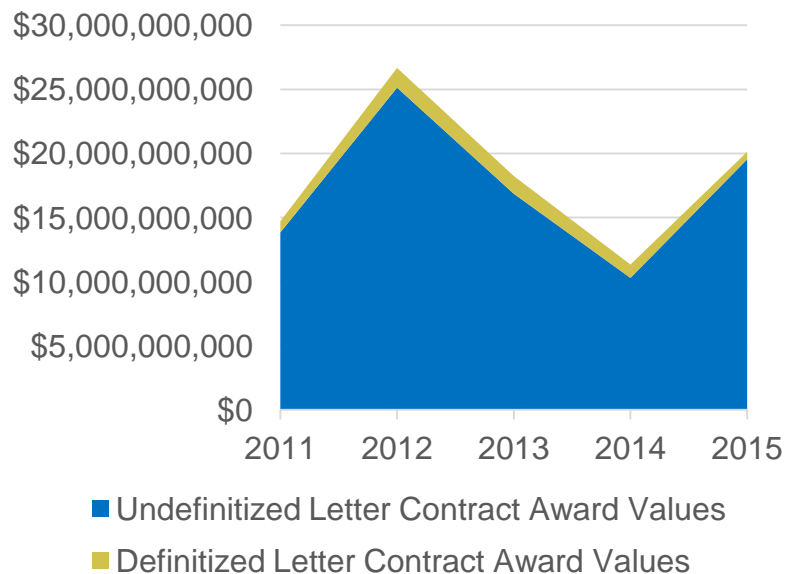
GAO Defense Contracting Reports



- UCA Risks:
 - Contractors may have little incentive to control costs.
 - Government may incur unnecessary costs if requirements change before the contract is definitized.
- May be underreporting UCAs in DOD's semiannual report to Congress.
 - Standard practice was to exclude undefinited long-lead contracts from UCA semiannual reporting
- Reviewed contracts did not always meet definitization time frames .
 - Insufficient pricing data and changing requirements were among the most common reasons for definitization delays.

FY2011-FY2015 DOD Letter Contract Awards

Letter Contract Awards



Source: FPDS-NG

- Letter contracts extending beyond DFARS timelines could introduce potential uncertainties for industry:
 - Financial Risks
 - Competition for Resources
 - Invest to Innovate
 - Grow technological advantage

Summary

- Progressing on PBL Initiatives and Industry Engagement
- Letter Contract Award Trends
- Visibility of Command Definitization Performance
- UCA impacts on Industry