

## Accessible Version

May 10, 2018

Congressional Committees

### **Defense Contracting: Use by the Department of Defense of Indefinite-Delivery Contracts from Fiscal Years 2015 through 2017**

The National Defense Authorization Act for 2017 contained a provision for us to report on the use by the Department of Defense (DOD) of indefinite-delivery contracts during fiscal years 2015 through 2017. Indefinite-delivery contracts are awarded to one or more contractors to acquire products and/or services when the government does not know at the time of award the exact times and/or exact quantities of future deliveries. The government then places orders through the indefinite-delivery contract when it knows the timing and quantity of its needs. This report identifies (1) policies and guidance DOD uses regarding indefinite-delivery contracts; (2) characteristics of DOD indefinite-delivery contracts for fiscal years 2015 through 2017, including the number of contracts, obligations on orders, and extent of competition; and (3) the extent to which selected DOD indefinite-delivery contracts may have limited future opportunities for competition.

In summary, DOD largely relies on subpart 16.5 of the Federal Acquisition Regulation (FAR) and subpart 216.5 of the Defense Federal Acquisition Regulation Supplement regarding indefinite-delivery contracts, with supporting guidance at the military department level. Roughly 40 percent of DOD contract obligations in fiscal years 2015 through 2017 were on indefinite-delivery contracts. Of the DOD awards for the indefinite-delivery / indefinite-quantity (IDIQ) contract type during this period, about three-quarters were made to a single contractor, rather than multiple contractors.<sup>1</sup> In general, for the IDIQ contracts we reviewed, DOD included ordering provisions that contemplated competition among the contract holders for subsequent orders.<sup>2</sup> However, nearly all of the contracts we reviewed contained provisions that, while not explicitly limiting competition, may have the potential, under certain circumstances, to reduce the number of contractors who are eligible to compete for the orders. Generally these provisions were in service of some other goal, such as increasing federal contracting opportunities for small businesses by setting aside certain task or delivery order competitions among these firms. We are not making any recommendations in this report. The enclosure contains our detailed analysis.

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<sup>1</sup>With limited exceptions, the FAR requires contracting officers, to the maximum extent practicable, to give preference to making multiple awards of IDIQ contracts. Under this approach, the government seeks to award multiple contracts under a single solicitation for the same or similar supplies or services. However, the FAR also establishes that there are times where contracting officers must not use the multiple award approach – including when it is not in the best interest of the government.

<sup>2</sup>When multiple indefinite-delivery contracts have been awarded, the competition requirements of FAR part 6 do not apply when placing orders; however, the government generally must provide each awardee a fair opportunity to be considered for each order. FAR § 16.505 (b)(1) describes the competitive procedures to be used, as well as exceptions to the fair opportunity process. For the purposes of this report, we refer to orders awarded using the fair opportunity procedures to be “competitive” and those that were awarded using one of the exceptions as “non-competitive.”

To conduct this work, we collected DOD policies and guidance relevant to indefinite-delivery contracts from DOD officials and reviewed them. To identify the characteristics of DOD indefinite-delivery contracts for fiscal years 2015 to 2017, we collected and analyzed data on the number of contracts and extent of competition on indefinite-delivery contracts and orders under them in fiscal years 2015 through 2017 from the Federal Procurement Data System—Next Generation (FPDS-NG). We also analyzed FPDS-NG data on obligations on task and delivery orders under indefinite-delivery contracts for fiscal years 2015 through 2017.<sup>3</sup> We assessed the reliability of the data we used by electronically testing for missing data, outliers, and inconsistent coding. We determined the data to be sufficiently reliable for the summary-level data provided in this report. To identify the extent to which selected DOD contracts may have limited future opportunities for competition, we selected a non-generalizable set of nine of the largest DOD multiple-award IDIQ contracts for review (one each awarded by the Air Force, Army, and Navy in fiscal years 2015, 2016, and 2017). We focused on IDIQ contracts for this analysis because they represent more than three-quarters of all indefinite-delivery contracts at DOD. We excluded IDIQ contracts awarded to a single contractor since the task orders under a single-award contract can only be issued to one contractor. We analyzed the ordering procedures from the selected contracts and assessed the extent to which these procedures may limit future opportunities for competition. We also reviewed GAO's recent work on IDIQ contracts.<sup>4</sup> In April 2017, we found that from fiscal years 2011 through 2015, agencies obligated more than \$130 billion annually on IDIQ contracts, with DOD accounting for more than two-thirds of those obligations.

We conducted this performance audit from January 2018 through May 2018 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.

### Agency Comments

We are not making any recommendations in this report. The Department of Defense had no comments on a draft of this report.

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<sup>3</sup>The indefinite-delivery contracts under which orders were placed were not necessarily awarded in fiscal years 2015 to 2017, but they had obligations on orders during those fiscal years. Our report also provides information on the number of indefinite-delivery contracts DOD entered into in fiscal years 2015 to 2017 based on information in FPDS-NG. However, the overall value of these contracts cannot be reliably obtained through FPDS-NG.

<sup>4</sup>GAO, *Federal Contracts: Agencies Widely Used Indefinite Contracts to Provide Flexibility to Meet Mission Needs*, [GAO-17-329](#) (Washington, D.C.: Apr. 13, 2017).

We are sending copies of this report to the appropriate congressional committees; the Secretary of Defense; 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 concerning this report, please contact me at (202) 512-4841 or by e-mail at [woodsw@gao.gov](mailto:woodsw@gao.gov). Contact points for our Office 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 were Janet McKelvey (Assistant Director); Scott Purdy (Analyst-in-Charge); Pete Anderson; Matthew T. Crosby; Lorraine Ettaro; Julia M. Kennon; Roxanna Sun; and Alyssa Weir.

A handwritten signature in black ink that reads "William T. Woods". The signature is written in a cursive, flowing style.

William T. Woods  
Director, Contracting and National Security Acquisitions

Enclosure

*List of Congressional Committees*

The Honorable John McCain  
Chairman  
The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Richard Shelby  
Chairman  
The Honorable Dick Durbin  
Ranking Member  
Subcommittee on Defense  
Committee on Appropriations  
United States Senate

The Honorable Mac Thornberry  
Chairman  
The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services  
House of Representatives

The Honorable Kay Granger  
Chairwoman  
The Honorable Pete Visclosky  
Ranking Member  
Subcommittee on Defense  
Committee on Appropriations  
House of Representatives

Enclosure



May 2018

## Defense Contracting

### Use by the Department of Defense of Indefinite-Delivery Contracts from Fiscal Years 2015 through 2017

#### Background

The federal government obligates nearly \$200 billion each year through the use of indefinite-delivery contracts, with DOD representing more than half of these dollars. Federal regulations define three types of indefinite-delivery contracts, each of which involves the placement of orders under the contract to meet individual requirements:

- definite-quantity contracts, which provide for the delivery of a definite quantity of specific products or services for a fixed period;
- requirements contracts, under which a contractor fulfills all requirements of a designated government activity for products or services over a specified period; and
- indefinite-quantity contracts, which provide for an indefinite quantity, within stated limits, of products or services during a fixed period.

Federal regulations establish a general preference for making multiple awards of IDIQ contracts. When multiple awards of such contracts are made, the government generally must provide each contractor a fair opportunity to be considered for each subsequent order. However, in certain circumstances, agencies can, and in some cases must, award indefinite-delivery contracts to a single contractor, in which case all subsequent orders are placed without additional opportunities for competition.

View [GAO-18-412R](#). For more information, contact William T. Woods at (202) 512-4841 or [woodsw@gao.gov](mailto:woodsw@gao.gov)

#### Findings

##### Policies and Guidance

Department of Defense (DOD) officials told us they primarily rely on subpart 16.5 of the Federal Acquisition Regulation (FAR) when using indefinite-delivery contracts. The FAR describes the three different indefinite-delivery contract types and establishes rules for ordering, including certain competitive procedures to be followed when placing orders under multiple-award contracts.

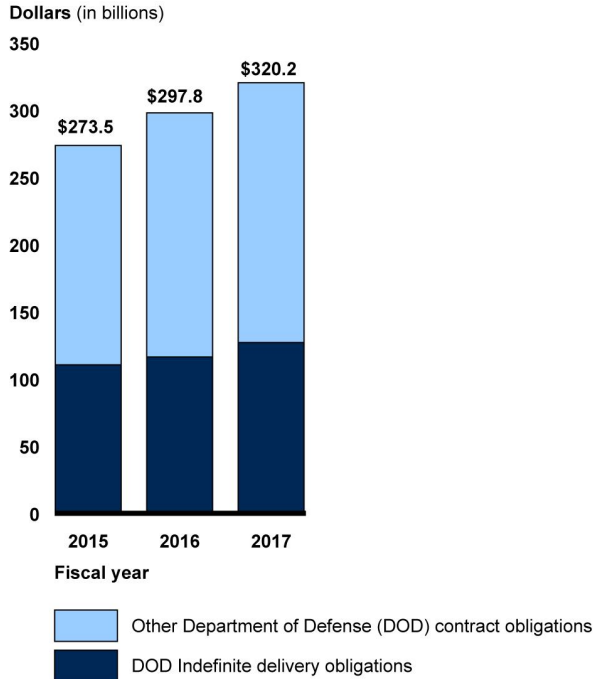
Additionally, DOD officials noted that there are supplemental regulations in the Defense Federal Acquisition Regulation Supplement (DFARS), which, for example, identify procedures for contracting officers to follow when they receive only one offer on task orders above a certain threshold. DOD's Procedures, Guidance, and Information established guidance for certain follow-on task orders awarded without competition.

Military department officials also indicated they primarily relied on the FAR and DFARS, and in some cases they identified limited supplemental guidance at the military department level. For example, both the Navy and Air Force provided additional guidance regarding approval authority for single-award indefinite-delivery contracts. In general, the policies and guidance we reviewed did not contain specific provisions on the appropriate number of contractors that should receive multiple-award indefinite-delivery contracts. However, the FAR provides factors to be considered when determining the appropriate number of indefinite-delivery / indefinite-quantity (IDIQ) contracts to be awarded.

## Characteristics of Indefinite-Delivery Contracts

Orders under indefinite-delivery contracts comprised roughly 40 percent of DOD obligations in fiscal years 2015 through 2017 totaling more than \$100 billion each year (see figure 1).

**Figure 1: DOD Obligations on Orders under Indefinite-Delivery Contracts in Comparison with Total DOD Contract Obligations, Fiscal Years 2015 through 2017**



Source: GAO analysis of Federal Procurement Data System - Next Generation. | GAO-18-412R

**Data Table for Figure 1: DOD Obligations on Orders under Indefinite-Delivery Contracts in Comparison with Total DOD Contract Obligations, Fiscal Years 2015 through 2017**

Fiscal Year	DOD Indefinite delivery obligations	Other Department of Defense (DOD) contract obligations
2015	110.42	163.11
2016	116.21	181.59
2017	127	193.19

Figure 1 reflects all obligations on orders under indefinite-delivery contracts in each fiscal year, whether or not the contract itself was entered into during that fiscal year. In terms of contracts entered into by DOD during fiscal years 2015 through 2017, DOD mostly awarded single-award indefinite-delivery contracts, and most of these contracts were reported as having been competed (see table 1).

**Table 1: Number of Indefinite-Delivery Contracts Entered into by the Department of Defense, Fiscal Years 2015 through 2017**

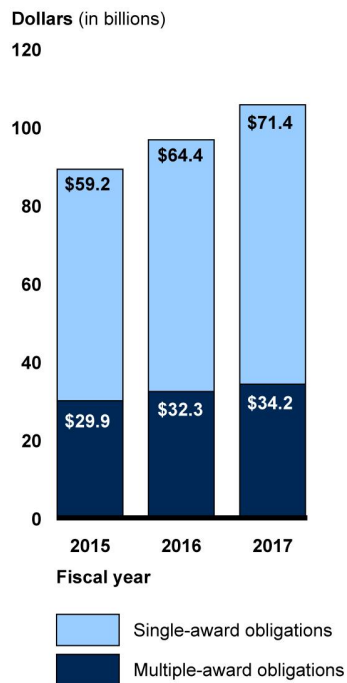
	2015	2016	2017
<b>Single-award indefinite-delivery contracts (competed)</b>	5603	4985	6262
<b>Single-award indefinite-delivery contracts (not competed)</b>	1999	2074	2069
<b>Multiple-award indefinite-delivery contracts (all competed)</b>	1984	1948	1423
<b>Total indefinite-delivery contracts</b>	<b>9586</b>	<b>9007</b>	<b>9754</b>

Source: GAO analysis of Federal Procurement Data System – Next Generation data. | GAO-18-412R

While there are three types of indefinite-delivery contracts, DOD obligated most of its dollars (more than 80 percent each year) on the IDIQ contract type. IDIQ contracts are used when the exact quantities and timing for future deliveries of products and/or services are not known at the time of award.

**Pursuant to statute, the FAR establishes a general preference for multiple-award IDIQs but also states that there are times this approach should not be used. From fiscal years 2015 through 2017, DOD obligated about two-thirds of its IDIQ contract obligations on single-award IDIQ contracts (see figure 2). This proportion is consistent with our past findings on IDIQ contracts for fiscal years 2011 through 2015.**

**Figure 2: Department of Defense Single- and Multiple-Award Indefinite-Delivery / Indefinite-Quantity Contract Order Obligations, Fiscal Years 2015 through 2017**



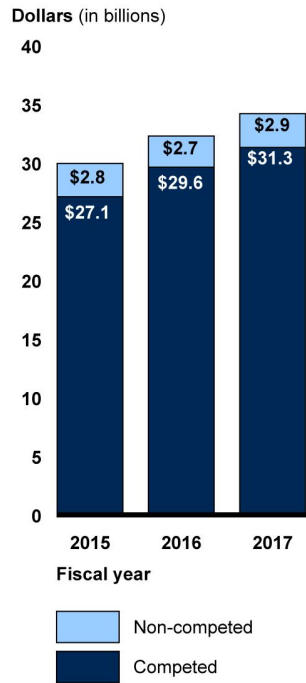
Source: GAO analysis of Federal Procurement Data System - Next Generation. | GAO-18-412R

**Data Table for Figure 2: Department of Defense Single- and Multiple-Award Indefinite-Delivery / Indefinite-Quantity Contract Order Obligations, Fiscal Years 2015 through 2017**

Fiscal Year	Multiple-award obligations	Single-award obligations
2015	29.95	59.19
2016	32.29	64.37
2017	34.2	71.44

Multiple-award IDIQ contracts are awarded to more than one contractor, and the contractors may then compete for subsequent orders issued under the contract. There are situations, however, where an agency may not compete a subsequent order based on certain exceptions (such as urgency). These exceptions are outlined in the FAR. In fiscal years 2015 through 2017, roughly 90 percent of DOD obligations on orders under multiple-award IDIQ contracts were competed (see figure 3).

**Figure 3: Competition on Department of Defense Multiple-Award Indefinite-Delivery / Indefinite-Quantity Order Obligations, Fiscal Years 2015 through 2017**



Source: GAO analysis of Federal Procurement Data System - Next Generation. | GAO-18-412R

**Data Table for Figure 3: Competition on Department of Defense Multiple-Award Indefinite-Delivery / Indefinite-Quantity Order Obligations, Fiscal Years 2015 through 2017**

Fiscal Year	Competed	Non-competed
2015	27.11	2.84
2016	29.64	2.65
2017	31.32	2.87



## Provisions Potentially Affecting Future Competition

The nine DOD multiple-award IDIQ contracts we reviewed all contained ordering provisions that contemplated competition among the contract holders for future orders. At the same time, eight of the nine contracts included provisions that, while not explicitly limiting competition, have the potential, in certain circumstances, to reduce the number of contractors who are eligible to compete for the orders. Based on our analysis, these provisions were generally intended to provide best value to the government or to serve other goals of government contracting, such as increasing federal contracting opportunities for small businesses, where appropriate. The provisions we identified, based on our review of the nine contracts, include:

- Six of the nine contracts contained provisions establishing that task or delivery order competitions would be set aside for small businesses under certain circumstances, such as a requirement below a certain dollar value or staffing threshold. Competition may still occur between small businesses.
- Six of the nine contracts contained provisions permitting DOD to eliminate a contractor from consideration for future orders—known as off-ramping—for reasons such as poor performance or infrequent responses on opportunities for task or delivery orders. While off-ramping could reduce competition by reducing the number of contractors eligible to compete for orders, these contracts generally also included procedures for on-ramping of additional contractors. In some instances, the use of on/off ramping may increase opportunities for competition, for example, when a contractor that was not responding to government requests for proposals is replaced by one who does.
- One contract included a provision stating that the agency reserved the right to issue the same order to all contract holders without holding a competition. Read in context with other provisions of the contract, however, this provision appeared to be part of a process that would allow the agency to select the most capable equipment through a down-select.

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