



August 2022

MULTIYEAR PROCUREMENT

Navy Should Provide Congress More Complete Information on Budget Request Decisions

Accessible Version

GAO Highlight

Highlights of [GAO-22-105966](#), a report to congressional committees

Why GAO Did This Study

Congressional conferees expressed concern that recent budget requests underfunded critical Navy weapon system programs that were using multiyear procurement authority. They also questioned whether the Navy's budget requests in recent years for programs using multiyear procurement accurately reflected the service's most important priorities.

The conferees included a provision for GAO to review certain activities related to Navy multiyear procurements in recent years. This report addresses (1) the extent to which Navy programs fulfilled their multiyear procurement plans in fiscal years 2021 and 2022; and (2) factors contributing to any budget requests for fiscal years 2021 and 2022 that did not include the multiyear procurement quantities stated in the contracts.

To conduct this assessment, GAO reviewed seven programs with active multiyear procurement contracts in fiscal years 2021–2022. GAO also reviewed relevant legislation, policy, and guidance; reviewed budget and contract information; and interviewed Department of Defense officials.

What GAO Recommends

GAO is making one recommendation to the Department of Defense, that it establish a requirement to ensure that the congressional defense committees receive notification of the rationale for any budget requests that do not fund the procurement quantities stated in multiyear contracts.

View [GAO-22-105966](#). For more information, contact Shelby S. Oakley at (202) 512-4841 or OakleyS@gao.gov.

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What GAO Found

The Navy used multiyear procurement—a special method to contract for multiple years of requirements in a single contract—for seven critical weapon systems programs in fiscal years 2021 and 2022. This contracting method can save the government money through procurement efficiencies but can include future financial commitments. GAO reviewed the seven programs and found that the budget requests for three programs included quantity reductions when compared to their multiyear contracts or previous Navy plans. This hampered their efforts to meet warfighting needs:

- **DDG 51 destroyers.** The budget request for fiscal year 2022 included funds to procure one of the two ships in the program's multiyear contracts. Instead of requesting funding for the second ship, the Navy requested \$33 million to cover the government's cancellation ceiling liability for reducing its procurement to one ship in fiscal year 2022.
- **V-22 aircraft.** The budget request for fiscal year 2022 included funds to procure eight of the 11 aircraft in the program's multiyear contract for the budget year. The Navy used additional aircraft funded but not procured in fiscal year 2021 to offset the reduced request and meet the stated contract quantity for fiscal year 2022.
- **Virginia class submarines.** The budget request in fiscal year 2021 included funding for one submarine. This met the multiyear contract quantity but departed from previous multiyear procurement plans, the steady practice of procuring two of the submarines each year, and congressional direction.

DDG 51, V-22, and Virginia Class Weapon Systems Procured Using Multiyear Contracts



Source: (Left to right) DDG 51, Huntington Ingalls Industries, Pascagoula, MS; V-22, U.S. Navy photo by Mass Communication Specialist 1st Class Jeremy Graham; and Virginia class, U.S. Navy photo courtesy of Huntington Ingalls Industries. | [GAO-22-105966](#)

Navy officials told GAO that affordability was the primary driver leading to the reduction in quantities requested for DDG 51 and V-22 in the fiscal year 2022 budget. However, GAO found that Department of Defense financial management regulation does not require the Navy to notify the congressional defense committees of its rationale for budget decisions that do not support the procurement quantities stated in multiyear contracts. The lack of such notification can hamper the ability of the committees to oversee and make decisions without having to request supplemental information and explanations from the Navy.

The Navy included additional quantities for the DDG 51, V-22, and Virginia class programs in unfunded priorities lists provided to the defense committees. Congress ultimately decided to fund the procurement of additional quantities.

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Abbreviations

CAPE Office of Cost Assessment and Program Evaluation
DOD Department of Defense
FAR Federal Acquisition Regulation
FY Fiscal Year
OSD Office of the Secretary of Defense

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August 8, 2022

Congressional Committees

In March 2022, congressional conferees expressed concern that recent budget requests underfunded critical Navy weapon system programs—particularly the *Arleigh* Burke (DDG 51) destroyer and *Virginia* class (SSN 774) submarine programs—that were using multiyear procurement authority.¹ They also questioned whether the Navy’s budget requests in recent years for programs using multiyear procurement accurately reflected the service’s most important priorities. Multiyear procurement is a special method to contract for more than 1 and up to 5 program years of requirements in a single contract even though funding after the first year may not be available at the time of award.² One objective of this type of procurement is to save the government money by enabling more economical procurements from suppliers and more efficient production compared to what can be achieved by a series of annual contracts. We previously found that, while multiyear contracting provides cost savings opportunities, it also can include substantial financial risk if a program is reduced or a contract is cancelled early.³ Multiyear contracting also supports future financial commitments that can present budget flexibility challenges for the Department of Defense (DOD) and Congress.

The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022 included a provision for us to review the treatment of multiyear procurement funds for Navy programs in budget requests for fiscal years 2021 and 2022. This report addresses (1) the extent to which Navy programs fulfilled their multiyear procurement plans in fiscal years 2021 and 2022; and (2) factors contributing to any budget

¹See 168 Cong. Rec. H1,709, H1,867 (daily ed. Mar. 9, 2022) (explanatory statement accompanying a bill of the Consolidated Appropriations Act, 2022). See also Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 § 4, (2022) (giving this statement the effect of a joint explanatory statement).

²According to Federal Acquisition Regulation (FAR) 17.104(a), multiyear contracting may be used to acquire known requirements in quantities and total cost not over planned requirements.

³GAO, *Defense Acquisitions: DOD’s Practices and Processes for Multiyear Procurement Should Be Improved*, [GAO-08-298](#) (Washington, D.C.: Feb. 7, 2008).

requests for fiscal years 2021 and 2022 for Navy programs that did not include the multiyear procurement quantities stated in the contracts.

To address these objectives, we reviewed statutory requirements as well as DOD and Navy regulations, policy, guidance, and reporting related to multiyear procurement. We also interviewed officials from the Navy and the Office of the Secretary of Defense's (OSD) Office of Cost Assessment and Program Evaluation (CAPE) about the processes used to request congressional approval for multiyear contracts and to fulfill multiyear procurement requirements.

We used Navy information to identify a total of seven Navy weapon systems programs with multiyear contracts in one or both of fiscal years 2021 and 2022.⁴ For these seven programs, we analyzed contract information and relevant annual presidential budget submissions to establish the procurement quantities established in the multiyear contracts and to identify any differences between those quantities and the quantities requested in the budgets. For any instances where these quantities differed, we interviewed or obtained written responses from officials within the Navy and OSD and reviewed Navy documentation to help determine factors contributing to those budget decisions. Additionally, we assessed the relevance of standards for internal control to the Navy's planning, programming, budgeting, and execution process for programs using multiyear procurement authority. See appendix I for further details on our objectives, scope, and methodology.

We conducted this performance audit from April 2022 to August 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.

⁴The multiyear procurements for the seven programs were initiated under the statutory requirements outlined in 10 U.S.C. § 2306b, which has since transferred to 10 U.S.C. § 3501.

Background

Multiyear contracting enables agencies, such as DOD, to contract for more than 1 and up to 5 years of quantities while continuing to use funding appropriated annually to fulfill the contract.⁵ Unlike other contracts that span multiple years, multiyear contracts do not have to include options to be exercised each year after the first.⁶ This type of procurement can lead to cost savings derived from a number of sources, including:

- purchasing parts and materials in economic order quantities;
- improved production processes and efficiencies; and
- better use of production facilities.⁷

Multiyear procurement also presents opportunities to strengthen the industrial base by providing defense contractors a longer and more stable time horizon for planning and investing in production and by attracting subcontractors, vendors, and suppliers.

The potential benefits of multiyear procurement must be balanced with inherent risks, such as the increased costs to the government, should the multiyear contract be changed or cancelled. We and others also previously found that multiyear procurements decreased annual budget flexibility for programs and across DOD's portfolio of weapon systems.⁸

⁵This report focuses on DOD multiyear contracts awarded for acquisition of property under 10 U.S.C. § 3501. This provision applies to DOD—including the Departments of the Army, Navy, and Air Force—the U.S. Coast Guard, and the National Aeronautics and Space Administration. See 10 U.S.C. §§ 3016, 3063-3064. These agencies have other statutory authorities to award multiyear contracts, including 10 U.S.C. § 3531. Other federal agencies have the authority to award multiyear contracts under 41 U.S.C. § 3903.

⁶See FAR § 17.103. Multiyear contracts may, however, include future-year options that may be exercised in addition to the required quantities. For example, the 2018 multiyear contracts we reviewed for DDG 51 included option ships, and the contracts specified that the options ships were not part of the multiyear procurement.

⁷The use of economic order quantities is intended to minimize cost by enabling the prime contractor to buy certain materials or parts from vendors in larger, more economically efficient quantities than those needed for any single year of production.

⁸[GAO-08-298](#); and Congressional Research Service, *Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition: Background and Issues for Congress* (March 31, 2022).

Statutory Requirements

Section 3501 of title 10, U.S. Code, governs the use of multiyear contracting authority for DOD's acquisition of property, such as DOD weapon systems.⁹ It outlines certain findings that the head of an agency must make in order for the agency to enter into a multiyear contract, including: significant cost savings, stable requirements, stable funding, stable design, realistic cost estimates, and national security (see table 1).¹⁰

Table 1: General Statutory Findings for the Department of Defense to Enter into a Multiyear Contract for Property Acquisition

Description of finding
Significant cost savings. The use of a multiyear contract will result in significant cost savings compared to the total anticipated costs of carrying out the program through annual contracts.
Stable requirements. The minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities.
Stable funding. There is a reasonable expectation that the agency will request funding at the level required to avoid contract cancellation throughout the contemplated contract period.
Stable design. There is a stable design for the property to be acquired and the technical risks associated with such items are not excessive.
Realistic cost estimates. The estimates are realistic for both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.
National security. The national security of the United States will be promoted through the use of such a contract.

Source: GAO analysis of 10 U.S.C. § 3501. | [GAO-22-105966](#)

For DOD multiyear contracts of \$750 million or more, the contracts must be specifically authorized by law, and the Secretary of Defense must certify to Congress in writing—no later than 30 days before the contract award—that certain conditions are satisfied unless an exemption

⁹Section 1822 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, as amended by section 1701(k) of the National Defense Authorization Act for Fiscal Year 2022, transferred 10 U.S.C. § 2306b to 10 U.S.C. § 3501. See Pub. L. No. 116-283, § 1822 (2021); Pub. L. No. 117-81, § 1701(k) (2021).

¹⁰Within DOD, the term “head of an agency” refers to the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force. See 10 U.S.C. §§ 3004; 3501.

applies.¹¹ The conditions that the Secretary must certify as satisfied include, among other things:

- The Secretary's determination that the contract meets the findings listed in table 1, and that this determination was made after and supported by a cost analysis conducted by CAPE.
- That the associated acquisition program has not exceeded the critical cost growth threshold in the 5 years preceding the anticipated date of contract award.¹²
- That sufficient funds will be available to execute the contract in the fiscal year in which the multiyear contract is to be awarded and the future-years defense program will include the funding required to execute the program without cancellation.

Before entering into or extending a DOD multiyear contract exceeding \$750 million, the Secretary of Defense must also submit a report to the congressional defense committees. The report must include, among other things, information about the total obligations authorized for individual contracts and overall multiyear contracts as a percentage of total obligations authorized for the applicable procurement account (i.e., aircraft procurement) and total procurement funding.¹³ The only statutory reporting requirement in title 10, section 3501 of the U.S. Code for multiyear contracts post-contract award, other than contract extensions, is for the heads of DOD agencies to provide notice to congressional defense committees of any proposed termination of a multiyear contract at least 10 days in advance of such termination.¹⁴

¹¹See 10 U.S.C. § 3501(i)(1); DFARS § 217.172(c) (reflecting the updated threshold after adjustment for inflation). If one of more conditions are not met, the Secretary (or a delegated official at least at the level of Under Secretary of Defense for Acquisition and Sustainment) may still make this certification if it is determined that, due to exceptional circumstances, proceeding with a multiyear contract is in the best interest of DOD and the Secretary provides the basis for the determination. See 10 U.S.C. § 3501(l)(6)-(7).

¹²For major defense acquisition programs and designated major defense subprograms, the critical cost growth threshold is a percentage increase in the program's or subprogram's acquisition unit cost, or procurement unit cost of at least 25 percent over the current Baseline Estimate, or 50 percent over the original Baseline Estimate. See 10 U.S.C. § 4371(a)(3).

¹³10 U.S.C. § 3501(l)(4)-(5); DFARS § 217.172(f)(1) (reflecting the updated threshold after adjustment for inflation).

¹⁴10 U.S.C. § 3501(l)(6).

Authorization and Budgeting Processes

Before the Navy decides to pursue multiyear procurement for a program, it first identifies the program as a candidate for consideration. DOD's financial management regulation outlines requirements for submitting budget exhibits that provide a narrative justification for all proposed candidates seeking multiyear procurement authority in the budget year.¹⁵ The exhibits include information responding to the requirements for use of multiyear procurement authorities, total program and contract funding, and a present value analysis of multiyear contracting. The exhibits reflect the proposed quantities to be procured through the multiyear procurement, which can change prior to DOD's certification of the multiyear contracting plan and notification to Congress of the planned contract award.

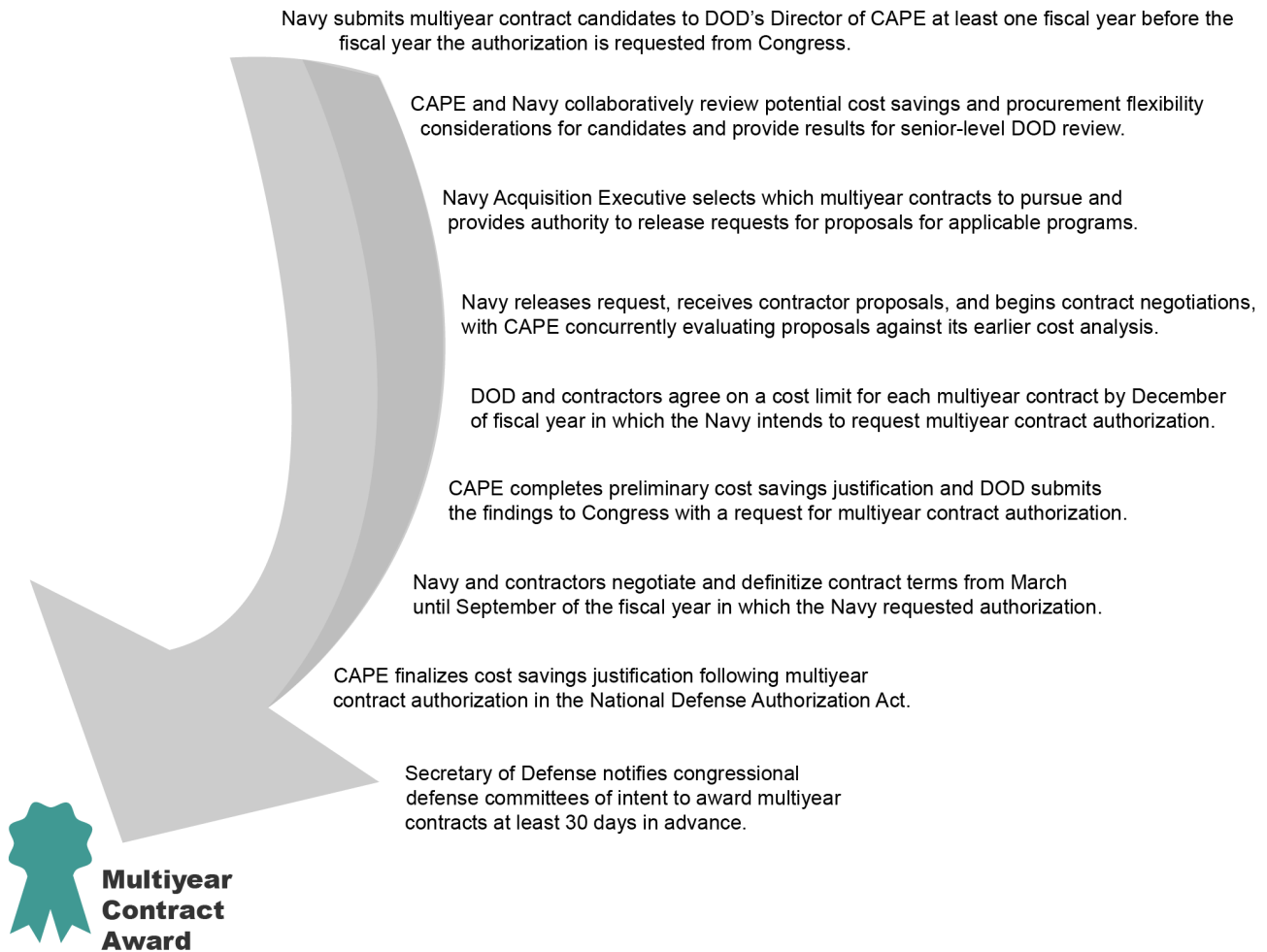
To award a multiyear contract in an amount equal to or greater than \$750 million, DOD must receive congressional authorization through an annual DOD appropriations act and one other non-appropriations act—typically the annual national defense authorization act.¹⁶ To request authorization in the non-appropriations act, the Secretary of Defense must provide Congress with (1) a report containing preliminary findings from the head of the agency, covering the requirements to be considered for multiyear contracting and the basis for those findings; and (2) confirmation that those preliminary findings were supported by a preliminary cost analysis performed by CAPE. Figure 1 shows the typical process—as described in CAPE's guidance—used to support multiyear procurement authorization for Navy weapon system programs.¹⁷

¹⁵Department of Defense, *Financial Management Regulation: Budget Formulation and Presentation*, DOD 7000.14-R (November 2017).

¹⁶See 10 U.S.C. § 3501(i); DFARS 217.172(c)-(d).

¹⁷Department of Defense, *CAPE: Cost Analysis Guidance and Procedures*, DOD Instruction 5000.73 (Mar. 13, 2020).

Figure 1: General CAPE Process Supporting Multiyear Contract Authorization for Navy Weapon System Programs



CAPE Office of Cost Assessment and Program Evaluation
DOD Department of Defense

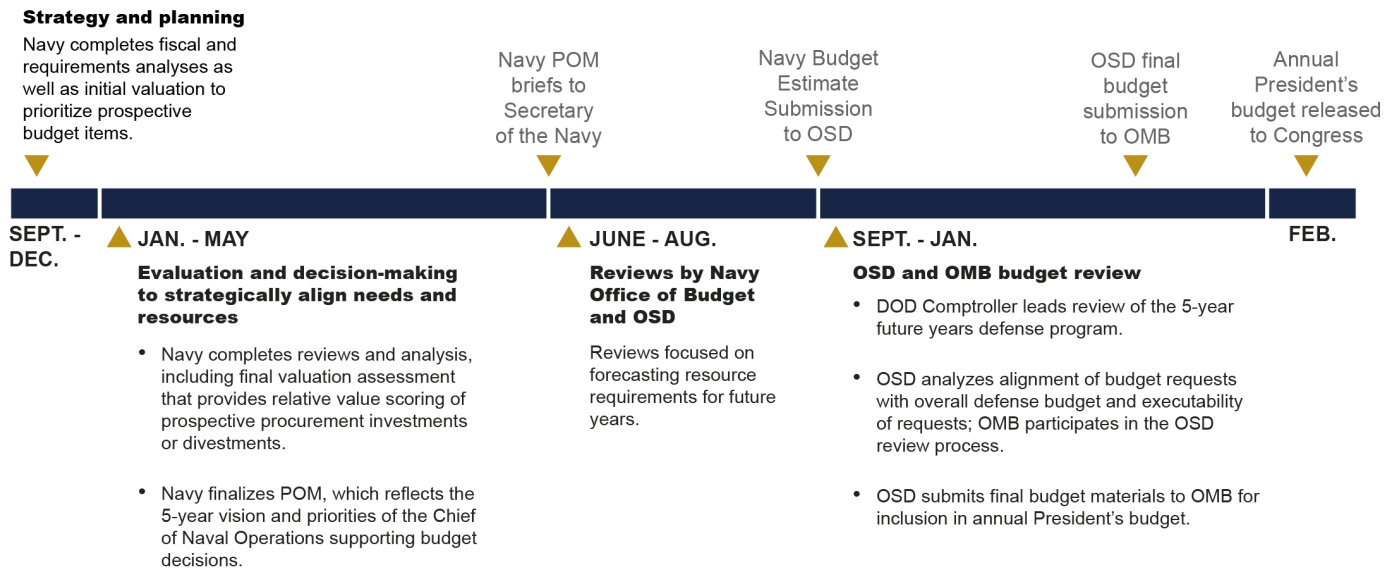
Source: GAO analysis of DOD documentation. | GAO-22-105966

Note: Multiyear contract authorization in an act other than an appropriations act is required for all DOD multiyear contracts in an amount equal to or exceeding \$750 million. See 10 U.S.C. 3501(i)(1); DFARS 217.172(c).

The DOD planning, programming, and budgeting process for annually allocating resources applies to multiyear procurements and single-year procurements. The Navy uses its own iterative decision process to support the development of the program objective memorandum and

subsequent budget estimate submissions to OSD that support the overall DOD process (see fig. 2).¹⁸

Figure 2: Navy’s General Planning, Programming, and Budgeting Process



- DOD** Department of Defense
- OMB** Office of Management and Budget
- OSD** Office of the Secretary of Defense
- POM** Program Objective Memorandum

Source: GAO analysis of DOD documentation. | GAO-22-105966

The Navy’s process involves scoring program objective memorandum issues for targeted procurement investments or divestments, using specific valuation criteria that account for strategic, warfighting, and operational perspectives as well as the timing of when assets procured would be available for Navy use. This process helps the Navy assess the relative importance of capabilities it is considering for procurement based on how they fit into the overall warfighting capability, whether the capabilities address key operational challenges, and whether

¹⁸The program objective memorandum represents Navy’s final product of the programming process. The memorandum displays the Navy’s resource allocation decisions in response to, and in accordance with, the Defense Planning Guidance and shows programmed needs over 5 years. The Navy’s budget estimate submissions to OSD outline budget year requirements for inclusion in the DOD budget during the planning, programming, budgeting, and execution process.

procurement would help fulfill more immediate or longer term needs. The relative scoring provides the prioritization starting point from which the Navy completes iterative discussions at all levels of leadership. Following these discussions, the Navy uses the relative value prioritization to make final resourcing decisions that fit within the top line budget received from OSD.

Budget Requests Reduced Quantities from Previous Navy Plans for Three Programs Using Multiyear Procurement

The budget requests for two Navy programs—DDG 51 destroyers and V-22 aircraft—reduced procurement quantities for fiscal year 2022 below those stated in the programs’ multiyear contracts. For a third program, the Virginia class submarine program, the budget request for a single submarine in fiscal year 2021 departed from previously stated multiyear procurement plans provided to Congress, the program’s typical annual procurement, and direction received from congressional conferees.

DDG 51 and V-22 Budget Requests Did Not Reflect Procurement Quantities in Multiyear Contracts

Among seven Navy programs we identified as using multiyear contracts during fiscal years 2021 and 2022, we found that the procurement quantities included in the fiscal year 2022 budget requests for two programs—DDG 51 and V-22—reflected decreases from stated contract quantities for that budget year. As shown in table 2, the Navy ultimately met or exceeded the quantities stated in their multiyear contracts after Congress subsequently authorized and appropriated funds for each fiscal year.

Table 2: Procurement Quantities for Navy Weapon System Programs Using Multiyear Contracts, Fiscal Years 2021-2022

Program	Multiyear contract period (fiscal years)	Multiyear contract quantity	President’s budget requests	Actual quantities procured ^a
DDG 51 <i>Arleigh Burke</i> class destroyers	2018-2022	2021: 2	2021: 2	2021: 2
		2022: 2	2022: 1	2022: 2
E-2D <i>Advanced Hawkeye</i> aircraft	2019-2023	2021: 4	2021: 4	2021: 5
		2022: 5	2022: 5	2022: 5
FA-18E/F <i>Super Hornet</i> aircraft	2019-2021	2021: 24	2021: 24	2021: 24

Letter

KC-130J <i>Hercules</i> aircraft	2019-2023	2021: 5	2021: 5	2021: 5
		2022: 5	2022: 6	2022: 6
SM-6 standard missile	2019-2023	2021: 125	2021: 125	2021: 125
		2022: 125	2022: 125	2022: 125
SSN 774 <i>Virginia</i> class attack submarines	2019-2023	2021: 1	2021: 1	2021: 2 ^b
		2022: 2	2022: 2	2022: 2
V-22 <i>Osprey</i> aircraft	2018-2022	2021: 9	2021: 9	2021: 13
		2022: 11	2022: 8	2022: 12

Source: GAO analysis of Department of Defense information. | [GAO-22-105966](#)

Note: Bolded information under the *President's budget* requests column indicates requests with reduced procurement quantities as compared to the quantities established in the multiyear contracts for that budget year.

^aActual quantities procured are based on reported quantities in budget submissions for subsequent years. For fiscal year 2022, the quantities may reflect planned procurements for the fiscal year if the programs have yet to procure them.

^bThe Conference Report to accompany the National Defense Authorization Act for Fiscal Year 2020 stated that the congressional conferees expected the Navy to budget for the procurement of 10 submarines between fiscal years 2019 and 2023. The conferees stated that the \$200 million in advance procurement funds in fiscal year 2020 was to support procurement of a second submarine in fiscal year 2021. Following the Navy's budget request for fiscal year 2021, which included one submarine, Congress provided about \$2.3 billion in additional procurement funds, enabling the award of a second submarine in fiscal year 2021.

DDG 51 Destroyers

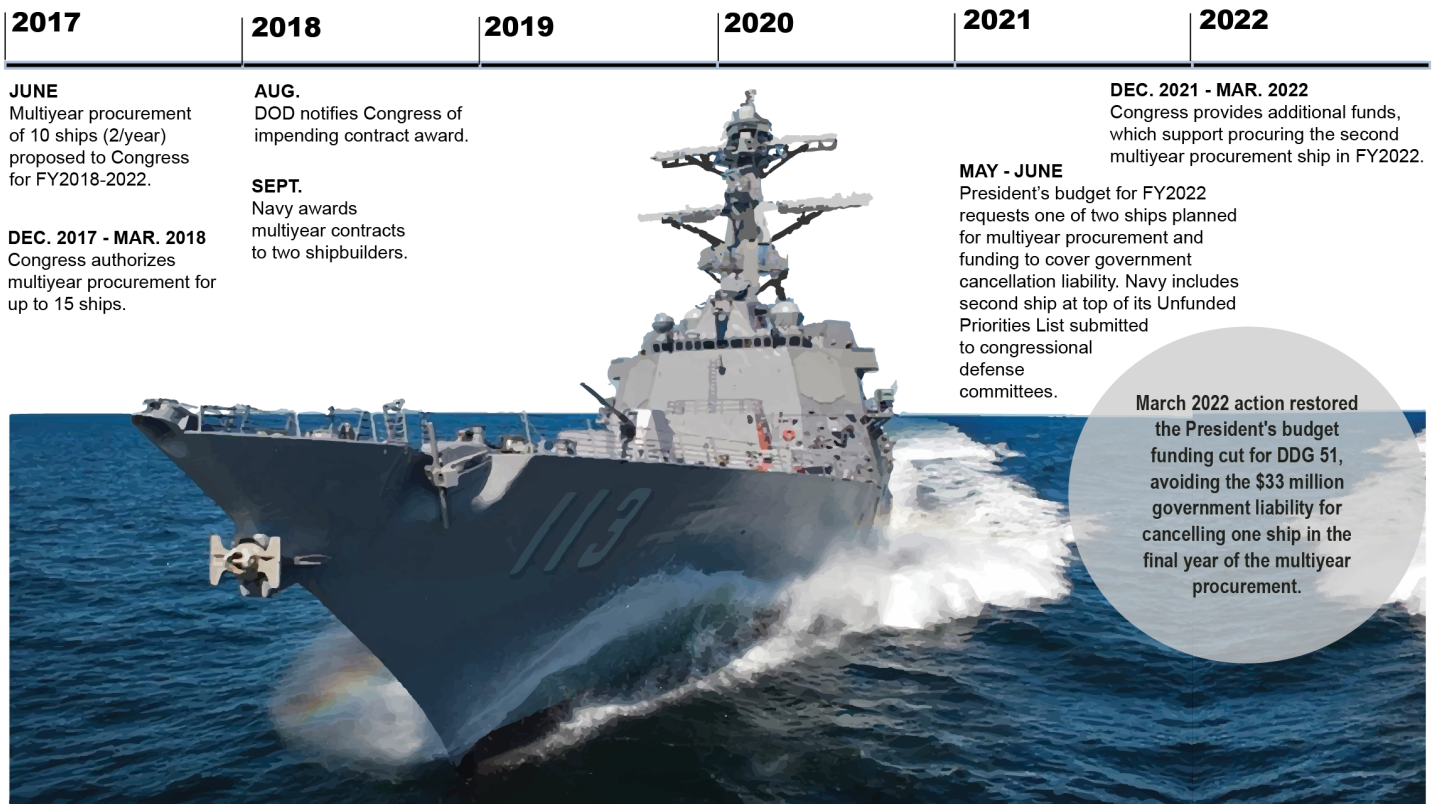
The President's budget for the DDG 51 in fiscal year 2022 requested funding for one of the two ships stated in the program's multiyear contracts. Instead of requesting funding for the second ship, the budget requested \$33 million in funding to cover the government's cancellation

liability for reducing its fiscal year 2022 procurement to one ship.¹⁹ A Navy official noted that including this funding in the budget request addressed funding requirements for the contract without procuring the second planned ship.²⁰ While the budget request supported cancelling one ship from the planned multiyear procurement, the Navy placed procurement of a second DDG 51 ship—estimated to cost about \$1.66 billion—at the top of its fiscal year 2022 unfunded priorities list submitted to Congress. Figure 3 provides details of key program events for the program’s multiyear procurement.

¹⁹According to FAR § 17.109, contracting officers must insert the clause listed in FAR § 52.217-2 into solicitations and contracts when a multiyear contract is contemplated. Both of the DDG 51 fiscal year 2018-2022 multiyear contracts include this clause, which establishes that the contractor will be paid a cancellation charge that does not exceed the established cost ceilings for each year of the multiyear procurement. These ceilings represent the maximum amount that can be paid out in the event of a cancellation under the clause at FAR § 52.217-2. Cancellation occurs when the contracting officer notifies the contractor that funds are not available for contract performance for any subsequent program year, or fails to timely notify the contractor that funds are available for performance of the succeeding program year requirement. In the event of a cancellation, both contracts specify that the “reasonable profit or fee on the costs” shall not exceed the target profit percentage for the applicable contract line item number immediately prior to cancellation.

²⁰DOD’s full funding policy requires that the total estimated cost of a complete, military useable end item must be fully funded in the year it is procured, with some exceptions. See DOD 7000.14-R, Financial Management Regulation, § 2.2.2.

Figure 3: Key Multiyear Procurement Events for the DDG 51 Arleigh Burke Class Program



March 2022 action restored the President's budget funding cut for DDG 51, avoiding the \$33 million government liability for cancelling one ship in the final year of the multiyear procurement.

DOD Department of Defense
FY Fiscal year

Source: GAO analysis of DOD documentation; DDG 51, photo courtesy of Huntington Ingalls Industries, Pascagoula, MS. | GAO-22-105966

V-22 Aircraft

The President's budget for the V-22 for fiscal year 2022 requested funds to procure eight of the 11 aircraft listed in the multiyear contract for that budget year, but prior congressional funding enabled the program to fulfill the stated contract quantity.²¹ Specifically, Congress appropriated funding for four additional aircraft in fiscal year 2021. Navy officials noted that the timing of the authorization and appropriations acts for fiscal year 2021

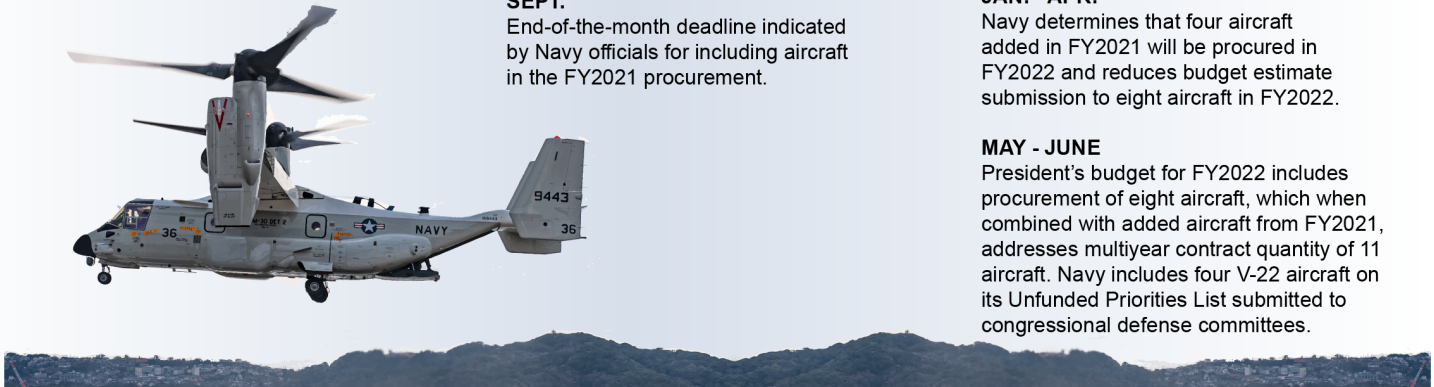
²¹Congress authorized additional procurement funding for V-22 Navy variant aircraft in the National Defense Authorization Act for Fiscal Year 2021. The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021 included funding supporting four additional aircraft.

occurred after a September 30, 2020, contractor deadline for the additional aircraft to be part of the procurement for fiscal year 2021. As a result, the V-22 contractor applied those aircraft to the fiscal year 2022 procurement quantities.

According to Navy officials, the Navy submitted a budget estimate to OSD that included eight V-22 aircraft after confirming with the contractor that the four additional aircraft would be in the fiscal year 2022 procurement and could be used to help meet the quantities listed in the multiyear contract for that budget year. Figure 4 provides a sequence of the key events affecting the budget request for V-22 in fiscal year 2022.

Figure 4: Actions Affecting Navy’s V-22 Budget Request for Fiscal Year 2022

2018	2020	2021
<p>JUNE Multiyear contract provides for 11 aircraft in FY2022.</p>	<p>FEB. President’s budget for FY2021 includes plan for 13 aircraft in FY2022.</p> <p>SEPT. End-of-the-month deadline indicated by Navy officials for including aircraft in the FY2021 procurement.</p>	<p>JAN. Congress appropriates funds supporting procurement of four additional V-22 Navy aircraft.</p> <p>JAN. - APR. Navy determines that four aircraft added in FY2021 will be procured in FY2022 and reduces budget estimate submission to eight aircraft in FY2022.</p> <p>MAY - JUNE President’s budget for FY2022 includes procurement of eight aircraft, which when combined with added aircraft from FY2021, addresses multiyear contract quantity of 11 aircraft. Navy includes four V-22 aircraft on its Unfunded Priorities List submitted to congressional defense committees.</p>



DOD Department of Defense
FY Fiscal year

Source: GAO analysis of DOD documentation; V-22 aircraft, U.S. Navy photo by Mass Communication Specialist 1st Class Jeremy Graham. | GAO-22-105966

When combined with the four additional aircraft noted in the figure, the Navy’s decision to request eight V-22 aircraft for fiscal year 2022 fulfilled the procurement quantity of 11 aircraft stated in the multiyear contract for the year. However, Congress had authorized additional aircraft to address a need stated in the Navy’s unfunded priorities list for fiscal year 2021 for two additional V-22 Navy variants. The Navy used these additional aircraft as a means of reducing the program’s budget request for fiscal year 2022 while still procuring the quantities listed in the contract. By

requesting eight aircraft instead of the 11 aircraft listed in the contract, the Navy missed an opportunity to use the four additional aircraft from fiscal year 2021 to help address the shortfall to the Navy's V-22 warfighting requirement and avoid the inclusion of four additional V-22 aircraft in the unfunded priority list that the Navy presented to Congress for fiscal year 2022. The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022 provided additional funding to support the procurement of four additional Marine Corps variants of V-22 but did not provide for additional Navy variants.

Virginia Class Budget Request for Fiscal Year 2021 Fulfilled Multiyear Contract but Not Congressional Direction

The President's budget requests for *Virginia* class submarines in fiscal years 2021 and 2022 matched the procurement quantities stated in the program's multiyear contract for those years. These budgets requested funding for one submarine in fiscal year 2021 and two in fiscal year 2022. However, the contractual provision for one submarine in fiscal year 2021 represented a reduction from the two submarines proposed to Congress for that fiscal year when originally seeking multiyear procurement authority. This reduced quantity reflected an overall multiyear contract decrease to nine total submarines instead of the 10 proposed to Congress when seeking authorization. Instead of a multiyear procurement of 10 ships, the contract included a priced option for a 10th submarine that could be awarded at the same negotiated price in fiscal years 2021, 2022, or 2023. The Navy reported exercising the option for a 10th submarine in 2021 (see fig. 5).

Figure 5: Evolving Procurement Plans for the Virginia Class Program, Fiscal Years 2017-2021

2017	2018	2019	2020	2021
<p>JUNE Multiyear procurement of 10 submarines (2/year) proposed to Congress for FY2019-2023.</p>	<p>FEB. President's budget for FY2019 includes 10-submarine plan.</p> <p>DEC. 2017 - MAR. 2018 Congress authorizes multiyear procurement for up to 13 submarines.</p>	<p>MAR. President's budget for FY2020 retains plan for 10 submarines in multiyear procurement as Navy negotiates contract with shipbuilder.</p> <p>OCT. DOD certifies multiyear procurement for nine submarines and notifies Congress of impending contract award.</p> <p>DEC. Navy awards multiyear contract for nine submarines, with a priced option for a 10th submarine that could be awarded during the final 3 years of the contract.</p>	<p>FEB. President's budget for FY2021 requests one submarine, which fulfills multiyear contract requirement. Navy includes an additional submarine at top of its Unfunded Priorities List submitted to congressional defense committees.</p>	<p>DEC. 2020 - MAR. 2021 Congress authorizes and appropriates funds enabling procurement of multiyear submarine and priced option. Navy reports award of option for 10th submarine in March.</p>

The Navy's final multiyear procurement plan and subsequent budget request for one Virginia class submarine in the President's budget for FY2021 departed from the steady procurement of two submarines each year in prior years. It also departed from projections for future years in budget requests and the Navy's Long Range Shipbuilding Plans submitted annually to Congress.



DOD Department of Defense
FY Fiscal year

Source: GAO analysis of DOD documentation; Virginia class submarine, U.S. Navy photo courtesy of Huntington Ingalls Industries. | GAO-22-105966

While consistent with the multiyear contract, the Navy's decision to request one *Virginia* class submarine in the President's budget for fiscal year 2021 represented a significant departure from the Navy's practice of procuring two submarines each year for the program. The program's prior multiyear procurement, covering fiscal years 2014 through 2018, included two submarines each year. The President's Budget for Fiscal Year 2020 and the corresponding Navy Long Range Shipbuilding Plan preceding the current multiyear contract's award also included plans to procure two submarines per year for fiscal years 2021 through 2024. Subsequent budgets and shipbuilding plans since fiscal year 2021 similarly include plans to procure a minimum of two *Virginia* class submarines each year through at least fiscal year 2027.

The budget request for one submarine in fiscal year 2021 also did not align with expectations outlined in a conference report for the *Virginia* class procurement in that budget year. Specifically, shortly after the Navy awarded the contract for a nine-ship multiyear procurement, Congress authorized and appropriated \$200 million in additional funding for fiscal year 2020 to support advance procurement of a 10th submarine. The conference report accompanying the National Defense Authorization Act for Fiscal Year 2020 stated that the conferees prioritized ensuring that the Navy fully preserved a plan to procure 10 *Virginia* class submarines and expected the Navy to budget accordingly in its fiscal year 2021 budget submission to support this plan.²² The conference report also stated that the additional advance procurement funding was intended to support the procurement of two *Virginia* class submarines in fiscal year 2021, consistent with the President’s budget and Navy Long Range Shipbuilding Plan submitted for fiscal year 2020.

However, the subsequent budget request for fiscal year 2021 did not include the procurement of two submarines in that budget year. Further, this request did not plan for using the priced option to procure the 10th submarine in fiscal years 2022 or 2023—the final 2 years of the multiyear procurement—despite receiving advance procurement funding in fiscal year 2020 in support of procuring the 10th submarine. By not including the 10th submarine in the budget request, the Navy did not meet the expectations of congressional conferees and had \$200 million in advance procurement funding for a second submarine that it did not request in the budget for that fiscal year.

With no stated plan in the budget request to procure a 10th submarine during the remainder of the contract, the Navy submitted its unfunded priorities list for fiscal year 2021 to Congress. The list included a second *Virginia* class submarine—estimated to cost about \$2.77 billion—as the top priority. Navy officials told us that this prioritization reflected the submarine’s high warfighting value. The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021 included funding for an additional submarine, noting that this was intended to fully fund a 10th submarine in fiscal year 2021. As previously discussed, the Navy reported exercising the priced option in March 2021 for the 10th submarine, which is scheduled to begin construction in 2024.

²²H.R. Rep. No. 116-333 (Dec. 9, 2019).

Navy Does Not Notify Congress of Rationale When Budget Requests Do Not Include Multiyear Contract Quantities

The Navy did not provide Congress with a rationale in DDG 51 and V-22 budget requests for decisions that reduced the quantities in the programs' budget requests below the quantities stated in their multiyear contracts. Navy officials told us that affordability and other factors, including contractor workloads, led to the reduced procurement requests for the two programs.

Navy Did Not Notify Congress in Budget Requests of Factors Leading to DDG 51 and V-22 Quantity Reductions

The Navy did not notify the congressional defense committees of its rationale as part of the budget requests when reducing the procurement quantities for the DDG 51 and V-22 programs below the levels stated in their multiyear contracts for fiscal year 2022. Specifically:

- For DDG 51, the President's budget for fiscal year 2022 noted that the acquisition strategy for fiscal years 2018-2022 is a 10-ship multiyear procurement with options. However, while the budget requested \$33 million to cover the government's liability for cancelling the multiyear procurement, the request did not specify that it deviated from the procurement quantities listed in the program's multiyear contracts. Additionally, the budget request did not provide any detailed explanation for the decision to reduce the procurement quantity to one ship instead of the two planned for the last year of the multiyear procurement.
- The V-22 budget request for fiscal year 2022 did not provide a rationale for why it included eight aircraft instead of the 11 aircraft listed in the multiyear contract. Unlike the DDG 51, the Navy's budget request decision for V-22 did not preclude the fulfillment of the quantities listed in the multiyear contract. However, this decision took advantage of unique circumstances to meet contract requirements without meeting funding expectations that were provided to Congress when seeking authorization of multiyear contracting for the program. The Navy did not explain in the budget request how these

circumstances enabled the program to fulfill the contract quantities despite the reduced budget request.

We found that the Navy is not required to notify the congressional defense committees of the specific rationale for decisions that reduce procurement quantities in the budget requests for programs with multiyear contracts. Additionally, Navy officials noted that the budget request decisions are not considered to be final until the President approves and releases the annual submissions to Congress. Therefore, they said that the release of the President's budget represents the first opportunity to inform the committees and Congress as a whole of changes that affect ongoing multiyear procurements. The officials added that—although there is no notification requirement—the Navy uses subsequent briefings to congressional committees or congressional hearings to communicate these types of changes.

The lack of a requirement in DOD financial management regulation for the Navy to provide clear, timely notification to the congressional defense committees of the factors leading to budget decisions that do not fulfill multiyear procurement plans in contracts is inconsistent with communication and oversight principles from federal internal control standards. These principles advocate open, two-way reporting lines among stakeholders and oversight that facilitates decisions in support of achieving objectives and managing risk. The lack of such notification can impair congressional oversight and the defense committees' ability to make well-informed funding decisions without having to request supplemental information and explanations from the Navy.

Navy Officials Cited Affordability as Driving Factor for Reductions to DDG 51 and V-22 Multiyear Procurement Plans

Navy officials told us that affordability and other factors led to the reduced procurement requests for the DDG 51 and V-22 programs in fiscal year 2022. In their efforts to support programming decisions for each budget request, Navy officials noted that they attempt to balance the broad range of needs and considerations within the parameters of the top line budget they receive from OSD.

For DDG 51, senior officials from the Office of the Chief of Naval Operations stated that the considerable cost of procuring a second ship drove the budget decision for the program in fiscal year 2022. They noted that, by requesting \$33 million to cover the government's cancellation liability instead of requesting funding to procure the second multiyear

procurement ship, they freed up roughly \$1.63 billion in the overall Navy budget for other priorities. Navy officials stated that, in particular, the need in fiscal year 2022 to fund higher priority requirements for *Virginia* and *Columbia* class submarines, along with the two-ship procurement of the CVN 80 and CVN 81 aircraft carriers, factored in the decision to lower the priority for the second DDG 51 ship. They noted that the procurement funding requirements in fiscal year 2022 for these three shipbuilding programs alone amounted to \$13.4 billion. Navy officials added that the *Columbia* class's part of this cost had increased from previous expectations, which also contributed to the budget decisions. In addition to weapon system acquisition, Navy officials noted that increased funding needs for operations and maintenance, military personnel, infrastructure, and research and development also contributed to the decision to forgo funding the second DDG 51 ship.

In addition to affordability, Navy officials cited other key factors in the DDG 51 budget decision. These factors included the existing workloads at the DDG 51 shipyards and considerations for addressing more pressing resourcing needs as opposed to funding a ship that will not be operational for a number of years. Navy officials noted that an examination of shipyard production plans indicated adequate near-term workload at each shipyard. They added that congressional appropriations in prior years enabled the Navy to exceed the original procurement profile of 10 ships envisioned for the program during the 5-year period. Specifically, the program procured 10 ships—eight supporting the multiyear procurement—before reaching the final year of the multiyear contracts by exercising two options for additional ships in fiscal years 2019 and 2020.

Navy officials also said that contract-specific factors contributed to the decision to reduce the DDG 51 budget request in fiscal year 2022. For example, most of the cost savings from the multiyear procurement had already been realized by the program in prior years through economic order quantities and procurement of the previous ships. Further, because the program had two contracts for one multiyear procurement each in the final year, the price of the one ship being procured would not have been negatively affected. In addition, Navy officials noted that the program's extensive procurement history and their understanding of the pricing associated with the ships limited their concern that cancelling a multiyear contract would negatively affect future efforts, including ongoing work to initiate a new multiyear procurement for the program. However, they also said that they did not analyze the potential ramifications on future

multiyear procurements resulting from the decision to not fulfill quantity requirements for the multiyear procurement.

For V-22, Navy officials stated that the decision to use aircraft previously added by Congress to help fulfill the fiscal year 2022 quantities stated in the V-22 program's multiyear contract was considered the most fiscally responsible and efficient way to meet requirements while providing a balanced budget. They added that, although the budget request fell four aircraft short of fulfilling the Navy's warfighting requirement for 48 V-22 Navy variants in the final year of procurement for the program, the Navy decided to fund higher prioritized assets based on budget realities.

Conclusions

As illustrated by recent events for the DDG 51 and V-22 programs, when budget requests do not align with the multiyear contracts, Congress faces a trade-off about whether to accept budget decisions counter to expectations or take action to offset them. As we described for V-22, the acceptance of these DOD budget request decisions can contribute to shortfalls to the warfighting capability need that was expected to be addressed as part of the multiyear procurements. In contrast, if Congress chooses to prevent programs from cancelling multiyear procurements, such as it did by restoring over \$1.6 billion for the second DDG 51 ship in fiscal year 2022, it will potentially result in higher overall budgets to support DOD or necessitate changes to the funding for other DOD programs.

While nothing precludes the Navy from deciding to reduce its multiyear procurements below the contract quantities, the lack of a DOD requirement to provide clear, timely information to the congressional defense committees on the factors contributing to such a decision can present challenges. Specifically, the lack of notification can hamper the congressional defense committees' oversight and Congress's ability to make well-informed funding decisions without having to request supplemental information and explanations from the Navy.

Recommendation for Executive Action

The Secretary of Defense should establish a requirement that ensures the congressional defense committees receive formal notification upon submission of each annual President's budget of the rationale for any

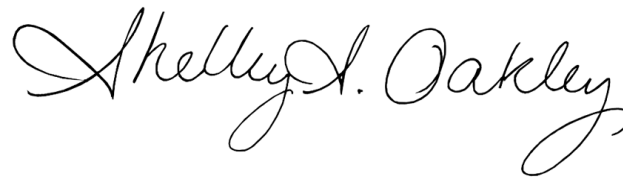
budget requests for weapon system programs that do not request funding for the procurement quantities listed in multiyear contracts.
(Recommendation 1)

Agency Comments

We provided a draft of this product to the Department of the Navy for comment. In its comments, reproduced in appendix II, the Department of the Navy concurred with our recommendation. The Department of the Navy also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees; the Secretary of Defense; and the Secretary of the Navy. 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 OakleyS@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 III.



Shelby S. Oakley
Director, Contracting and National Security Acquisitions

List of Committees

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

Letter

The Honorable Jon Tester
Chairman
The Honorable Richard 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

Congress included a provision in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022, for us to review the treatment of multiyear procurement funds for Navy programs in budget requests for fiscal years 2021 and 2022. This report addresses (1) the extent to which Navy programs fulfilled their multiyear procurement plans in fiscal years 2021 and 2022; and (2) factors contributing to any budget requests for fiscal years 2021 and 2022 for Navy programs that did not include the multiyear contract quantities stated in the contracts.

To address the extent to which Navy programs fulfilled their multiyear procurement plans in fiscal years 2021 and 2022, we reviewed statutory requirements as well as Department of Defense and Navy regulations, policy, guidance, and reporting related to multiyear procurement. We also interviewed officials from the Navy and the Office of the Secretary of Defense's Office of Cost Assessment and Program Evaluation (CAPE) about the processes used to obtain congressional approval for multiyear contracts and to fulfill multiyear procurement requirements. Based on our review of Navy information—including budget materials, contracts, and other documentation provided by the Naval Sea Systems Command, Naval Air Systems Command, and Naval Information Warfare System Command—we identified a total of seven Navy weapon system programs with contracts for multiyear procurement in one or both of fiscal years 2021 and 2022.¹ The seven programs in the scope of our review include:

- DDG 51 Arleigh Burke class destroyers
- E-2D Advanced Hawkeye aircraft
- FA-18E/F Super Hornet fighter aircraft
- KC-130J Hercules aircraft
- SM-6 Standard Missile
- SSN 774 Virginia class attack submarines

¹The multiyear procurements for the seven programs were initiated under the statutory requirements outlined in 10 U.S.C. § 2306b, which has since transferred to 10 U.S.C. § 3501.

- V-22 Osprey aircraft

For these programs, we analyzed relevant annual President’s budget requests and contract documentation. This analysis supported our evaluation of any differences between the Navy program procurement quantities included in budget requests and required by the multiyear contracts. For cases where we identified budget requests that included lower quantities than the requirements outlined in multiyear contracts, we interviewed relevant Navy officials or received written responses to our questions.

As part of our review of the Navy’s budget requests and fulfillment of multiyear procurement requirements, we assessed the relevance of standards for internal control to the Navy’s quality assurance practices and challenges. We determined that communication principles from federal internal control standards were significant to this objective, including underlying principles that advocate for open, two-way reporting lines that support achieving objectives and managing risk.

To review the factors contributing to any relevant budget requests for fiscal years 2021 and 2022 that did not include the multiyear contract quantities established in the contracts, we interviewed relevant Navy officials or received written responses to our questions. The interviews and responses involved officials representing Navy Program Executive Offices; Deputy Assistant Secretaries of the Navy; Naval Sea Systems Command financial management and contracting; the Office of the Chief of Naval Operations; and the Office of the Secretary of Defense for Acquisition and Sustainment. We assessed this information with program-specific documentation, including appropriations and authorization acts for relevant years.

We conducted this performance audit from April 2022 to August 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.

Appendix II: Comments from the Department of the Navy



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

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N9I/22U144714
26 Jul 22

Ms. Shelby S. Oakley
Director, Contracting and National Security Acquisitions
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Oakley:

The Department of the Navy (DoN) has reviewed the GAO Report GAO-22-105966, "MULTIYEAR PROCUREMENT: Navy Should Provide Congress More Complete Information on Budget Request Decisions," dated July 18, 2022 (GAO Code 105966) and concurs with the recommendation made. Multi-year procurement (MYP) contracts, when compared to annual contracts, reduce acquisition costs by virtue of advance planning and bulk-purchasing. MYPs provide industry the long-term stability that enables competitive bidding and internal investment. Under MYP contracts, the Navy is permitted to make bulk purchases and timely procurements of long-lead time items. This practice allows both vendors, aircraft manufactures, and shipyards to utilize production economies of scale, reducing construction times and cost, and stabilizing the industrial base. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J.E. Pitts".

J.E. Pitts
Rear Admiral, United States Navy
Director, Integrated Warfare (OPNAV N9I)

Text of Appendix II: Comments from the Department of the Navy

Ms. Shelby S. Oakley
Director, Contracting and National Security Acquisitions
U.S. Government Accountability Office
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Washington DC 20548

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Sincerely,
Rear Admiral, United States Navy
Director, Integrated Warfare (OPNAV N9I)

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Shelby S. Oakley, (202) 512-4841 or OakleyS@gao.gov

Staff Acknowledgments:

In addition to the contact named above, the following staff members made key contributions to this report: Diana Moldafsky (Assistant Director), Sean Merrill (Analyst-in-Charge), Adriana Aldgate, William Anderson, Vinayak Balasubramanian, Rose Brister, Susan Irving, Janice Latimer, Jennifer Leotta, Diana Maurer, Alec McQuilkin, John Ortiz, Kya Palomaki, Edward J. SanFilippo, Alyssa Weir, Robin Wilson, and Susan Wren.

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