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May 2014

DEFENSE CONTRACTING

Early Attention in the Acquisition Process Needed to Enhance Competition

GAO-14-395

GAO Highlights

Highlights of GAO-14-395, a report to congressional committees

May 2014

DEFENSE CONTRACTING

Early Attention in the Acquisition Process Needed to Enhance Competition

Why GAO Did This Study

Competition is the cornerstone of a sound acquisition process. In fiscal year 2013, DOD obligated over $300 billion through contracts and orders, of which 57 percent was competed. DOD also obligates billions of dollars annually on contracts that are awarded using competitive procedures, but for which the government received only one offer. DOD implemented the Better Buying Power initiative in 2010, in part to increase competition. The conference report accompanying the National Defense Authorization Act for Fiscal Year 2012 mandated GAO to report on DOD's noncompetitive and one-offer awards.

GAO examined (1) the trends in DOD's use of competitive awards, (2) the extent to which justifications for exceptions to competitive procedures were adequate and reasons for exceptions, (3) how DOD's strategies aimed at promoting long-term competition are changing behavior, and (4) whether DOD's requirements address reasons only one offer was received for competitive solicitations. GAO analyzed federal procurement data for fiscal years 2009 through 2013; reviewed DOD policy and competition reports; examined two nongeneralizable samples of 14 and 15 awards, in part, based on dollar value; and interviewed DOD officials.

What GAO Recommends

DOD should ensure that existing acquisition planning guidance promotes early vendor engagement, and establish guidance for when contracting officers should assess the reasons only one offer was received on competitive awards. DOD concurred with these recommendations.

View GAO-14-395. For more information, contact William T. Woods at (202) 512-4841 or woodsw@gao.gov.

What GAO Found

The Department of Defense's (DOD) competition rate for all contract obligations declined over the past 5 fiscal years from 62 percent in fiscal year 2009 to 57 percent in fiscal year 2013, but remained flat for the past 2 years. In fiscal year 2013, the Army had the highest competition rate, 66 percent, while the Missile Defense Agency had the lowest competition rate, 29 percent. The 14 justifications for noncompetitive awards that GAO reviewed generally included the elements required by the Federal Acquisition Regulation such as the authority permitting other than full and open competition. The majority of DOD's noncompetitive contracts and task orders (including all in GAO's sample) were coded under the "only one responsible source" exception to competition requirements. Seven of the 14 justifications explained that the awards could not be competed due to a lack of technical data. In these cases, DOD did not purchase the necessary data rights with the initial award. In some cases the justifications provided insight into how a lack of data rights resulted in reliance on a single vendor over time.

DOD's focus on using open systems architecture and acquiring sufficient data rights—which DOD's Better Buying Power memo encourages—is influencing the way DOD acquires goods and services. Programs are trying to move away from dependency upon single suppliers for parts, maintenance or upgrades and are moving toward open systems architecture, which allows components to be modified, replaced or maintained by multiple suppliers. Some DOD programs have shown that using open systems architecture and obtaining data rights involves early consideration and extensive analysis of how each system can best use these approaches to maintain a competitive environment throughout a program's lifecycle. For example, an emphasis on open systems architecture and effective management of data rights resulted in increased competition for the Air Force's user equipment for the Global Positioning System and KC-46 Tanker Modernization programs.

In 2010, DOD introduced requirements for competitive solicitations that result in only one offer; however, these rules are focused late in the acquisition process and DOD has limited insight into the reasons only one offer is received. The 15 one-offer awards GAO reviewed generally satisfied DOD's rules, which require contracting officers to ensure adequate solicitation periods and conduct cost or price analysis. These rules were intended to help ensure more effective competition but may apply too late in the acquisition process. DOD contracting officials and vendors told GAO that engagement with vendors well before the 30 day solicitation period is key to ensuring vendors have adequate time to review draft requests for proposals, plan resources, provide feedback on potentially restrictive requirements, and determine whether to prepare proposals. Moreover, contracting officers for the contracts GAO reviewed seldom collected information about reasons only one offer was received, which could limit their ability to revise acquisition strategies appropriately or plan for future competitive acquisitions. DOD's one-offer rules do not require contracting officials to engage with the vendor community to learn why vendors chose not to submit offers. However, contracting officials chose to do so in two sample cases, and in one case, based on this information, changed the acquisition strategy to allow for recompetition sooner than planned.

Contents

Letter		1
	Background	5
	DOD's Competition Rate Remained the Same for 2 Years	10
	Justifications Generally Were Adequate and Many Cited a Lack of Appropriate Technical Data Rights as a Barrier to Competition	18
	Focus on the Use of Open Systems Architectures and Emphasis on Data Rights Help to Guide Program Behavior	21
	DOD's One-Offer Requirements Are Focused Late in the Acquisition Process	27
	Conclusions	34
	Recommendations for Executive Action	35
	Agency Comments and Our Evaluation	35
Appendix I	Objectives, Scope, and Methodology	37
Appendix II	Selection of Noncompetitive Justification and Approval Documents	42
Appendix III	Selected One-Offer Awards	44
Appendix IV	Comments from the Department of Defense	45
Appendix V	GAO Contact and Staff Acknowledgments	47
Tables		
	Table 1: Ten Product and Service Categories Driving Noncompetitive Obligations for Fiscal Year 2013 (Dollars in Billions)	15
	Table 2: Competition Exceptions for New Fiscal Year 2009 to 2013 DOD Noncompetitive Contracts and Task Orders on Single Award Contracts	17
	Table 3: Responses of 31 Weapon System Programs Regarding Use of Open System Architecture and Acquisition of Technical Data Rights	22

Figures

Figure 1: Notional Life Cycle Costs of Typical DOD Acquisition Program 7
Figure 2: DOD's One-Offer Requirements Include Three Rules 9
Figure 3: Fiscal Years 2009-2013 Competition Trend 11
Figure 4: Competition Rates by DOD Component for Fiscal Years 2009 through 2013 12
Figure 5: DOD's Competition Rate and Competitive Obligations for Products, Non-R&D Services and R&D Services 14

Abbreviations

BBP	Better Buying Power
DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System – Next Generation
IDIQ	indefinite delivery/indefinite quantity
MDA	Missile Defense Agency
OFPP	Office of Federal Procurement Policy
R&D	research and development

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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May 5, 2014

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

The Honorable Howard P. "Buck" McKeon
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

As the Department of Defense (DOD) and others have recognized, competition is the cornerstone of a sound acquisition process and a critical tool for achieving the best return on investment for taxpayers. The benefits of competition in acquiring goods and services from the private sector are well established. Competitive contracts can help save money, improve contractor performance, curb fraud, and promote accountability for results. In fiscal year 2013, DOD obligated $307.5 billion through contracts and task orders, of which 57 percent was competed. Acknowledging the need to make more efficient use of resources, DOD's 2010 "Better Buying Power" (BBP) initiative placed an emphasis on maximizing opportunities for competition in the acquisition of products and services.[1]

While federal statutes and acquisition regulations generally require that contracts be awarded on the basis of full and open competition, they also permit federal agencies to award noncompetitive contracts in certain circumstances, for example, when only one vendor can supply the requirement or when a sole-source award is made under specified small

[1]BBP is an initiative to strengthen DOD's purchasing practices, improve industry productivity, and provide an affordable military capability to the warfighter. According to DOD, it encompasses a set of fundamental acquisition principles to achieve greater efficiencies through affordability, cost control, elimination of unproductive processes and bureaucracy, and promotion of competition.

business programs. Generally, noncompetitive contracts must be supported by written justifications that address the specific exception to full and open competition that applies to the procurement. Also, the government obligates billions of dollars annually under contracts and task and delivery orders that are awarded using competitive procedures but for which the government receives only one offer—situations the Office of Management and Budget has cited as high risk.[2] DOD has termed this "ineffective competition" and has implemented regulations requiring that additional steps be taken before a contract may be awarded when only one offer is received.

Since 2009, the Office of Management and Budget and DOD have implemented initiatives to increase competition. The conference report accompanying the National Defense Authorization Act for Fiscal Year 2012 mandated us to report annually for 3 years on DOD's noncompetitive and one-offer awards.[3] For this report, we examined (1) the trends in DOD's use of competitive awards, (2) the extent to which justifications for exceptions to competitive procedures were adequate and the reasons for the exceptions, (3) how DOD's strategies aimed at promoting long-term competition are changing behavior, and (4) the extent to which DOD's recent requirements address the reasons why only one offer was received for competitive solicitations.[4]

To identify trends in DOD's use of competitive awards, we used the Federal Procurement Data System-Next Generation (FPDS-NG) to identify DOD obligations under competitive and noncompetitive contracts in fiscal years 2009 through 2013, the five most recent years for which complete data were available.[5] For the purposes of this report, we defined

[2]For the purposes of this report, we refer to contracts and orders awarded using competitive procedures but for which only one offer was received as "one-offer awards."

[3]H.R. Rep. No. 112-329, at 676 (2011)(Conf. Rep.). In March 2013, we issued our first annual report. GAO, *Defense Contracting: Actions Needed to Increase Competition,* GAO-13-325 (Washington, D.C.: Mar. 28, 2013).

[4]For the purposes of this report, we defined adequate justifications as those containing the required elements in accordance with Federal Acquisition Regulation.

[5]FPDS-NG is the government's procurement database. We assessed the reliability of FPDS-NG data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) comparing reported data from FPDS-NG to information from contract files in our review. We determined that the data were sufficiently reliable for the purposes of this report. For additional information, see appendix I.

noncompetitive obligations to include obligations through contracts that were awarded using the exceptions to full and open competition listed in Federal Acquisition Regulation (FAR) Subpart 6.3. We also included noncompetitive orders issued under multiple award indefinite delivery / indefinite quantity (IDIQ) contracts or under the General Service Administration's schedules program.[6] We calculated the competition rate as the dollars obligated annually on competitive contracts and orders as a percentage of dollars obligated on all contracts and orders. For the purposes of this report, we focused on four DOD components: Air Force, Army, Missile Defense Agency (MDA), and Navy.

To assess the extent to which justifications for exceptions to competitive procedures were adequate and the reasons for the exceptions, we randomly selected a nongeneralizable sample of 14 contracts and orders coded as noncompetitive in FPDS-NG. Our sample included noncompetitive contracts and task orders from the largest product or service categories, measured by obligations, where the base and options values exceeded $650,000 for awards made from April 1, 2012, through March 31, 2013. For awards in our sample, we reviewed the signed justification and approval document, the acquisition plan, market research, and other key information in the contract files. We reviewed the justifications for these awards to determine whether the documentation met criteria in the FAR for content, timing, approval, and public availability. In particular, we assessed whether the justifications were clear and contained sufficient information to justify the use of the specific authority cited as required by the FAR. As needed, we also discussed the selected contracts and orders with contracting officials involved in these awards to obtain additional information.

To study how DOD strategies aimed at future competition are changing program behavior, we selected a nongeneralizable sample of 10 major weapon programs based on responses from these programs to a

[6]IDIQ contracts do not procure or specify a firm quantity (other than a minimum or maximum) and provide for the issuance of task orders (services) or delivery orders (supplies) during the contract period. FAR §§ 16.501-1;16.504. Multiple award IDIQ contracts are awarded to multiple contractors through one solicitation. When awarding multiple-award IDIQ contracts, generally the contracting officer must provide each contractor a fair opportunity to be considered for each order, with certain statutory exceptions which must be documented in writing. For task orders not subject to fair opportunity, including those on single award IDIQ contracts, the competition data for task orders in FPDS-NG is derived from the competition data for the underlying IDIQ contract.

questionnaire developed for GAO's fiscal year 2013 weapons assessment.[7] We selected 10 programs that indicated that the program may use, will use, or had already incorporated open systems architecture, and may acquire, will acquire, or had already acquired a complete technical data package.[8] We did not select programs that had responded that use of open systems architecture or acquisition of technical data rights would not take place or the programs that did not respond to these questions. We contacted program officials to learn how programs have or plan to leverage open systems architecture and the acquisition of data rights to promote competition during development and throughout the life cycle of the program.

To examine the extent to which DOD's requirements address the reasons why only one offer was received, we reviewed a nongeneralizable sample of 15 contracts and task orders. The sample included the largest dollar value award from each of the 15 largest product or service categories, measured by obligations, made from April 1, 2012 through March 31, 2013. Only awards for which one offer was received in response to a solicitation issued using competitive procedures, as coded in FPDS-NG, were included in the sample. For each selected award, we obtained evidence of the solicitation issuance and proposal due date, documentation of cost or price analysis, and other key information. We interviewed contracting officials involved with each award to understand the competitive environment for each award and the possible reasons why only one offer was received. We also interviewed several vendors who had expressed interest in some of these awards but chose not to submit offers. We assessed recent DOD implementing regulations to determine whether key reasons for one-offer awards were addressed.[9]

A more detailed description of our scope and methodology is presented in appendix I. We conducted this performance audit from May 2013 to May 2014, in accordance with generally accepted government auditing

[7] GAO, *Defense Acquisitions: Assessments of Selected Weapon Programs*, GAO-13-294SP (Washington, D.C.: Mar. 28, 2013). For that report, we sent a questionnaire to 65 defense acquisition programs and sub-elements of programs.

[8] An open systems architecture is a system that uses a modular design, and consensus based standards for its key interfaces, which have been tested to ensure their openness.

[9] Defense Federal Acquisition Regulation Supplement (DFARS) § 215.371; 77 Fed. Reg. 39,126 (June 29, 2012).

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

The Competition in Contracting Act of 1984 requires agencies to obtain full and open competition through the use of competitive procedures in their procurement activities unless otherwise authorized by law.[10] Using competitive procedures to award contracts means that all responsible contractors are permitted to submit offers. The FAR generally requires agencies to perform acquisition planning and conduct market research to promote full and open competition. Generally, noncompetitive awards must be supported by written justifications that address the specific exception to full and open competition that is being used in the procurement.

In addition, federal agencies can establish IDIQ contracts with one or more contractors and may issue orders under these contracts. For multiple award IDIQ contracts, agencies are generally required by the FAR to provide all contractors with an IDIQ contract a fair opportunity to be considered for each order above certain dollar thresholds; however, agencies can award noncompetitive orders under certain circumstances, which generally require a written justification. The General Services Administration administers a program that uses IDIQ contracts with vendors for commercially available goods and services, and federal agencies place orders under the contracts. When doing so noncompetitively, the FAR requires procuring agencies to justify the need to restrict the number of vendors considered. Finally, agencies can also competitively award contracts after limiting the pool of available contractors—a process called full and open competition after exclusion of sources. For example, agencies are required by the FAR to set aside procurements for small businesses if there is a reasonable expectation that two or more responsible small businesses will compete for the work and will offer fair market prices.

[10]Pub. L. No. 98-369, § 2701.

Justifications generally are to provide sufficient facts or the rationale to explain the use of the specific exception to competition. For example, under FAR part 6, justifications must include, at a minimum, 12 elements.[11] Examples of these required elements include

- a description of the supplies or services required to meet the agency's needs and their estimated value;
- identification of the statutory authority permitting other than full and open competition;
- a determination by the contracting officer that the anticipated cost to the government will be fair and reasonable;
- a description of market research conducted, if any; and
- a statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisitions for the supplies or services required.

Examples of allowable exceptions to full and open competition for DOD include circumstances when only one or a limited number of contractors are the only sources capable of performing the requirement or when an agency's need is of such unusual and compelling urgency that the government would be seriously injured unless the agency is permitted to limit the number of sources.[12] The FAR generally requires that justifications be published on the Federal Business Opportunities (FedBizOpps.gov) website and be approved at various levels within the contracting organization. These levels vary according to the dollar value of the procurement.

Open Systems Architecture and Appropriate Data Rights Can Help Promote Competition

Our prior work indicates that a long-standing factor impacting DOD's competition rate is its reliance on original equipment manufacturers. Open systems architecture promotes competition by allowing components to be added, removed, modified, replaced, or maintained by multiple suppliers, not just the manufacturer that developed the system. An open system is designed with modular components each having its own functions. This

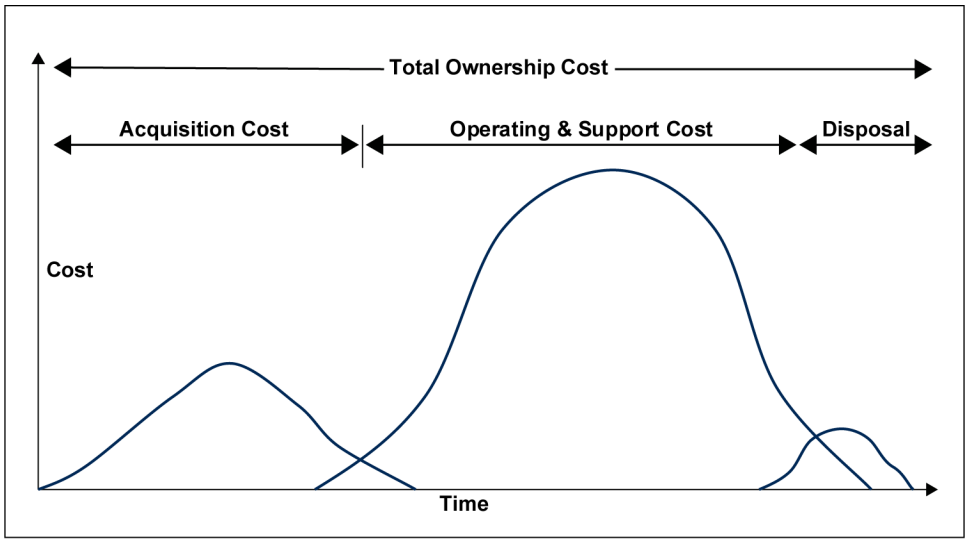
[11]FAR § 6.303-2(b). The FAR requires that justifications for noncompetitive awards under Subpart 8.4 (Federal Supply Schedules) and 16.5 (Indefinite-Delivery Contracts) contain similar information. See FAR § 8.405-6(c)(2) and FAR § 16.505(b)(2)(ii)(B).

[12]For additional information on the unusual and compelling urgency exceptions see GAO, *Federal Contracting: Noncompetitive Contracts Based on Urgency Need Additional Oversight,* GAO-13-304 (Washington, D.C.: Mar. 26, 2014).

design makes the system easier to develop, maintain, and modify because components can be changed without significantly impacting the remainder of the system.

Likewise, our prior work states that incorporating open systems architecture and the acquisition of appropriate data rights, such as design drawings, specifications, and standards, during program development can result in greater competition and reduce costs during production. Further, incorporation of open systems architecture and management of data rights can lead to greater competition and reduced upgrade and repair costs over a program's life cycle. But introducing this approach later in a program's life cycle, such as for a planned modification or upgrade, is more difficult, complex, and costly to do as it may require significant modifications to an already-developed system. Defense systems can have a life span of 40 years; figure 1 shows that the greater part of a weapon system's total ownership cost consists of its operating and support costs. Early decisions made during design dictate operating and support costs over the entire life cycle.

Figure 1: Notional Life Cycle Costs of Typical DOD Acquisition Program



Source: GAO analysis of Defense Acquisition Guidebook.

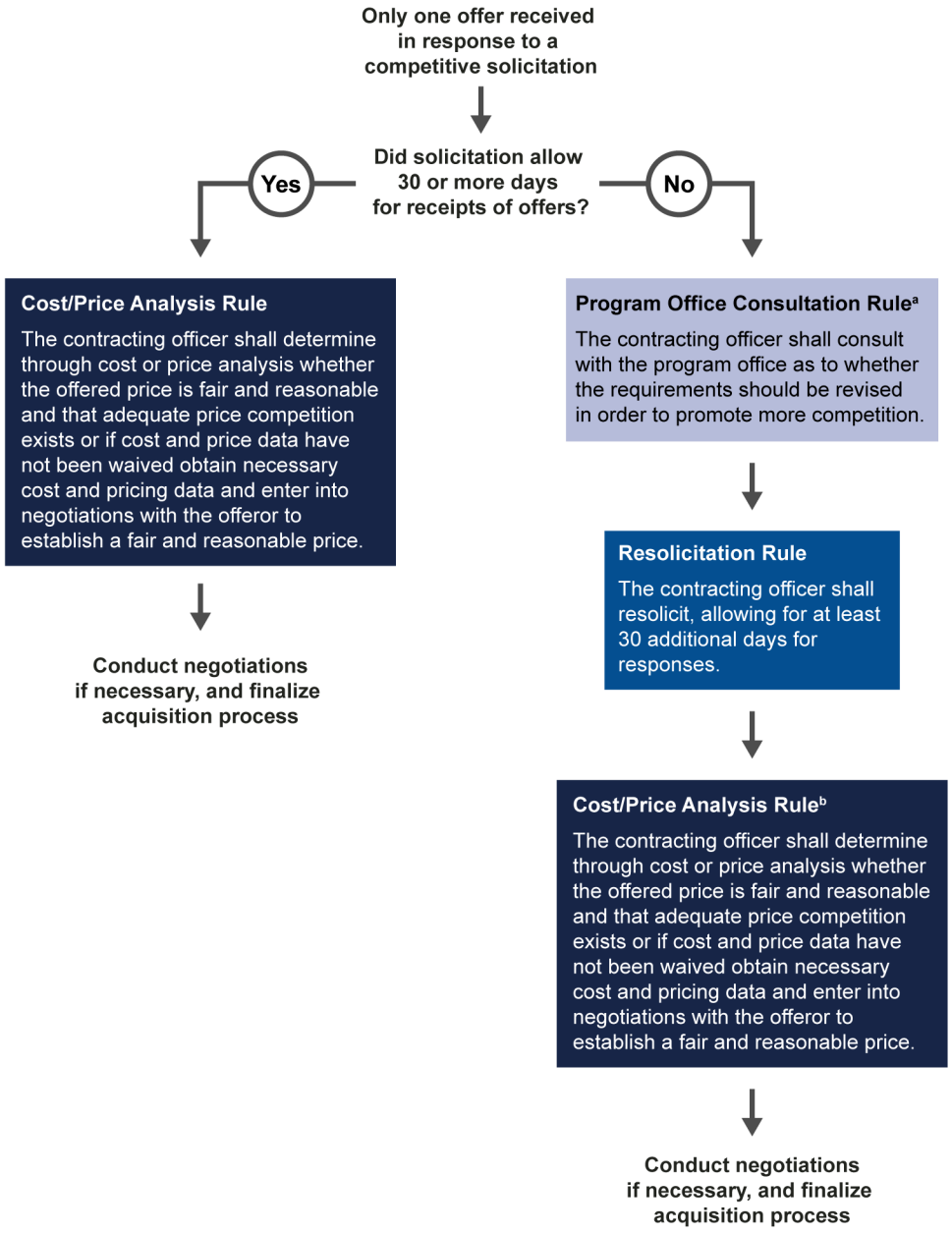
Better Buying Power Initiative Promotes Competition

DOD's Better Buying Power initiative outlines a series of actions, guidance, and directives to achieve greater efficiencies, in part through the promotion of competition, such as the following:

- Each program must present a competitive strategy at each major decision point.
- Before starting system development, programs must have a business case analysis that outlines an approach for using open systems architecture and acquiring data rights to ensure sustained consideration of competition in the acquisition of weapons systems.
- Each DOD component is to develop a plan to improve the overall rate of competition by at least 2 percent per year, and the rate of effective competition—when more than one offer is received under competitive procedures—by at least 10 percent per year.
- Justification and approval documents for noncompetitive contracts should include a discussion on how the program will take advantage of business practices to break away from their reliance on a single vendor and improve competition in future acquisitions.
- Updated guidance and directives for open systems architecture and the acquisition and management of data rights.
- Developing new training and updated course curriculum on open systems architecture and acquisition and management of data rights.

In addition, DOD has termed procurements for which only one offer was received under full and open competition as "ineffective competition." The Office of Federal Procurement Policy (OFPP) noted that competitions that yield only one offer in response to a solicitation deprive agencies of the ability to consider alternative solutions in a reasoned and structured manner. In November 2010, DOD introduced a policy containing new requirements concerning one-offer awards, and codified it with changes in the DFARS in June 2012. See figure 2.

Figure 2: DOD's One-Offer Requirements Include Three Rules



Source: GAO analysis of DFARS Subpart 215.371.

[a]The program office consultation rule was added when the policy was codified with changes in the DFARS. DFARS § 215.371; 77 Fed. Reg. 39,126 (June 29, 2012).

[b]The cost/price analysis determination must be approved at a level above the contracting officer unless an exception applies. This cost/price analysis rule only applies to solicitations that result in one

offer. Thus, if multiple offers are received after completing the resolicitation rule, then the contracting officer should conduct negotiations, if necessary, and finalize the acquisition process.

Last year, we found that the one-offer requirements will likely have a limited impact on unnecessarily restrictive solicitation requirements because many solicitations provide initial response times of more than 30 days, so many awards are not subject to the program office consultation rule.[13] We also found that the impact of recent guidance on the number and dollar value of one-offer awards is not quantifiable because of unreliable data. As a result, DOD is not in a position to accurately measure the impact of the one-offer requirements since it was implemented. We recommended that DOD develop an action plan for DOD components to collect reliable data on competitive procurements for which only one offer is received, so that the department can determine the effect of its requirements on one-offer awards. DOD agreed with our recommendation. In response, the Air Force established mandatory training for personnel responsible for entering this data in the system. According to agency officials, DOD is in the process of updating guidance on entering data for one-offer awards.

DOD's Competition Rate Remained the Same for 2 Years

DOD's competition rate for all contract obligations had been declining since 2009; however, the competition rate has remained flat for the past 2 years. Among the DOD components in our study, the Army had the highest competition rate in fiscal year 2013, while MDA had the lowest. Based on FPDS-NG data, we found that noncompetitive awards cited several exceptions from competitive procedures. We continue to observe, as we previously found in 2012 and 2013, that there are a number of factors that affect DOD's competition rate.[14] For example, the government has historically relied on the original equipment manufacturers of weapon systems for future procurements of the system, including sustainment.

Competition Rate Has Stopped Declining and Varies by Component

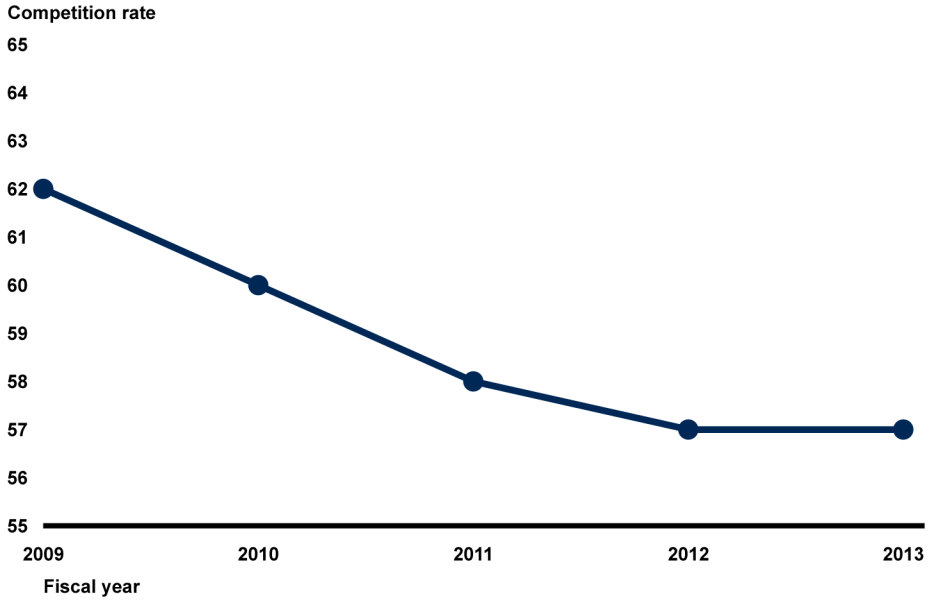
Between fiscal years 2009 and 2013, DOD's competition rate—based on all contract obligations—declined by 5 percent, from 62 percent to 57

[13]GAO-13-325.

[14]GAO-13-325; and *Defense Contracting: Competition for Services and Recent Initiatives to Increase Competitive Procurements*, GAO-12-384 (Washington, D.C.: Mar. 12, 2012).

percent, with an average competition rate of 59 percent for the 5 year period (see figure 3).

Figure 3: Fiscal Years 2009-2013 Competition Trend

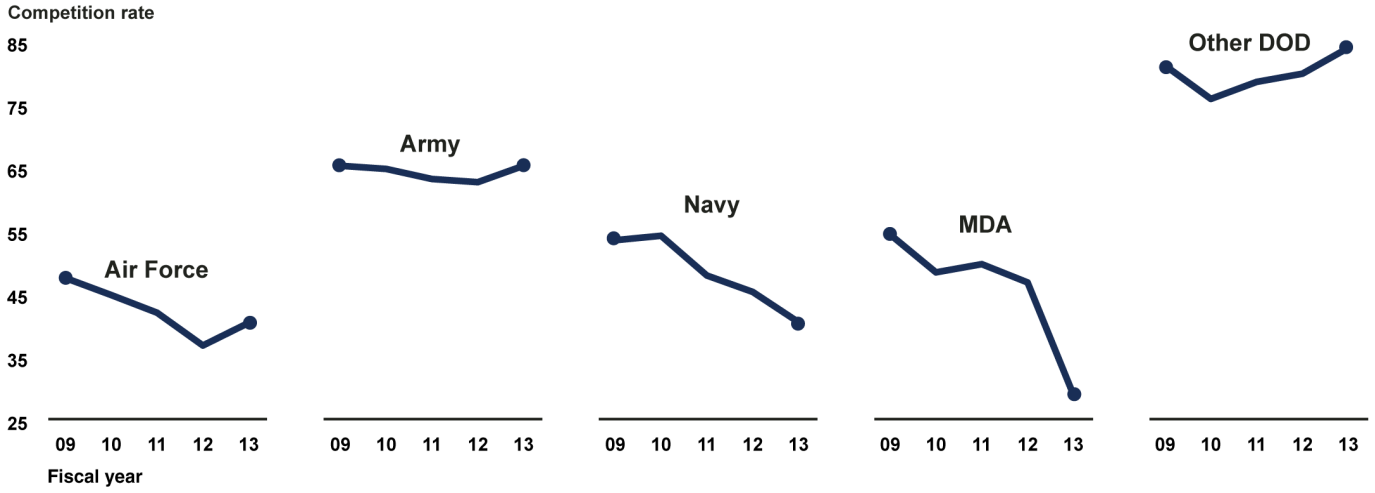


Source: GAO analysis of FPDS-NG data.

However, the competition rate did not change from fiscal years 2012 to 2013, remaining at 57 percent. DOD's total dollars obligated decreased by almost $53 billion, from $360.4 billion in fiscal year 2012 to $307.5 billion in fiscal year 2013. Competed obligations decreased by over $31 billion, from $205.6 billion in fiscal year 2012 to $174.2 billion in fiscal year 2013.

We also found that the competition rate for all contract obligations varied by DOD component. Of the 4 organizations we reviewed—Air Force, Army, Navy, and MDA—in fiscal year 2013, the Army had the highest competition rate, 66 percent, whereas MDA had the lowest rate of competition, 29 percent, representing a significant decrease from the prior year. Figure 4 outlines competition rates by component for fiscal years 2009 through 2013.

Figure 4: Competition Rates by DOD Component for Fiscal Years 2009 through 2013



Source: GAO analysis of FPDS-NG data.

Note: Other DOD data includes obligations made by any DOD contracting office that are not part of the Air Force, Army, MDA, or Navy. These include, but are not limited to: Defense Contract Management Agency, Defense Logistics Agency, TRICARE Management Activity, and Defense Threat Reduction Agency.

In fiscal year 2013, the Air Force's competition rate improved to 41 percent. However, the Air Force reported that it operates in an environment where it obligates the majority of its dollars on long standing sole-source weapon system contracts, noncompetitive foreign military sales, and reduced number of new programs which affects their ability to compete.[15] The Navy's competition rate in fiscal year 2013 declined due to continued investments in the F-35 Joint Strike Fighter, P-8A Poseidon long-range maritime patrol aircraft, and carrier construction.[16] The decline in MDA's fiscal year 2013 competition rate is principally the result of a noncompetitive $2.7 billion foreign military sale. Last year, we found that DOD could gain greater insight into the competition rates if it considered

[15]Air Force, *Air Force Competition Report: Fiscal Year 2013* (Washington, D.C.: January 2014).

[16]Navy, *Department of the Navy Fiscal Year 2013 Competition Report* (Washington, D.C.: Mar. 7, 2014).

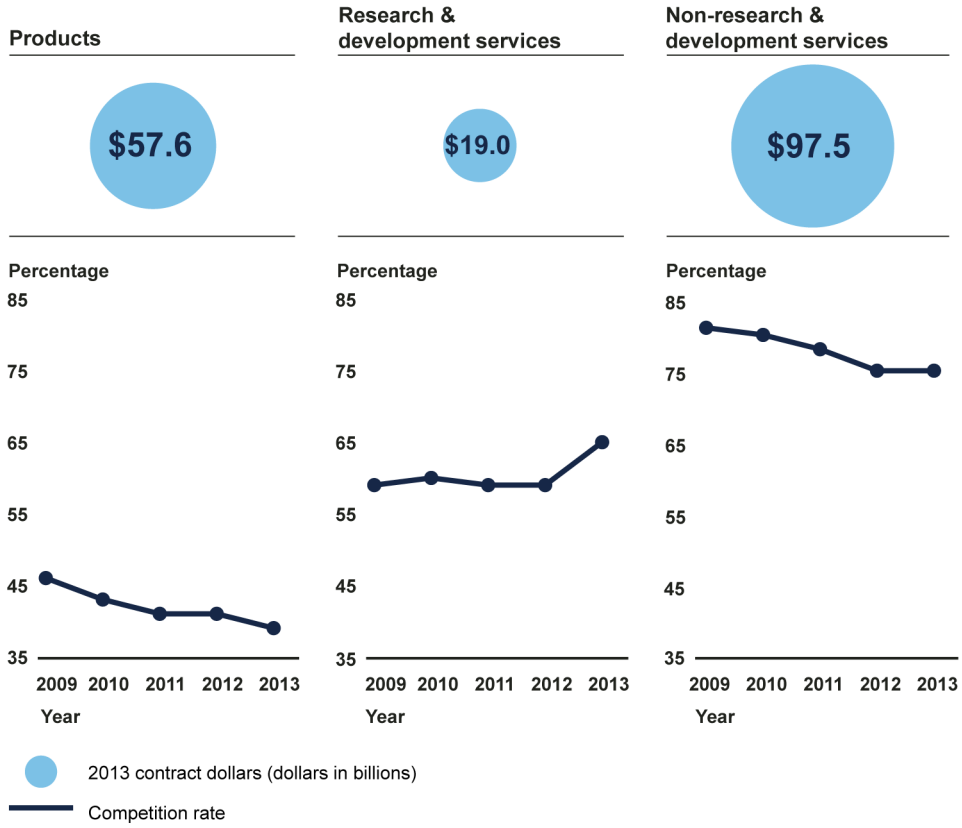
the impact of foreign military sales when calculating the rates.[17] When we calculated MDA's competition rate without including foreign military sales, we found that the competition rate was 49 percent in both fiscal years 2012 and 2013.

Competition Rates for Services Substantially Higher Than for Products with Little Change over Time

Slightly more than half of all DOD's obligations in fiscal year 2013 were to purchase services, ($160.3 billion, or 52.1 percent), which were competed at a substantially higher rate than products. Specifically, the competition rate for services was 73 percent compared to 39 percent for products. This trend was generally consistent over the 5-year period from fiscal years 2009 through 2013. As shown in figure 5, historically, services have been procured at a higher competitive rate than products. In addition, in fiscal year 2013, non-research and development (R&D) services were competed at a higher competition rate than R&D services, 75 percent compared to 65 percent.

[17]We recommended and DOD agreed to identify and track the specific factors that affect the competition rate, such as foreign military sales, and consider this information when setting annual competition goals for each DOD component. See GAO-13-325. Foreign military sales are a form of security assistance authorized by the Arms Export Control Act and a fundamental tool of U.S. foreign policy. Eligible countries may purchase defense articles and services with their own funds or with funds provided through U.S. government-sponsored assistance programs.

Figure 5: DOD's Competition Rate and Competitive Obligations for Products, Non-R&D Services and R&D Services



Source: GAO analysis of FPDS-NG data.

The competition rate for non-R&D services at DOD declined from 81 percent in fiscal year 2009 to 75 percent in fiscal year 2013. Among the major components, the Air Force had the most significant decline, dropping from 66 percent to 47 percent. MDA increased its non-R&D services competition rate from 69 percent to 89 percent.

The 10 largest product and service categories, as reported in FPDS-NG, cumulatively accounted for 31 percent of non-competed obligations in

fiscal years 2009 through 2013.[18] In fiscal year 2013, these 9 product and 1 service categories accounted for 38 percent of all non-competed obligations and comprised 16 percent of all DOD obligations. In fiscal year 2013, 10 percent of obligations for fixed wing aircraft procurements were made competitively (see table 1).

Table 1: Ten Product and Service Categories Driving Noncompetitive Obligations for Fiscal Year 2013 (Dollars in Billions)

Product and service categories	Total obligations	Percent competed
Fixed Wing Aircraft	$26.5	10%
Rotary Wing Aircraft	7.2	4
Guided Missiles	6.8	3
Combat Ships And Landing Vessels	6.4	49
Submarines	2.9	1
Guided Missile Components	2.0	1
Amphibious Assault Ships	1.7	0
Maintenance, Repair, Rebuilding of Equipment- Aircraft Components And Accessories	1.7	26
Wheeled Trucks And Truck Tractors	1.1	6
Aircraft Carriers	0.7	0

Source: GAO analysis of FPDS-NG data.

Examples of fixed wing procurements include airframes or components for the F-35, C-5, F-22, and C-40B aircraft. Similarly, 4 percent of rotary wing and 3 percent of obligations for guided missiles were competed. For aircraft carriers, the Navy competition advocate explained that when a contract for a very large procurement like an aircraft carrier is awarded, the organization's competition rate declines for that year because these types of procurements are made noncompetitively.

Once DOD selects the contractor for a weapon system, such as an aircraft, truck, or missile, the government has historically relied on the original equipment manufacturers for future procurements of the system,

[18]The largest categories were identified using the product and service codes that describe products, services, and R&D purchased by the federal government in FPDS-NG. These codes indicate what was bought for each contract action reported in FPDS-NG. If a contract, task order, or purchase order includes more than one product and/or service, the product and service codes is selected based on the predominant product or service that is being purchased.

including sustainment. The additional systems or sustainment are often procured through contract modifications or the exercise of contract options. This situation is partly attributable to the unique relationship that DOD has with the defense industry that differs from the commercial marketplace. The combination of a single buyer (DOD), few very large prime contractors in each segment of the industry, and a limited number of weapon programs constitutes a structure for doing business that is altogether different from a classic free market.[19] For instance, there is less competition and once a contract is awarded, the contractor often remains the sole vendor capable of providing additional systems and sustainment. These long-term contractual relationships with weapon system contractors limit opportunities for competition.

Majority of New Noncompetitive Awards Were Coded As "Only One Responsible Source"

During the past 5 fiscal years, DOD used the "only one responsible source" exception for about 64 percent of all awards for new noncompetitive contracts and task orders on single award IDIQ contracts. The percent obligated on new noncompetitive contracts and task orders on single award contracts as reported in FPDS-NG under the "only one responsible source" exception has increased—from 66 percent in fiscal year 2009 to 72 percent in fiscal year 2013.[20] The second largest amount (11 percent awarded in fiscal year 2013) cited the "authorized or required by statute" exception (see table 2).

[19]GAO, *Defense Acquisitions: Where Should Reform Aim Next?* GAO-14-145T (Washington, D.C.: Oct. 29, 2013).

[20]Not all orders are subject to fair opportunity, including those on single award IDIQ contracts. In these cases, the competition data for task orders in FPDS-NG is derived from the competition data for the underlying IDIQ contract. Most fiscal year 2013 DOD non-competed obligations on task orders were not coded as subject to fair opportunity in FPDS-NG.

Table 2: Competition Exceptions for New Fiscal Year 2009 to 2013 DOD Noncompetitive Contracts and Task Orders on Single Award Contracts

Dollars in billions

	Only one responsible source[a]		Authorized or required by statute[b]		International agreement[c]		Other[d]			
Year	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Exceptions total	Total new obligations
2009	$41.1	65.9	$13.7	22.0	$3.3	5.3	$4.2	6.8	$62.3	$191.8
2010	37.3	63.1	12.8	21.6	4.5	7.7	4.5	7.6	59.1	178.1
2011	36.5	61.6	12.4	20.9	2.6	4.4	7.8	13.1	59.2	173.6
2012	38.1	60.4	11.2	17.8	8.7	13.9	5.0	7.9	63.0	173.5
2013	32.3	72.3	4.9	10.9	3.2	7.2	4.3	9.6	44.7	131.0

Source: GAO analysis of FPDS-NG data.

[a]"Only one responsible source" includes contracts and orders placed on single award IDIQ contracts that cited the following categories in FPDS-NG: unique source, follow-on contract, patent or data rights, utilities; standardizations; only one source-other; and brand name description. FAR § 6.302-1.

[b]This exception is used when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source; or there is a need for a brand name commercial item for authorized resale. FAR § 6.302-5.

[c]This exception is used when competition is precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or on the written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services. FAR § 6.302-4.

[d]"Other" includes contracts and orders placed on single award IDIQ contracts that cited the following competition exceptions: urgency; industrial mobilization; engineering, developmental or research capability; expert services; national security; public interest, FAR §§ 6.302-2, 6.302-3, 6.302-6 and 6.302-7; and not competed using simplified acquisition procedures under FAR Part 13.

The individual components used the "only one responsible source" exception to varying extents—69 percent for the Air Force, 68 percent for Army, 80 percent for Navy, and 71 percent for other DOD agencies for fiscal year 2013. However, MDA used this exception for 96 percent or $137.4 million of the new noncompetitive contracts and task orders it awarded in fiscal year 2013.

In fiscal year 2013, the majority of new noncompetitive task orders issued under multiple award IDIQ contracts and subject to the fair opportunity process reported two exceptions to the fair opportunity process. Specifically, "only one source" was cited for 44 percent of obligations

($1.2 billion) and "follow-on actions," orders for the same good or service with the original vendor, was cited for 39 percent ($1.1 billion).[21]

Justifications Generally Were Adequate and Many Cited a Lack of Appropriate Technical Data Rights as a Barrier to Competition

In general, the documentation for our selected contracts contained the required elements in accordance with regulations. Specifically, 11 of the 14 justifications in our sample contained all the required elements. However, our sample also included three justifications that were not prepared correctly. Further, four justifications were not made publicly available according to requirements, thus missing an opportunity to add transparency into the contracting process. Half of the justifications in our sample explained that the lack of necessary data rights was a barrier to competition. In some cases the justifications provided insight as to how a lack of the right level of data rights resulted in complete reliance on a single vendor over time.

Justifications Generally Contained the Required Elements

As required by the FAR, DOD contracting officials prepared written justifications for all 14 noncompetitive contract awards in our sample. We determined that 11 of the 14 justifications contained all required elements and were prepared in accordance with the FAR. For additional details about the noncompetitive awards in our sample, see appendix II. Further, we found that the justifications generally provided clear explanations of the reasons that the procurement could not be competed.[22] Documenting this information provides insight into why acquisitions were not competitive and enables agencies to use that knowledge to help remove obstacles to competition in future acquisitions. For example, three justifications we reviewed described steps DOD was taking to improve competition in the future.

[21]"Follow-on action following competitive initial action" captures awards made under FAR § 16.505(b)(2)(i)(C). Specifically, these awards are "issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order."

[22]In 2013, we concluded that insight into improving future competition can be gained from justifications that provide detailed descriptions of the reasons for the noncompetitive award and the actions that the agency could take. We recommended that DOD develop guidance to enable components to apply lessons from past procurements to increase competition and DOD concurred with this recommendation but has not taken any action at this time. See GAO-13-325.

Three justifications were not prepared in full accordance with regulations. One Navy justification prepared for an $882,000 contract for helicopter support services did not have the signature of the competition advocate.[23] In addition, the justification was missing the required information about market research conducted and a list of sources that expressed an interest in the acquisition. However, the Navy provided a separate market research memorandum which explained that the government of the country where the helicopter services were needed directed which company to use.[24] A Navy justification for a $7.2 million award for software engineering services did not include the contracting officer's signature certifying that the justification was complete and accurate because the signature block was erroneously removed from the document. The third justification did not use the correct legal citation for the exception to competition and instead referenced an exception that was not supported by the facts provided in the justification.

The FAR requires that justifications be made publicly available, generally within 14 days of contract award, which increases transparency into the contracting process by providing the opportunity for public review of justifications for noncompetitive contracts.[25] In our sample, five justifications were made publicly available within the time frame required by the FAR and another justification was exempt from requirements due to national security concerns. However, four justifications were never made publicly available and four justifications were not made available until after the required time frame. DOD acknowledged these as oversights.

[23]The FAR requires that the competition advocate for the procuring activity approve the justification for any proposed contract action over $650,000 but under $12.5 million. FAR § 6.304(a)(2).

[24]The foreign government declared its aviation sector, including operational control of airports and airport systems, a national security asset. Therefore, foreign government officials must authorize all operations within the territorial jurisdiction within their country, and conditioned their approval of U.S. government operations on contracting with a helicopter company which is owned or substantially controlled by its government.

[25]FAR § 6.305(a) Similarly, FAR § 8.405-6(a)(2)(i) generally requires that limited sources justifications be made publicly available within 14 days after placing an order.

Lack of Necessary Data Rights Is Frequently a Barrier to Competition and Results in Reliance on a Single Vendor

All 14 noncompetitive contracts and task orders within our sample were justified under the exceptions for competition of "only one responsible source or "only one source capable."[26] For half of these awards, the basis for this exception was the agency's lack of data rights. All 7 of these justifications or supporting documents described situations, ranging from 3 to 30 years in duration, where DOD was unable to conduct a competition because data rights were not purchased with the initial award. Within these 7 selected awards, justification content varied from addressing steps the agency would take to increase competition in the future to stating that the agency was taking no action to increase competition for these awards. For example:

- The justification for a $7 million Navy award for situational awareness and communication software explained that the agency and the contractor disagreed about the level of government data rights. The justification stated that the agency was negotiating with the contractor to obtain adequate data rights to develop a data package that will support competition for future acquisitions of software releases.

- The justification for a $3 million MDA award stated that the original equipment manufacturer for a cost and requirements management software system owned all of the data rights, necessitating a noncompetitive award for the system's maintenance. However, the justification explained that the agency planned to end the noncompetitive award and transition to a different system by 2017, ensuring that necessary data rights are acquired at that time.

- A justification for an almost $6 million Navy contract for spare helicopter windshields addressed how the agency would increase future competition. The justification explained that the agency planned to compete this acquisition in the future by encouraging other vendors to submit a complete data package but did not address plans to purchase the necessary data. The justification stated that these articles are highly specialized and the data required for another vendor to manufacture these articles are not available. These parts

[26]See, FAR § 6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements for authority to issue sole source awards for contracts. See also FAR § 8.405-6(a)(1)(i)(B) and § 16.505(b)(2)(i)(B) Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized for authority to limit sources for orders under Federal Supply Schedules and orders under multiple award contracts.

have been continually acquired from the original equipment manufacturer for the past 25 years. Including the current 5-year contract, the government will have purchased these parts noncompetitively for a total of 30 years.

- A justification for a $9.5 million Army contract for M1A1 situational awareness tanks stated that the contractor had refused to sell the data rights and that the government would take no action to increase competition at this time because the government would suffer unacceptable delays. The contractor has refused to sell the process sheets and associated data needed for the remanufacturing process to compete this acquisition. The justification explained that the government will post an announcement for this requirement online and any bids or proposals will be considered. However, no other vendors have ever expressed interest in this acquisition.

Focus on the Use of Open Systems Architectures and Emphasis on Data Rights Help to Guide Program Behavior

The focus on open systems architecture and acquiring effective types of data rights is changing the way DOD acquires goods and services. Programs are moving away from dependency upon single suppliers for parts, maintenance or upgrades and are moving toward open systems; these are designed to allow components to be added, removed, modified, replaced or maintained by multiple suppliers. The programs we sampled illustrate that leveraging open systems architecture and data rights to help promote competition involves early consideration and extensive analysis of how each system can best use these approaches to maintain a competitive environment throughout a program's life cycle. Likewise, BBP fosters behaviors with the intent to promote competition. For example, according to program officials the BBP's emphasis on open systems architecture and effective management of data rights resulted in increased competition for the Air Force's Military Global Positioning System User Equipment and KC-46 Tanker Modernization programs. DOD officials told us that training is an effective way to change patterns of behavior and that to promote competition the agency needs an acquisition workforce that is educated on the various types of data rights.

Some Programs Already Promote Competition with Open Systems and Data Rights

Programs report using open systems architecture and acquiring the necessary technical data rights to enable competition during development and throughout the acquisition life cycle.[27] Based on questionnaire responses, programs are moving away from proprietary systems and toward systems that are designed to allow for future competition. As shown in table 3, 24 of the 31 weapons programs that responded to a 2012 GAO questionnaire reported that they were planning or had already used open systems architecture, and 14 of 31 had acquired or planned to acquire a complete technical data package.[28]

Table 3: Responses of 31 Weapon System Programs Regarding Use of Open System Architecture and Acquisition of Technical Data Rights

Program response	Use of modular, open architectures	Acquisition of complete technical packages
Already taken place	10	8
Planned	14	6
May occur	3	10
Will not take place	4	7
Total	**31**	**31**

Source: GAO Analysis of DOD data.

Note: We sent the questionnaire to 65 defense acquisition programs and sub-elements of programs to determine the extent to which programs were implementing acquisition reforms.

The following examples from the 10 programs in our sample illustrate how programs have or plan to leverage open systems architecture and acquisition of data rights to promote competition during development and throughout the life cycle.

- The Air Force has planned for sustained competition for its Three-Dimensional Expeditionary Long Range-Radar program. Program officials said that they used open systems architecture to maximize competition between multiple vendors and that they plan to acquire

[27]We previously concluded that DOD does not know the extent to which weapon acquisition programs are implementing an open systems approach, and recommended that DOD define appropriate metrics to track its implementation. DOD partially concurred but has taken no action to date. GAO, *Defense Acquisitions: DOD Efforts to Adopt Open Systems for Its Unmanned Aircraft Systems Have Progressed Slowly*, GAO-13-651 (Washington, D.C.: July 31, 2013).

[28]GAO-13-294SP.

data rights to address long-term sustainment and competition for future upgrades to the system. Further, the program is expected to require the contractor to clearly define and describe all component and system interfaces and ensure that this information is both accurate and available to other potential vendors. Specifically, all documentation that defines a component's form, fit, function, and integration is to be delivered to the program with unlimited rights at a level of detail that will provide a developer, with comparable levels of expertise, the ability to further develop the system component.

- The Army Integrated Air and Missile Defense program began development in 2006. Open systems architecture and the acquisition of appropriate data rights were key components since the program's conception. Program officials we spoke with stressed that open systems architecture is a key tenet for the evolution of the air and missile defense sensors and that decisions to incorporate open systems architecture and acquire data rights need to be made very early in program development. Early incorporation will enable the Army Integrated Air and Missile Defense to compete future production both at the system level and at the subsystem level. For example, the program is designed so that the most current technology can be inserted into just one component of the system through a competitive acquisition without having to make any changes to any other parts of the system. This design will allow the program to compete either the entire system or subcomponents when the system goes into production.

- Program officials at MDA's Ground Based Midcourse Defense program conducted extensive data rights analysis and subsequently acquired all technical data required for successful competition of the development and sustainment contract. Specifically, the program released thousands of documents into a technical data library to be used by vendors that plan to bid on program contracts. Additionally, according to the program office, the contract includes language to ensure that future data are not limited or restricted to the government without prior written authorization from the procuring contracting officer.

- The Ship to Shore Connector program is the first naval acquisition program in more than 15 years to be designed in house by the Navy instead of by private industry. Officials from the program told us that because the program is responsible for the entire life of the Ship to Shore Connector program that all aspects of acquisition, including open systems architecture and the acquisition of technical data for

lifecycle support of the craft was accounted for during the design process. Because of the lifecycle responsibility, they said that it is important for critical data not to become obsolete so a modular approach using standard interfaces was implemented to enable maintenance and support, and prevent obsolescence issues, where feasible. The program is procuring a technical data package in support of the program's long-term technical data requirements for design, manufacture and sustainment. The data package is to support re-competition for production, sustainment and upgrades and will allow the future craft builder to contract with vendors to build components where the original contractor was also the manufacturer of the component.[29]

DOD Initiative Continues to Encourage Use of Open Systems Architecture and Data Rights

DOD's BBP initiative is intended to improve DOD's use of open systems architecture and effectively manage technical data rights. This is important given the relatively lower rate of competition for products (39 percent) compared to services (73 percent) from fiscal year 2009 through 2013. We found that BBP has affected decision making of some weapons programs in the use of open systems architecture and acquisition of technical data rights that enable competition throughout a program's life cycle. Specifically, we identified two instances when major weapon system program offices were influenced by BBP to make changes that would promote competition:

- According to officials at the Air Force's Military Global Positioning System User Equipment program, BBP led them to consider how open systems architecture and data rights could be used to obtain greater competition throughout the program's sustainment. Program officials told us, that because of BBP, the program revised its Technical Development Strategy document to include the program requirement for contractors to implement open systems architecture principles and provide unlimited rights to technical and manufacturing data and government purpose rights to remaining non-commercial technical data licenses.[30] We found evidence of these changes in the

[29] For information on the status, cost, schedule, and quantity of these and other acquisition programs see GAO, *Defense Acquisitions: Assessments of Selected Weapon Programs*, GAO-14-340SP (Washington, D.C.: Mar. 31, 2014).

[30] Government purpose rights permit the government to use, modify, reproduce, release, perform, display, or disclose technical data within the government without restriction and permit the release or disclosure of technical data to third parties for government purposes only.

program's Technology Development Strategy. This document was required at the decision point prior to the technology development phase of the defense acquisition process, and it includes a summary of how the program anticipates meeting the product life-cycle data rights requirements and supporting the overall competition strategy.

- The BBP's emphasis on effective management of technical data rights resulted in improvements for the KC-46 tanker modernization program's efforts to increase competition and reduce costs over the program's life cycle. In particular, the Air Force conducted an analysis of the FAR, the DFARS and applicable intellectual property laws to ensure that the program acquired the sufficient data and licensing rights, including data, for operations, maintenance, installation, and training. The program obtained the operations, maintenance, installation, and training data for a fixed price and these data rights should allow the agency to maintain the system and compete both the development of the training systems and the reprocurement package for another system component. The Air Force was able to obtain the rights for the operations, maintenance, installation, and training data because the program required offerors to price data and include open systems architecture and standard interfaces to the maximum extent practical for a commercial derivative military aircraft.

DOD officials also told us that training is a highly instrumental way to change patterns of behavior and that to promote competition, the agency needs an acquisition workforce that is educated on types of data rights. In 2013, as required by the BBP, the Defense Acquisition University released a series of seven continuous learning modules focused upon data management to provide fundamental knowledge required for acquisition professionals to create better data management plans and obtain necessary types of data rights in defense systems. This training builds upon the continuous learning module released in 2012 to introduce open systems architecture principles to acquisition professionals.

To advance the agency's knowledge of types of data rights, DOD has issued two updated guidance documents as required by the BBP and is developing further guidance that emphasizes the importance of creating and maintaining a competitive environment in order to improve DOD's competitive posture:

- The Data Rights Brochure explains differences in types of data rights categories and the importance of anticipating the need for data and

data rights. It also provides guidance to assist in identifying and resolving data rights issues prior to contract award.

- The Open Systems Architecture Contract Guidebook for Program Managers is to be used by the acquisition community to incorporate principles and practices of open systems architecture in the acquisition of systems or services. For example, this guidebook provides contract language to capture open architecture and an open business model to increase opportunities for competition, recommendations for writing a contract data requirements list and a statement of work that is based upon open systems architecture.[31] It also contains instructions for obtaining effective levels of data rights to support full life-cycle competition. DOD officials emphasized that while the guidebook can assist program managers with including appropriate language into contracts, without the proper technical expertise, unsuitable language for the program could be chosen from the guidebook and be inserted into a contract.

We previously concluded that incorporating open systems architecture into a program requires a highly knowledgeable workforce; further, we made a recommendation that DOD assess service-level and program office capabilities relating to an open systems approach and develop short-term and long-term strategies to address any capability gaps identified. Strategies could include the Navy's cross-cutting approach where a team of a few technical experts within the Naval Air Systems Command could be available to work with program offices, as necessary, to help develop open systems plans.[32]

[31]An open business model is a key component of open systems architecture. It requires conducting business transparently to leverage collaborative innovation of numerous participants. It fosters shared risk, maximized asset reuse, and reduced total ownership costs. An open business model allows for open systems architectures that yield modular, interoperable systems allowing components to be added, modified, replaced, removed and/or supported by different vendors throughout the life cycle in order to drive opportunities for enhanced competition and innovation.

[32]DOD partially concurred with this recommendation but did not explain its position or what, if anything, it would do in response. GAO-13-651.

DOD's One-Offer Requirements Are Focused Late in the Acquisition Process

In 2010, DOD introduced new requirements for when full and open competition results in only one offer; however, these rules, as implemented in the DFARS, are focused late in the acquisition process and DOD officials have limited insight into the reasons only one offer was received. The one-offer awards we reviewed complied with DOD's rules which require contracting officers to ensure solicitation periods allow at least 30 days for receipt of proposals and to conduct cost or price analysis. But these steps occur too late to impact competition, and actions can be taken much earlier in the acquisition planning process to encourage multiple offers. DOD contracting officials and vendors told us that engagement well before the 30-day solicitation period is key to ensuring vendors have adequate time to review draft requests for proposals, plan resources, provide feedback on potentially restrictive requirements, and determine through internal management processes whether it is worthwhile to prepare proposals. Limited information is available about reasons why only one offer is received because contracting teams seldom collect information from vendors, which could limit DOD's ability to adjust acquisition strategies appropriately and plan for future acquisitions.

Recent Guidance Is Being Followed

The contracts and task orders we reviewed that were competed but received only one offer complied with DOD's rules, nevertheless DOD continues to obligate significant amounts on one-offer awards. Specifically, in fiscal year 2013, DOD obligated a total of $22.6 billion on one-offer awards, or 13 percent of all competed fiscal year 2013 obligations.[33] The Army and the Navy had the highest one-offer rates (21.1 percent and 17.5 percent of competed obligations respectively). MDA had the lowest one-offer rate (1.3 percent). The Air Force's rate was 8.6 percent. In total, DOD awarded about 108,000 one-offer awards—about 1 percent of all new competed awards—and of these almost half were awarded by the Defense Logistics Agency. Across DOD, approximately 9,300 one-offer awards were valued above the simplified acquisition threshold—generally $150,000, below which the one-offer rules would not apply.

[33]We cannot compare fiscal year 2013 to prior years to determine a change in one-offer awards because we found earlier data to be too unreliable. GAO-13-325.

The awards in our review followed the one-offer rules regarding solicitation periods and cost or price analysis, but none were subject to the program office consultation rule—that the contracting officer consult with the program office to determine whether requirements should be modified to promote more competition. For additional details on the competitive one-offer awards we reviewed, see appendix III. Contracting officials told us that they almost always keep solicitations open for at least 30 days, and have done so since before the one-offer rules were established. They also noted that it was standard practice to grant extensions if a vendor requested one. Twelve of the 15 awards we reviewed were initially open for 30 days or more. Of the remaining 3 awards:

- Two Army awards were not subject to the rules per an exemption for contingency, humanitarian, or peacekeeping operations.[34]
- An Air Force award for software development and support was only open for 29 days due to miscounting the number of days, and received a waiver from the resolicitation rule.

None of the awards we reviewed were subject to the June 2012 rule requiring contracting officers to consult with program offices regarding whether requirements should be modified to promote more competition. For two of the awards we reviewed, however, teams re-assessed requirements even though they were not required to do so. In one award that was exempt from the one-offer rules, the Army re-evaluated and changed its requirements to enhance competition and to address funding concerns. For another award which was initially open for 30 days, so not subject to the program office consultation rule, the Navy reassessed requirements because a potential offeror questioned whether the requirements were overly restrictive. Contracting officials subsequently determined they were not. However, neither of these awards received more than one offer.

All 15 awards we reviewed complied with the rule to conduct cost or price analysis when only one offer is received. In four awards, DOD was able to negotiate lower prices as part of this process, decreasing costs between $1 million and $10 million, or 2 to 10 percent of total contract value. Even when only one offer is received, the government may still obtain some of

[34]DFARS § 215.371-4(a)(2).

the benefits of competition—particularly if the sole offeror is not aware that no other offers were received. In most cases, contracting officials said they thought the incumbents likely expected other vendors to offer proposals. There were several predecessor contracts that had multiple offers and, in other cases, solicitation time frames were extended at the request of a different vendor. In another instance, the vendor accepted contract terms, including government purpose data rights, which it had not accepted under a previous noncompetitive award. In addition, the vendor took a greater share of the financial risk for cost overruns than in the previous sole-source environment. Contracting officials also said they felt that the offered prices reflected a competitive market. For example, in six cases, offered prices were 4 to 26 percent lower than the government estimates.

One-Offer Requirements Are Directed at Steps That May Occur Too Late in the Acquisition Process to Meaningfully Enhance Competition

DOD's requirements for competitions that result in only one offer do not focus on the acquisition planning phase when vendors' initial engagement with government and internal business decision processes occur. Rather, the steps outlined in the one-offer rules all occur after the solicitation is published, which marks the end of the acquisition planning phase. Generally, the contracting officials for our cases did not feel that the length of time the solicitation was open was a reason only one offer was received, particularly because almost all of them were open for 30 days or more. In several cases, vendors requested more time and the contracting office extended the solicitation period beyond the initial 30 days, but the vendor still did not submit an offer. Vendors explained that they often have made their decisions whether to bid or not before the final request for proposals is published and the 30-day solicitation period begins. For example, in one case, contracting officials told us that a vendor they had expected to compete called 2 weeks before the solicitation was posted to tell them they had decided not to submit an offer because they were reserving their resources to bid on another agency's contract.

We spoke with some of the vendors identified in market research that did not submit offers for the awards we reviewed. Vendor representatives explained to us that the likelihood of their company choosing to make an offer is increased when they learn of a potential opportunity as early as possible and can engage with the government during the acquisition planning phase before the solicitation is issued. For instance, when sufficient time is allowed, vendors can discuss draft requirements documents with the government to identify any language that might unnecessarily preclude their solution from being considered. Further, vendors need adequate time to conduct internal discussions and analysis

about what they might offer that could compete successfully against an incumbent. There are also internal management reviews and decision points prior to approval to submit an offer.

Contracting officials we spoke to identified a number of actions they generally take to try to increase competition, many of which come early in the acquisition planning phase. They also stressed that early communication with industry about planned procurements is critical to give industry enough time to plan resources and make business decisions about whether to prepare an offer. Additional actions identified include the following:

- Reviewing requirements internally during the presolicitation phase to ensure that they are not overly restrictive, including legal review.
- Publishing draft requests for proposals and statements of work. For three awards we reviewed, officials published draft documents more than 6 months in advance of the solicitation. Contracting officers said that the questions received from industry in the draft phase help ensure requirements were not written too restrictively.
- Holding industry days, which also allow subcontractors to find teaming partners.
- Allowing access to a "bidders library" of technical data and drawings to even the playing field with the incumbent contractor.
- Allowing for a long transition period to signal an ability and willingness to bring on a new contractor.
- Limiting information requested from vendors to decrease the burden of preparing proposals.

Previously, we found that allowing enough time in the acquisition planning process—before a solicitation is published—is important to help ensure adequate competition. In 2010, we found that program officials play a significant role in the contracting process—particularly in the acquisition planning process while developing requirements, performing market research, and interfacing with contractors—which can influence competition.[35] Contracting officials noted that program offices sometimes do not allow enough time to execute a sufficiently robust acquisition planning process that could increase opportunities for competition. They

[35]GAO, *Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received*, GAO-10-833 (Washington, D.C.: July 26, 2010).

told us that program offices are insufficiently aware of the amount of time needed to properly define requirements or conduct adequate market research. In 2011, we found that none of the agencies we reviewed had measured or provided guidance on the time required to perform key steps during the presolicitation acquisition planning phase.[36] We recommended that they collect information needed to establish time frames for when program officials should begin acquisition planning. The agencies we reviewed had varied responses to this recommendation and one agency has taken initial steps to establish these time frames.

When a long-standing incumbent contractor has been performing well, contracting officials said that vendors do not perceive a good chance of winning regardless of the government's desire for competition and therefore do not bid. Contracting officials told us that the most common questions they get during the solicitation period are about who the incumbent is and whether their performance has been satisfactory. In addition, contracting officials said vendors are selective about making offers to keep proposal costs—which factor into their overhead rates—low in order to remain competitive on other awards.

In making their business decisions about whether or not to submit offers, vendors told us that they look for signals about whether the government is willing to accept some risk by replacing the incumbent. For example, for one award we reviewed, the solicitation included a 6-month transition period in an attempt to signal to vendors that the program was willing to take the time to bring a non-incumbent vendor on board. For another contract we reviewed, a vendor told us they did not submit an offer because—based on interactions with government in the acquisition planning phase—they believed government was unwilling to take risks with the program that might be introduced by bringing in a new solution, and therefore the vendor's chances of unseating the incumbent were too low to justify the expense of putting together a proposal. In addition, other vendors have told us they also consider various factors before submitting a proposal, such as: the cost of developing proposals; their ability to provide the services; rapport with the government personnel; and the potential financial gain from the procurement.[37]

[36]GAO, *Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts*, GAO-11-672 (Washington, D.C.: Aug. 9, 2011).

[37]GAO-10-833.

DOD Officials Have Limited Insight into Reasons Only One Offer Was Received

Federal internal control standards call for managers to identify, analyze, and decide what actions should be taken to manage risk.[38] For competitive acquisitions, this would include the risk that only one offer might be received. For the awards we reviewed, however, contracting officers seldom collected information about reasons only one offer was received, which could limit their ability to revise acquisition strategies appropriately or plan for future competitive acquisitions. In most cases, contracting officials anticipated they would receive more than one offer and told us they were surprised that they only received one offer. However, in 11 of 15 awards we reviewed, contracting officials did not have information from non-bidding vendors to understand why they chose not to submit an offer. For instance, according to the program director for one award, MDA has very limited insight into the reasons vendors choose not to submit offers. However, although they said they had been very surprised that only one offer was received, MDA officials responsible for this award had not followed up with the other potential vendors identified in the almost 2 years they had been preparing for competition. There is no requirement to engage with the vendor community to learn why they chose not to submit offers.

In October 2009, OFPP issued guidance to help federal acquisition leaders evaluate the effectiveness of their agencies' competition practices. The guidance included recommendations to engage the marketplace to determine how barriers to competition can be removed. This guidance recommended that agencies encourage their contract and program staff to speak to vendors, including leading competitors and others that expressed interest in the procurement, but ultimately did not submit offers to understand the basis for their decision not to participate. In 2010, we recommended that OFPP determine whether the FAR should be amended to require agencies to regularly review and critically evaluate the circumstances leading to only one offer being received and to identify additional steps that can be taken to increase the likelihood that multiple offers will be submitted.[39] OFPP agreed with our recommendation but, to date, has not taken steps to implement it. In addition, DOD has not conducted a formal study of the reasons only one offer is received and the one-offer rules do not reflect this type of evaluation.

[38]GAO, *Standards for Internal Control in the Federal Government,* GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[39]GAO-10-833.

Understanding the reasons only one offer was received can inform whether to revise acquisition strategies going forward. In two cases, contracting teams collected information from vendors that did not bid to understand what the reasons were. For one award, the contracting office requested additional information from the eight vendors with “no bid” responses on a multiple award task order contract. Six vendors felt they did not have the experience necessary to meet the requirements, and two vendors stated that they were partnering with the sole offeror as subcontractors. In another case, contracting officials did not reach out to potential bidders, but observed from the proposal that they had teamed with the sole offeror as subcontractors instead of choosing to compete. In the other instance, contracting officials said they learned that some vendors were in a teaming relationship with the incumbent that they did not want to jeopardize. Officials said that another vendor explained the release of this solicitation coincided with 24 other solicitations, and that if this solicitation had come out later it would have made it easier for them to submit an offer. Based in part on this information, the Navy changed their acquisition strategy to decrease the period of performance from 5 years to 2 years, allowing for another competition sooner than planned. Officials told us they may make other changes to the acquisition strategy for the next procurement as well, including breaking the requirement into pieces and using different contract vehicles. In contrast, we reviewed another award that was initially planned to be a multiple award task order contract, under which competition would continue on future task orders. When only one offer was received, DOD went forward and awarded a single award task order contract, with 1 base year and 4 option years.[40] Under this arrangement, the agency will not get the benefit of additional competition for task orders.

In several instances, too much time had passed for vendors to provide us with information about the reasons they chose not to bid on our selected contracts, either because the individuals involved were no longer with the company or because they could not recall the specific cases. With workforce turnover in the government and industry, the best time to collect information about the reasons vendors do not submit offers is

[40]After making the determination that the option is the most advantageous method of fulfilling the government’s need, price and other factors considered, contracting officers are authorized to exercise options without additional competition. FAR 17.207(c).

likely before or soon after award.[41] This may be less important if the requirement is not anticipated to re-occur in the future. For instance, we reviewed two awards where contracting officials told us they did not seek information about the reasons only one offer was received because they expected these to be the last contracts awarded for these requirements.

Conclusions

DOD's goal is to increase competition annually and strengthen competition in its acquisition of products and services. Half of the justifications we reviewed stated that the lack of technical data rights resulted in a barrier to competition. DOD's BBP initiative requires programs to outline an approach to manage its data rights needs and to use open systems architecture where feasible. This should help DOD to obtain the appropriate data rights and use open systems architecture to increase competition throughout a program's life cycle to save taxpayer dollars while providing the best available technology to the warfighter.

DOD also has established a goal of increasing effective competition—where competitive procedures are used and more than one offer is received. However, the department will have difficulty accomplishing this goal without focusing its attention on factors that impact vendor business decisions. DOD's current regulations help decrease some of the risks of one-offer awards, but focus on steps that occur too late in the process to effectively engage industry in competition. Enhancing the department's acquisition planning guidance to ensure enough time and attention are provided for early vendor engagement could help encourage multiple offers. There will always be instances when the government cannot change vendors' business decisions. However, the department is less able to make an impact on future acquisitions—or to adjust current acquisition approaches—for specific procurements if it lacks information about the reasons vendors chose not to submit offers. The department could mitigate the risk of future limitations on competition by seeking more information in certain cases, such as for high dollar value procurements or when it is likely the agency will repeat the procurement in the future.

[41]We found that agencies miss opportunities to improve acquisition planning when they do not document lessons learned. See GAO-11-672.

Recommendations for Executive Action

We recommend that the Secretary of Defense take the following two actions to continue to enhance competition:

- Ensure that existing acquisition planning guidance promotes early vendor engagement and allows both the government and vendors adequate time to complete their respective processes to prepare for competition.
- Establish guidance for when contracting officers should assess and document the reasons only one offer was received on competitive awards, including reviewing requirements to determine if they are overly restrictive and collecting feedback from potential vendors about the reasons they did not submit offers, taking into account dollar value and the likelihood the requirement is a recurring need.

Agency Comments and Our Evaluation

We provided a draft of this report to DOD for review and comment. In written comments, DOD concurred with our recommendations. DOD's comments are reprinted in appendix IV. In responding to the first recommendation, DOD plans to issue guidance to acquisition planners to provide sufficient time for the vendors to review requirements and interact with government officials. We agree that it is important for DOD to effectively engage industry early in the acquisition process to mitigate factors that may hamper competition. In concurring with our second recommendation, the department agreed to provide guidance to contracting officers on the need to obtain feedback from vendors who expressed interest during the market research phase of competitive solicitations, but did who not submit a proposal. We believe that it is important that DOD assess and document the reasons only one offer was received on competitive awards, because doing so could help to promote future competition. DOD also provided technical comments that were incorporated, as appropriate.

We are sending copies of this report to the appropriate congressional committees and to the Secretary of Defense. This report will also be 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. Contact points for our Offices of Congressional Relations and Public Affairs may

be found on the last page of this report. Staff who made key contributions to this report are listed in appendix V.

William T. Woods
Director, Acquisition and Sourcing Management

Appendix I: Objectives, Scope, and Methodology

The objectives for this review were to examine (1) the trends in DOD's use of competitive awards, (2) the extent to which justifications for exceptions to competitive procedures were adequate and the reasons for the exceptions, (3) how DOD's strategies aimed at promoting long-term competition are changing behavior, and (4) the extent to which DOD's recent requirements address the reasons why only one offer was received for competitive solicitations.[1]

To address these objectives, we used data in the Federal Procurement Data System-Next Generation (FPDS-NG), which is the government's procurement database. We assessed the reliability of FPDS-NG data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) comparing reported data to information from the contract files we sampled. We determined that the data were sufficiently reliable to examine the trends in DOD's use of noncompetitive awards and the factors influencing DOD's competition rate, including the number of awards, dollar amount obligated, and the percentage of contracts awarded competitively overall and by component.

To further examine the trends in DOD's use of noncompetitive awards, we used data from FPDS-NG to identify DOD obligations under competitive and noncompetitive contracts from fiscal year 2009 through 2013, the five most recent years for which complete data were available. For the purposes of this report, we defined noncompetitive obligations to include obligations through contracts that were awarded using the exceptions to full and open competition listed in Federal Acquisition Regulation (FAR) Subpart 6.3 (Other than Full and Open Competition). We also included noncompetitive orders issued under multiple award indefinite delivery/indefinite quantity contracts or under the General Service Administration's schedules program. Specifically, we identified contracts and task orders funded and contracted by DOD. For competitive contract actions, we included contracts and orders coded as "full and open competition," "full and open after exclusion of sources," and "competed under simplified acquisition procedures" as well as orders coded as "subject to fair opportunity" and as "fair opportunity given," and "competitive set aside." For noncompetitive contract actions, we included

[1]For the purposes of this report, we defined adequate justifications as those containing the required elements in accordance with Federal Acquisition Regulation.

contracts and orders coded as "not competed," "not available for competition," and "not competed under simplified acquisition procedures," as well as orders coded as an exception to "subject to fair opportunity", including "urgency," "only one source," "minimum guarantee," "follow-on action following competitive initial action," "other statutory authority," and "sole source."[2] We calculated competition rates as the percentage of obligations on competitive contracts and orders over all obligations on contracts and orders annually. We examined the competition rate at the DOD level and at four components: Air Force, Army, Missile Defense Agency (MDA), and Navy from fiscal year 2009 through 2013. We also reviewed competition reports published by DOD and the military services.

In addition, to obtain insight into what was being purchased noncompetitively we analyzed product service codes data for the products or services that has the highest noncompetitive obligations. These codes indicate what was bought for each contract action reported in FPDS-NG. We calculated the competition rate as the dollars obligated annually on competitive contracts and orders as a percentage of dollars obligated on all contracts and orders. For fiscal years 2009 through 2013, we analyzed the competition rate for products, non-research and development (R&D) services, and R&D services. Also, we identified FPDS-NG data to determine the impact of foreign military sale (FMS) awards on DOD's and the components' competition rates. For FMS awards, we included contracts and orders coded as "foreign funds FMS" in FPDS-NG. We also assessed the exceptions cited in FPDS-NG for new noncompetitive DOD contracts and task orders in fiscal years 2009 through 2013.

To review the extent to which justifications for exceptions were adequate and the reasons for the exceptions, we examined the FAR Part 6 (Competition Requirements), Subpart 8.405 (Ordering Procedures for Federal Supply Schedules), and Subpart 16.505 (Indefinite-Delivery Contracts, Ordering). To determine if recent justification documents complied with these requirements, we randomly selected 15 contracts and orders coded as noncompetitive in FPDS-NG. Specifically, we identified the two-digit product service code categories with the highest dollar obligations. We then randomly selected one contract or task order

[2]We also included as noncompetitive contracts and orders where the extent competed were coded as "follow-on to competed action," which was only available for DOD on awards made prior to fiscal year 2004.

for each of these 15 product service codes from April 1, 2012, through March 31, 2013. We ensured that our selection contained only contracts or orders with a base and options values exceeding $650,000 and that it included at least one award from the Air Force, Army, MDA, and Navy. We also excluded from our review contracts or orders awarded under simplified acquisition procedures and noncompetitive orders that were not subject to multiple award fair opportunity as well as exceptions that do not require a justification, such as international agreements. Our sample was reduced to 14 when we removed 1 contract because it was miscoded. Our final sample included 3 Air Force awards, 5 Army awards, 1 MDA award, and 5 Navy awards. See appendix II for more details on the selected noncompetitive awards.

For the awards in our sample, we requested and reviewed the signed justification and approval documents and additional documentation in the contract files, including the first page of the signed contract, acquisition plan, price negotiation memorandum, documentation of market research, and statement of work/performance work statement and documentation, if any, that the justification was posted on Federal Business Opportunities website including the dates posted.[3] We assessed justifications and additional documentation for the 14 selected contracts or task orders against elements in the FAR such as content, timing, approval, and public availability. As needed, we contacted contract officials involved with awarding these contracts to obtain additional information so we could better understand the analysis conducted that resulted in the decision to award these contracts or orders noncompetitively.

To study how DOD's strategies aimed at promoting long-term competition are changing behavior we selected a nongeneralizable sample of 10 major weapons systems programs. Our selection was based on 31 responses received from program offices on a questionnaire developed for GAO's fiscal year 2013 weapons assessment.[4] We analyzed the survey responses for programs received for that report, where sent a questionnaire to 65 defense acquisition programs and sub-elements of

[3]The General Services Administration is responsible for the operation and maintenance of the Federal Business Opportunities system and website, which allows vendors to review business opportunity notices with the government.

[4]GAO, *Defense Acquisitions: Assessments of Selected Weapon Programs*, GAO-13-294SP (Washington, D.C.: Mar. 28, 2013).

programs to determine the extent to which programs were implementing acquisition reforms. We selected 10 programs that had responded that the program may use, will use, or had used open system architecture, and also responded that the program may acquire, will acquire or had acquired technical data. We did not select programs that had responded that use of open systems architecture or acquisition of technical data rights would not take place or the programs that did not respond to these questions. We selected five major defense acquisition programs and five future major defense acquisition programs. Further, we made certain that our sample contained programs from the Air Force, Army, Navy, and MDA. To learn how these programs are using open systems architecture and acquiring effective data rights to promote competition, and what informed the process that led to these decisions, we contacted officials from each program to request interviews and we reviewed program documents. We also interviewed officials from the Office of the Secretary of Defense and the Office of the Secretary of the Navy on the use of open systems architecture and acquiring effective data rights. In addition, we interviewed competition advocates at the Air Force, Army, MDA, and Navy to discuss recent initiatives to promote long-term competition. We did not evaluate the entire program or the outcome of actions described to increase future competition.

To examine the extent to which DOD's requirements address the reasons why only one offer was received for competitive solicitations, we examined DOD policies, regulations, and other related documents. To determine whether recent awards complied with the requirements, we reviewed a nongeneralizable sample of 15 contracts and task orders. Only awards for which one offer was received in response to a solicitation issued using competitive procedures, as coded in FPDS-NG, were included in the sample. The sample included the largest dollar value award from each of the 15 largest product service categories, measured by obligations, made from April 1, 2012, through March 31, 2013. For one product service code, we selected the second largest award to ensure that we reviewed at least one award from the following components: Air Force, Army, MDA and Navy. The sample included 4 Air Force awards, 5 Army awards, 1 MDA award, and 5 Navy awards. See appendix III for more details on the selected one-offer awards.

For each selected award, we obtained evidence of the solicitation issuance and proposal due date, documentation of cost or price analysis, and other key information. We interviewed contracting officials involved with each award to understand the competitive environment for each award and the reasons why one offer was received. We also e-mailed or

interviewed several vendors who had expressed interest in some of these awards but chose not to submit offers. We assessed recent DOD implementing regulations to determine whether key reasons for one-offer awards were addressed.

We conducted this performance audit from May 2013 to May 2014, 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: Selection of Noncompetitive Justification and Approval Documents

Product or service category	Description of product or service	Reason for reliance on one source	Justification included required elements	Justification documented approval	Publicly available within required timeframe	Dollar value
Air Force						
Space vehicles	Expendable launch vehicles	Unique technology	Yes	Yes	Yes	$1,015,467,962
Guided missiles	Griffin missiles®	Lack of data rights	Yes	Yes	Yes	$85,500,000
Communication, detection and coherent radiation equipment	Mobile phones and mapping devices	Unique technology	No	Yes	Yes	$1,273,577
Army						
Aircraft components and accessories	Overhaul/ upgrade of helicopter main rotor blade	Vendor is the only approved source	Yes	Yes	No[a]	$42,019,356
Ground effect vehicles, motor vehicles, trailers and cycles	M1A1 situational awareness tanks for the Iraqi government	Lack of data rights	Yes	Yes	No	$9,525,768
Other research and development	Experimental vehicle mounted explosive detectors	Unique technology	Yes	Yes	Not applicable[b]	$3,199,952
Electrical and electronic equipment components	Rebuild kits for diesel generator engines	Lack of data rights	Yes	Yes	No	$1,700,918
Maintenance, repair and rebuilding of equipment	Maintenance of heating, ventilation and air conditioning systems	Lack of data rights	Yes	Yes	No	$780,000
Missile Defense Agency						
Professional support	Service and maintenance of management software	Lack of data rights	Yes	Yes	No[a]	$3,053,289
Navy						
Ships, small craft, pontoons, and floating docks	Submarine repair services	Unique technology	Yes	Yes	No[a]	$222,300,000
Defense systems research and development	Situational awareness and communications software	Lack of data rights	No	No	Yes	$7,221,956
Aircraft and airframe structural components	Spare helicopter windshields	Lack of data rights	Yes	Yes	Yes	$5,948,949
Defense other research and development	Integrated air and missile defense software development	Unique Technology	Yes	Yes	No[a]	$5,653,615

Product or service category	Description of product or service	Reason for reliance on one source	Justification included required elements	Justification documented approval	Publicly available within required timeframe	Dollar value
Transportation/ travel/relocation	Helicopter support services	Foreign government identified vendor[c]	No	No	No	$881,914

Source: GAO analysis of DOD documents.

Note: "Yes" means that we found the document was in accordance with regulation. "No" means that we found the document was not in accordance with regulation. "Not applicable" means that the regulation did not apply to the document.

[a]Justification was made publicly available, but outside the required 14-day time frame.

[b]FAR 6.305(f) states that the requirements for public availability do not apply if posting the justification would disclose the executive agency's needs and disclosure of such needs would compromise national security or create other security risks.

[c]The foreign government declared its aviation sector, including operational control of airports and airport systems, a national security asset. Therefore, foreign government officials must authorize all operations within the territorial jurisdiction within their country, and conditioned their approval of U.S. government operations on contracting with a helicopter company that is owned or substantially controlled by its government.

Appendix III: Selected One-Offer Awards

Product or service category	Description of product or service	Total contract value	Days solicitation initially open	Total days solicitation open, with extensions
Air Force				
Defense other research and development	Hardware and software research and development	$593,000,000	29[a]	29
Transportation/travel/relocation	Space launch services	$153,552,050	31	31
Information technology and telecommunications	Air Vehicle Planning System software	$97,580,826	35	35
Other research and development	Modeling and simulation engineering and technical support	$62,988,315	32	34
Army				
Professional support	Sustainment support services for command and control equipment in Afghanistan, Iraq and Kuwait	$178,090,227	20[b]	20
Education/training	Flight training instruction	$164,090,867	32	49
Construction of structures and facilities	Dam improvement in Afghanistan	$61,624,314	29[c]	126
Ammunition and explosives	Artillery charge propellant	$52,399,750	32	42
Maintenance of structures and facilities	Construction industrial support services	$45,000,000	30	30
Missile Defense Agency				
Defense systems research and development	Radar system upgrade	$125,343,762	44	44
Navy				
Communication, detection, and coherent radiation equipment	Tactical portable radios and related parts	$296,701,117	32	32
Engines, turbines, and components	DDG-51 machinery control system modernization	$134,186,364	31	42
Electrical and electronic equipment components	DDG-51 integrated bridge navigation systems modernization	$88,583,682	30	44
Maintenance, repair, and rebuilding of equipment	Submarine electronics and equipment support	$56,331,300	32	32
Automatic data processing equipment, software, supplies and support equipment	Web portal support services	$55,803,056	31	31

Source: GAO analysis of DOD documents.

[a]The response period was miscalculated and a waiver was granted from the requirement to resolicit.

[b]The response period was intentionally short to meet urgent time frames and the award falls under an exception to the one-offer requirements for contingency operations.

[c]This award falls under an exception to the one-offer requirements for contingency operations.

Appendix IV: Comments from the Department of Defense

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

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

APR 29 2014

Mr. William T. Woods
Director, Acquisition and Sourcing Management
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Woods:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-14-395, "DEFENSE CONTRACTING: Early Attention in the Acquisition Process Needed to Enhance Competition," dated March 26, 2014 (GAO Code 121145). Detailed comments on the report recommendations are enclosed.

Sincerely,

Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Enclosure:
As stated

GAO Draft Report Dated MARCH 26, 2014
GAO-14-395 (GAO CODE 121145)

"DEFENSE CONTRACTING: EARLY ATTENTION IN THE ACQUISITION PROCESS NEEDED TO ENHANCE COMPETITION"

DEPARTMENT OF DEFENSE COMMENTS TO THE GAO RECOMMENDATION

RECOMMENDATION: The Government Accountability Office (GAO) recommends that the Secretary of Defense take the following two actions to continue to enhance competition:

- Ensure that existing acquisition planning guidance promotes early vendor engagement and allows both the government and vendors adequate time to complete their respective processes to prepare for competition.

- Establish guidance for when contracting officers should assess and document the reasons only one offer was received on competitive awards, including reviewing requirements to determine if they are overly restrictive and collecting feedback from potential vendors about the reasons they did not submit offers, taking into account dollar value and the likelihood the requirement is a recurring need.

DoD RESPONSE: Concur. Defense Procurement and Acquisition Policy (DPAP) will issue guidance to contracting activities reminding acquisition planners to ensure adequate time is provided for vendors to review requirements and interact with government personnel to enable a clear understanding of the requirement and promote opportunities for competition. The guidance will remind acquisition planners to state requirements in terms of performance, functions, or essential physical characteristics to better enable competition. DPAP will also prepare guidance to address the need for contracting officers to obtain feedback from vendors that expressed interest during the market research phase of competitive solicitations in which only one offer was received to improve future competition opportunities.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

William T. Woods, (202) 512-4841 or woodsw@gao.gov

Staff Acknowledgments

In addition to the contact named above, Penny Berrier, Assistant Director; Alexandra Dew Silva; Lisa Fisher; Laura Greifner, Julia Kennon; Jean McSween; Kenneth Patton; Jose Ramos; Roxanna Sun; and Alyssa Weir also made key contributions to this report.

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