



Global Procurement Summit 2018

Panel: “Blind Spots in Procurement and Contract Management”

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Overview

- 1 What is GAO
- 2 Overview of U.S. Procurement System
- 3 Contract Oversight
- 4 Bid protests
- 5 “Blind Spots” or Current Issues



The diagram features a large dark blue circle at the top containing the text 'Branches of Federal Government'. Below this circle, three smaller light blue circles are arranged horizontally, each containing a white icon: a classical building with columns on the left, the U.S. Capitol dome in the center, and another classical building with a dome on the right. The background of the lower half of the slide is a solid light blue color.

Branches of Federal Government

Judicial Branch:

Court of Federal Claims will be referenced in Protest Discussion



Executive Branch:

Executive Office of the President, Office of Management & Budget, Office of Federal Procurement Policy



Legislative Branch

(Congress):

Government Accountability Office is investigative arm of Congress, mostly conducts audits, but also does bid protests



What is GAO?



- **Background:** Established in 1921, GAO is an independent, nonpartisan agency that is part of the legislative branch.
- **Mission:** Support Congress and improve performance and accountability of the federal government.
- **Work:** Most work done at the request of congressional committees or subcommittees or is mandated by public laws or committee reports; also done under the Comptroller General's authority.
- **Authority:** Broad authority to evaluate federal agency programs and investigate receipt, disbursement and use of public funds, with statutory right of access to agency records, including those considered pre-decisional.

Agency Organization





Sources of GAO Work

- Mandates from the Congress
- Requests from Congressional Committees
- Comptroller General's Initiative

Types of Products



- 96% of work requested or mandated by Congress
- 4% of work initiated under Comptroller General Authority
- Average of 875 products each year – reports, briefings, testimonies, and special publications
- 300 to 400 legal decisions each year

Results of GAO's Work

- Recommendations made: more than 2000 annually
- Recommendations implemented: about 75 percent
- Benefits from GAO work
 - \$63.4 billion in measurable financial benefits
 - A return of \$112 for every dollar invested in us
 - non-financial benefits that helped to change laws, such as improved services to the public; and promote sound management throughout government

Basic Principles of the U.S. Procurement System

- Integrity – both for contractors and federal employees
- Fair and open competition
- Transparency
 - Pre-award
 - Award
 - Post-award
- Value for money

How We Buy: Contracting Process



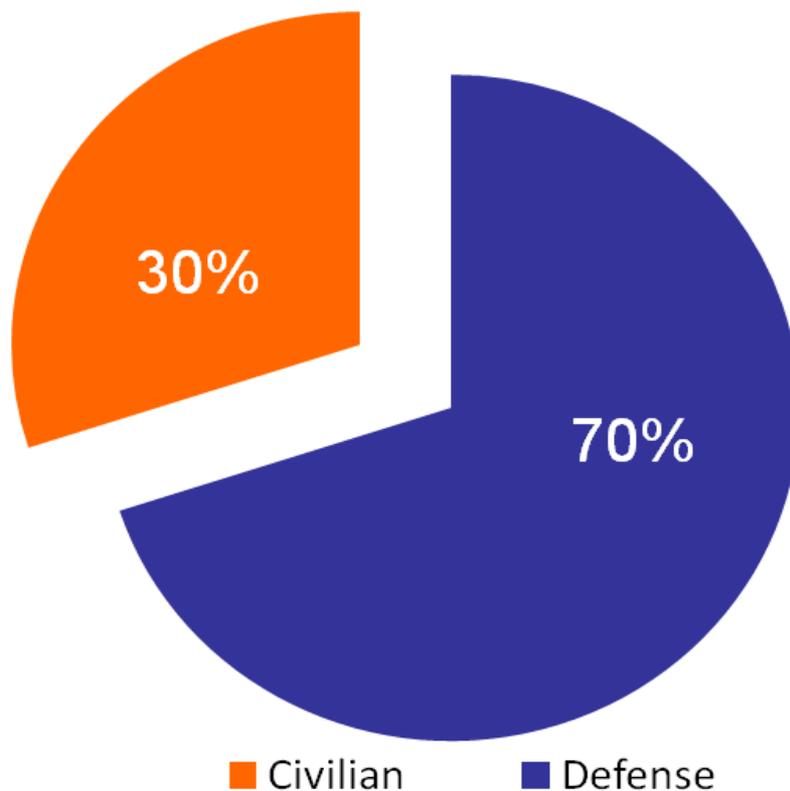
- Requirements analysis
- Procurement planning
- Solicitation preparation
- Evaluation of offers
- Negotiation and discussion
- Selection of awardees
- Contract administration
- Performance monitoring
- Termination and closeout

Criteria:

- Federal Acquisition Regulation (FAR)
- Agency supplements to the FAR, policies, and directives
- Internal controls standards

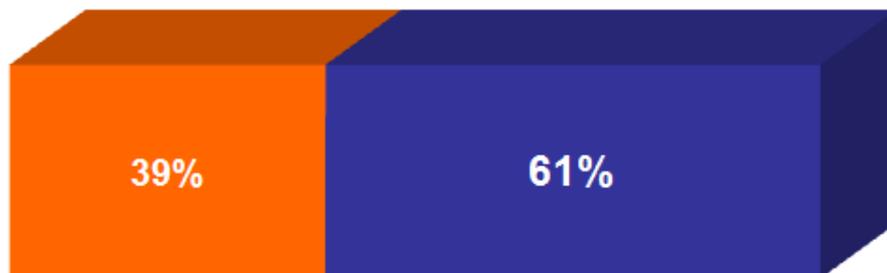
Federal Government: Civilian and Defense Contracts

Annual Contract Obligations

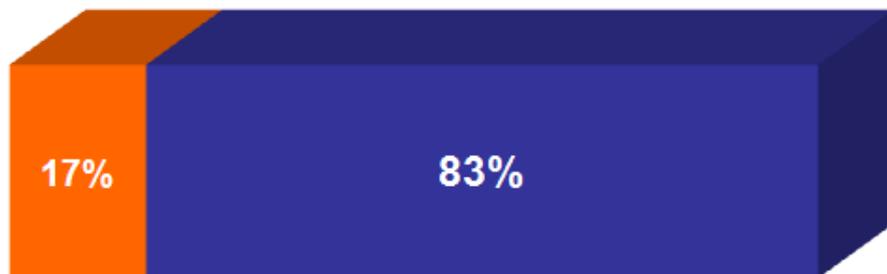


Federal Government: Products and Services

Comparison of Annual Contract Obligations



Services



Products

■ Civilian ■ Defense

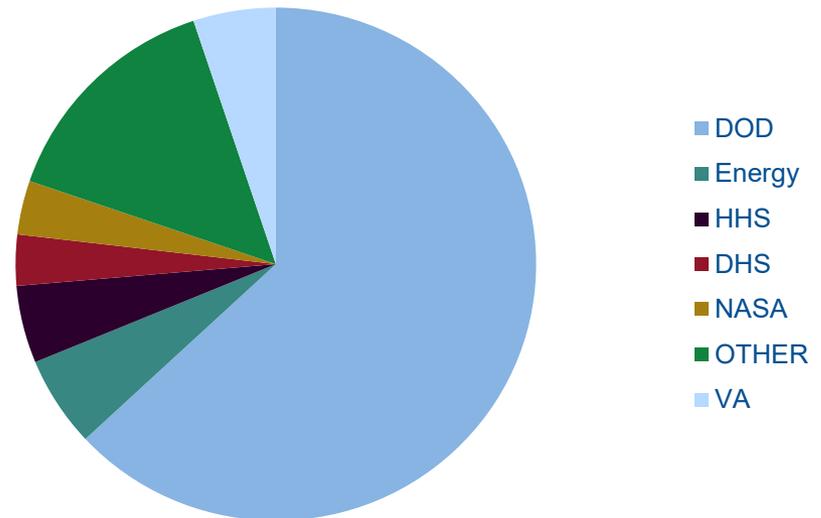
How much does DOD spend on contracts?

- Department of Defense (DOD) spending on contracts in FY 2017 was **\$320 billion**

- By contrast,
 - Energy \$29 billion
 - HHS \$25 billion
 - NASA \$17 billion

- DOD accounted for 63% of contract spending

**Contract Spending,
Fiscal Year 2017**
FPDS-NG



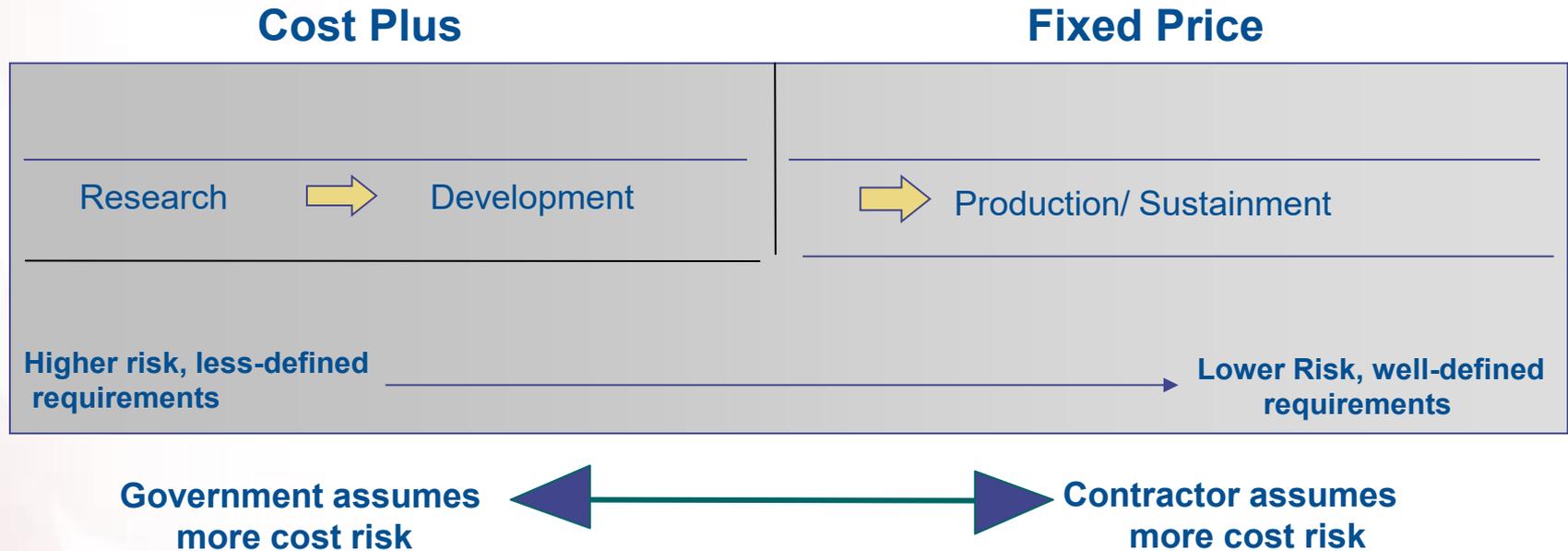
Key Players



Key Players in Contract Oversight

- Agency Inspector Generals (most large agencies/departments)
- Defense Contract Audit Agency (DOD specific)
- Defense Contract Management Agencies (DOD specific)

Contract Type Risks



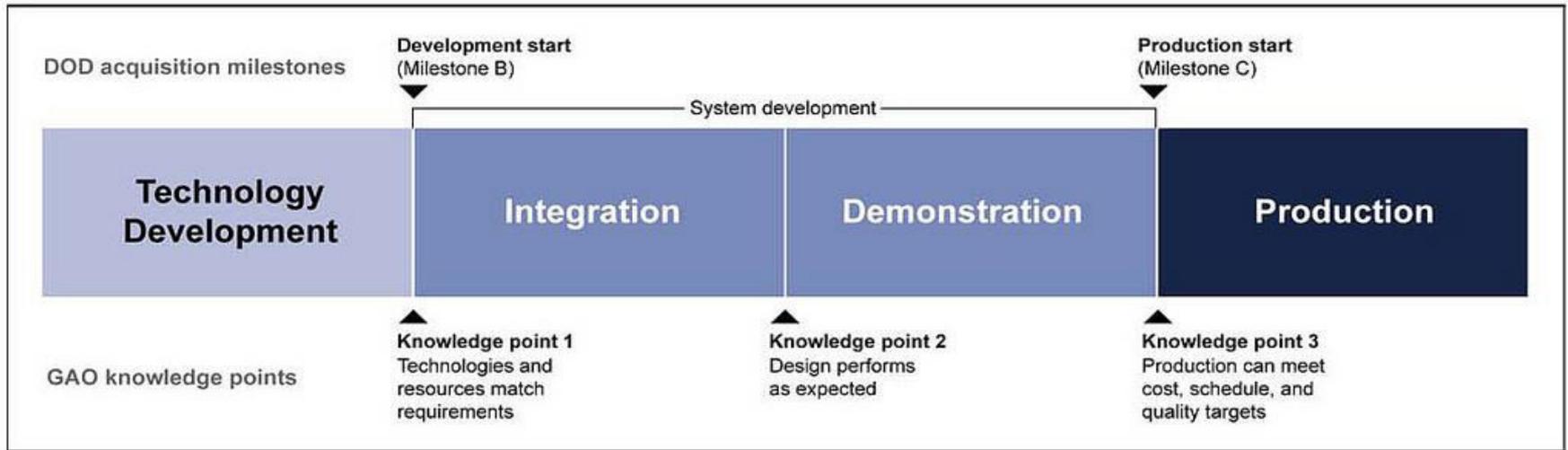
Reducing Risk with Contract Type

Type of Contract	Who Assumes Risk of Cost-over-runs?
Fixed Price	Contractor
Cost Reimbursement	US Government
Time-and-Materials (<i>least preferred</i>)	US Government
Indefinite Delivery Contract	Depends

Common Acquisition Issues

- Programs are proposed and approved without adequate knowledge about requirements and resources needed to execute them.
- Managers rely on optimistic assumptions about requirements, technologies, cost, and schedule; not enough cost or schedule margin to account for risk.
- Requirements are poorly understood at program or change during a program.
- Programs have concurrent acquisition strategies – overlap in development, design, testing, and production – which increases risk.
- Short-term versus long-term mentality among decision-makers.
- Lengthy programs leave them susceptible to changing leadership priorities, changing threats, personnel turnover, funding instability, etc.

What We Buy: Acquisition Cycle



Source: GAO.

Audit criteria:

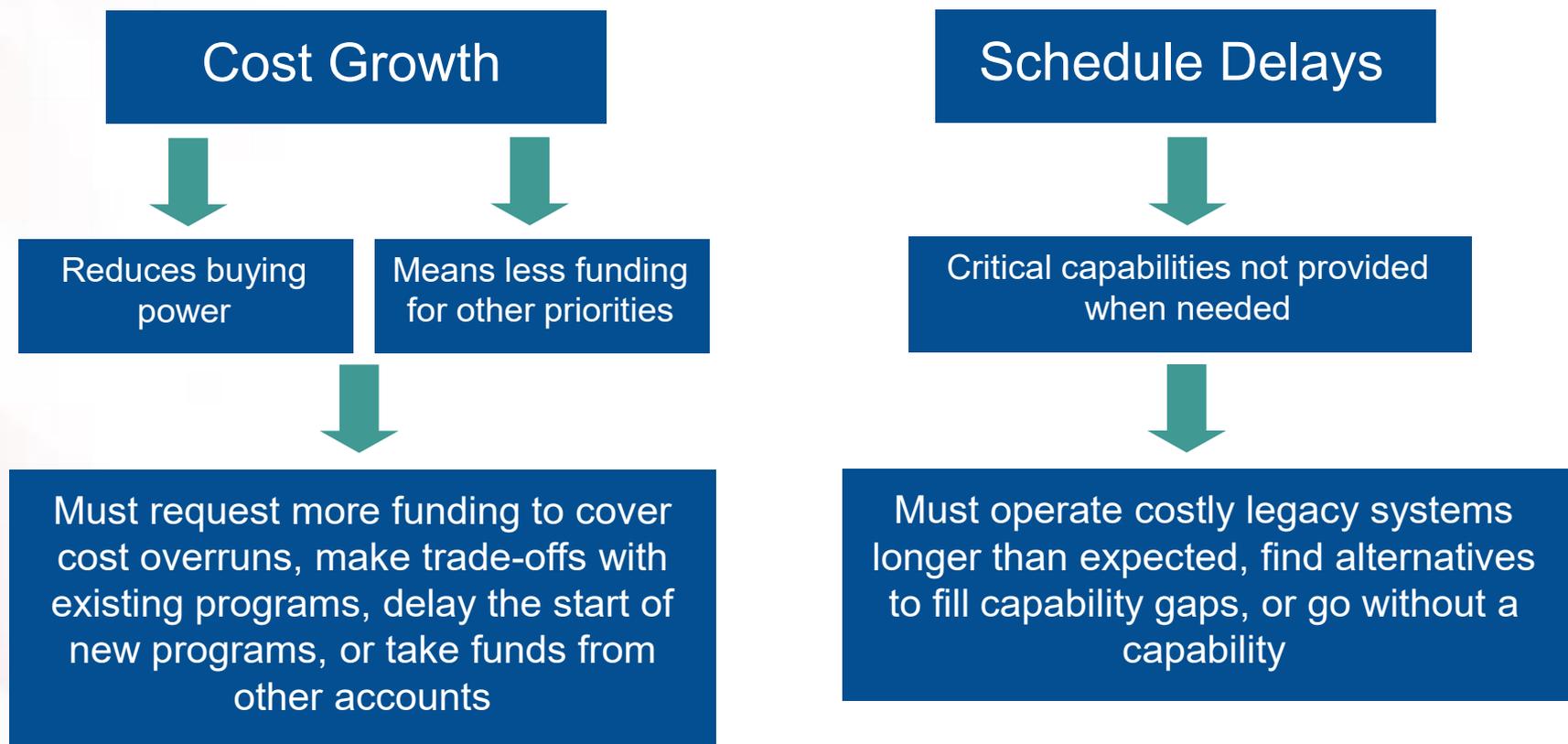
- GAO best practices
- DODI 5000.02 (acquisition policy)



Example of GAO Report Findings: Joint Strike Fighter

- \$336 billion program for family of stealthy strike fighter aircraft for the Navy, Air Force, Marine Corps, and U.S. allies. Program is DOD's most costly and ambitious aircraft acquisition.
- Experienced 45 percent cost growth since its baseline at development start
- Program passed milestones without adequate knowledge and employed a highly concurrent acquisition strategy.
 - Critical technologies were not mature at Milestone B
 - Design was not stable at critical design review, due in part to weight
 - Entered production without demonstrating manufacturing readiness and experienced production inefficiencies
 - Significant software development and testing still to go

Consequences of Poor Acquisition Outcomes



Bid Protests at GAO

- GAO's bid protest function began in 1920s and was codified in the Competition in Contracting Act of 1984
- GAO is to provide for the *independent, expeditious, and inexpensive* resolution of protests
- GAO's bid protest decisions establish a uniform body of law relied on by Congress, the courts, contracting agencies, and the public

Key Elements in the Architecture of the System

- What is a protest?
- Who is allowed to protest?
- Which body of government decides protests?
- Scope of the protest forum's jurisdiction?
- When must the protest be filed?
- What happens to procurement while protest is pending?
 - Interim relief: whether the procurement is put "on hold" while the protest is pending
- Too many incentives or disincentives to protest?
- Forum's power provide meaningful relief?

Time of Protests

- Contractors can protest during all three phases of contracting

Phase 1: Pre-award	Phase 2: Award	Phase 3: Post-Award
<ul style="list-style-type: none"> Solicitations Cancellations of solicitations <p><i>Example: improperly restricts competition</i></p>	<p>Award or proposed contract award</p> <p><i>Example: selection was unreasonable or inconsistent with the solicitation award criteria</i></p>	<p>Termination or cancellation of contract award</p>

- Issues with Contract Administration are called Disputes – not Protests

What evidence is considered by GAO?

- Agency must provide a report responding to the protest within 30 days
 - Protesters must file comments responding to the agency report within 10 days
- GAO may issue a protective order (essentially, a non-disclosure agreement) that allows outside lawyers to review sensitive government or firm documents/information
- GAO may request additional briefings
- GAO may conduct hearings

When must GAO issue its decision?

- GAO must issue a decision in all protests within 100 calendar days
- Approximately half of all GAO protests are decided within the first 30 days (dismissal, voluntary agency corrective action)



GAO's Bid Protest Cases by the Numbers

Category	2017
Cases Filed	2596
Cases Closed	2672
Merit (Sustain + Deny) Decisions	581
Number of Sustains	99
Sustain Rate	17 percent
Effectiveness Rate	47 percent
Alternative Dispute Resolution (ADR) (cases used)	81
ADR Success Rate	90 percent
Hearings	1.70 percent (17 cases)

Blind Spots/Current Issues

- **Bridge Contracts:** Bridge contracts include extensions to existing contracts and short-term noncompetitive contracts to avoid a gap in service. When these are used frequently or for prolonged periods of time, the government is at risk of paying more than it should for goods and services.
Related report: [GAO-16-15](#)

Blind Spots/Current Issues

- **Reverse Auctions:** In recent years, U.S. federal agencies have been using this mechanism—in which sellers compete against each other in an online venue to sell their products or services—as a tool to reduce the price they pay for certain types of items. Related report: [GAO-14-200T](#)

Blind Spots/Current Issues

- **Acquisition Workforce:** Strategic workforce planning—an integral part of human capital management—is an iterative, systematic process that helps organizations determine if they have staff with the necessary skills and competencies to accomplish their strategic goals. Since 2001, GAO has included strategic human capital management as a government high-risk area. Related report: [GAO-16-80](#)

Blind Spots/Current Issues

- **Source Selection Procedures:** Federal Acquisition Regulations establish several types of source selection procedures. Additional guidance requires the use of certain selection procedures, such as lowest price technically acceptable (LPTA), and the determination of whether and when to use these is highly complex. Related report: [GAO-18-139](#)
 - Strategic Sourcing: Strategic sourcing is a process that moves an organization away from numerous individual procurements to a broader aggregate approach. Related report: [GAO-15-549](#)

Blind Spots/Current Issues

GAO's Annual Assessment of Selected Weapons Programs:

Each assessment presents data on the extent to which programs are following a knowledge-based acquisition approach to product development, and other program information. In total, we present information on 68 programs. For 48 programs, we produced two-page assessments discussing the technology, design, and manufacturing knowledge obtained, as well as other program issues. Each two-page assessment also contains a comparison of total acquisition cost from the first full estimate for the program to the current estimate.

Common Name: AGM-88E AARGM

AGM-88E Advanced Anti-Radiation Guided Missile (AARGM)

The Navy's AARGM is an air-to-ground missile for Navy and Marine Corps aircraft designed to destroy enemy radio-frequency-enabled surface-to-air defenses. The AARGM is an upgrade to the AGM-88 High Speed Anti-Radiation Missile (HARM). It will utilize the existing HARM rocket motor and warhead sections, a modified control section, and a new guidance section with Global Positioning System and improved targeting capabilities. The program is following a phased approach for development. We assessed phase I.



Source: U.S. Navy



Program Essentials

Prime contractor: ATK Missile Systems Company
Program office: Patuxent River, MD
Funding needed to complete: R&D: \$0.0 million
Procurement: \$1319.6 million
Total funding: \$1319.6 million
Procurement quantity: 1767

Program Performance (fiscal year 2012 dollars in millions)

	As of 07/2003	Latest 06/2011	Percent change
Research and development cost	\$537.2	\$722.2	13.4
Procurement cost	\$953.6	\$1180.0	22.5
Total program cost	\$1,600.7	\$1,902.3	18.8
Program unit cost	\$,894	\$,991	10.9
Total quantities	1790	1919	7.2
Acquisition cycle time (months)	85	104	22.4

The AARGM program entered production in September 2008 with its critical technologies mature and design stable, but without demonstrating its production processes were in control. The Navy halted operational testing in September 2010 after a series of missile failures caused by software issues and poor parts quality. The program reentered operational testing in August 2011 after Navy testers concluded that the anomalies identified during the program's first attempt at operational testing had been adequately addressed. Acceptance flight tests have screened out missiles of poor quality and validated recent improvements in the missile's reliability rate. However, concerns about the reliability and quality of the missiles being delivered are still being resolved.

Attainment of Product Knowledge

As of January 2012	
Resources and requirements match	
• Demonstrate all critical technologies in a relevant environment	●
• Demonstrate all critical technologies in a realistic environment	●
• Complete preliminary design review	●
Product design is stable	
• Release at least 90 percent of design drawings	●
• Test a system-level integrated prototype	●
Manufacturing processes are mature	
• Demonstrate critical processes are in control	○
• Demonstrate critical processes on a pilot production line	●
• Test a production-representative prototype	●

● Knowledge attained ○ Knowledge not attained **** Information not available Not applicable

Common Name: AGM-88E AARGM

AGM-88E AARGM Program

Technology and Design Maturity

The AARGM program's critical technologies are mature and its design is stable. According to the program office, AARGM's two critical technologies--the millimeter-wave software and radome--were mature when the program entered production in September 2008. However, according to reports from DOD's independent test organization--the Director, Operational Test and Evaluation (DOT&E)--in 2009 and 2010, millimeter-wave sensors continue to pose a risk to the missile's reliability. The number of expected design drawings has also continued to increase since the start of production, but the missile's design remains stable.

Production Maturity

The AARGM program's production processes were not mature when it entered production in September 2008 and the program has experienced quality problems that have resulted in test failures and reliability issues. According to the program office, the contractor has identified 18 critical manufacturing processes, 8 of which are currently in statistical control. The program plans to demonstrate that all 18 processes are in control during its second initial production run, which is scheduled for completion by the end of the second quarter of fiscal year 2012. Since entering production, the program has experienced multiple production delays and operational test failures. According to Defense Contract Management Agency (DCMA) and DOT&E officials, the test failures were caused by both hardware and software issues. The hardware failures involved multiple subcontractors and were primarily attributed to poor parts quality. According to a DCMA official, supplier assessments conducted in the aftermath of the program's test failures found several problems with the prime contractor's management of its suppliers. For example, not all program requirements had flowed down to the subcontractor level, nor had subcontractors received updated drawings as design changes were made.

According to DCMA officials, the program office and prime contractor have taken actions to address the quality issues; however, in July 2011, Navy test officials evaluating the program's readiness to reenter operational testing reported that the

reliability of the missiles coming out of the factory had not improved. The Navy has implemented additional controls to identify missiles of poor quality, in particular, requiring each missile to be flight tested for 3 hours before accepting them. This testing detected early unreliable missiles and supports the effectiveness of subsequent quality improvements. However, additional flight testing will be necessary to fully verify these actions.

Other Program Issues

The AARGM program has experienced multiple test delays, which have delayed the planned delivery of initial operational capability until April 2012. The program began operational testing in June 2010 after a 9-month delay due in part to concerns from DOT&E about the production-representativeness of test missiles. The Navy decertified the program from operational testing in September 2010 after hardware and software issues caused a series of missile failures. The program conducted additional testing between November 2010 and June 2011 and received approval to reenter operational testing after program and testing officials concluded that the anomalies identified during the program's first attempt at operational testing had been adequately addressed.

Program Office Comments

In commenting on a draft of this assessment, the Navy noted that the AARGM program continues to pursue should cost initiatives, awarding low-rate production contracts within should cost targets for planned quantities. AARGM reentered integrated testing in coordination with DOT&E and Navy testers in January 2011 with recreated production assets and new software. All previous anomalies were addressed. An operational test readiness review was conducted in July 2011 and operational flights began in August. Since January 2011, AARGM has flown more than 300 hours on five F-18 variants, was successfully shot seven times, and will obtain initial operational capability in the third quarter of fiscal year 2012. The Navy stated that reliability continues to improve and is now over twice the threshold requirement. The program has improved production processes, developing the necessary repeatability and quality to request a full-rate production decision in June 2012. The Navy also provided technical comments, which were incorporated as appropriate.

A

B

E

H

C

D

F

G

I

A Program description

B Illustration or photo of system

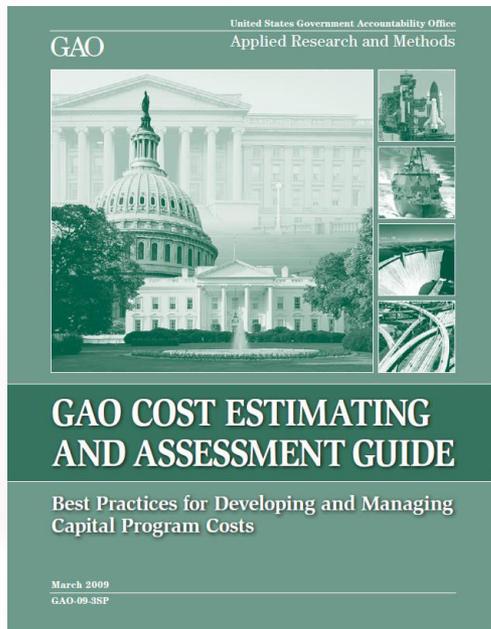
C Schedule timeline identifying key dates for the program including the start of development, major design reviews, production decisions

F Brief summary describing the program's implementation of knowledge-based acquisition practices and its current status

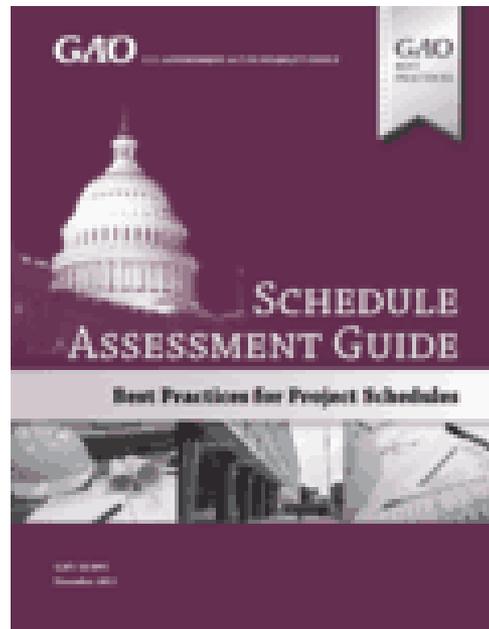
G Attainment of Product Knowledge Depiction of selected knowledge-based practices and the program's progress in attaining that knowledge

Tools for Decision Makers and Program Managers

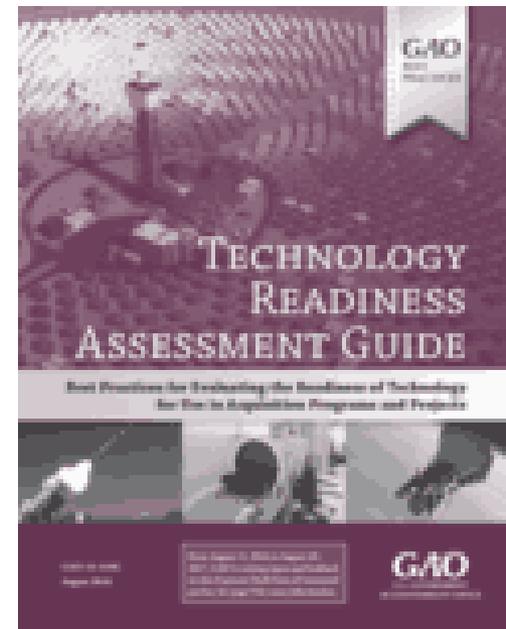
- Resources for Federal Managers:
http://www.gao.gov/resources/federal_managers/overview



[GAO-09-3SP](#)



[GAO-12-120G](#)



[GAO-16-410G](#)



Where can I find out more?

- GAO website: www.gao.gov
- Watchblog: <http://blog.gao.gov/>
- Podcasts: <http://www.gao.gov/podcast/watchdog.html>
- Facebook: <https://www.facebook.com/usgao>
- Twitter: <https://twitter.com/usgao>