



Highlights of [GAO-06-966](#), a report to the Subcommittee on Energy and Water Development, Committee on Appropriations, House of Representatives

Why GAO Did This Study

The U.S. Army Corps of Engineers (Corps) is authorized under the River and Harbor Act of 1922 to issue contracts with a continuing contracts clause to carry out certain projects. This allows the Corps to award multi-year contracts without having received appropriations to cover the full contract amount. The Corps has used these contracts for decades, but modified their use in 2005, in response to congressional committee concerns that their use may have been ineffective.

GAO was asked to determine (1) the number and dollar amount of continuing contracts the Corps awarded during fiscal years 2003–2005; (2) the circumstances in which the Corps used continuing contracts in fiscal years 2003–2005; and (3) how the Corps' process for approving and using continuing contracts changed since 2005, and whether the changes reduced the use of these contracts. For these objectives, GAO reviewed the Corps' contracting data, a random sample of 107 continuing contracts, and districts' requests to use continuing contracts.

What GAO Recommends

GAO recommends that the Corps eliminate its routine use of continuing contracts, establish meaningful criteria on the use of such contracts, and monitor its use of these contracts. In its comments on the draft report, the Department of Defense agreed with GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-06-966.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu Mittal at (202) 512-3841 or mittala@gao.gov.

ARMY CORPS OF ENGINEERS

Improved Monitoring and Clear Guidance Would Contribute to More Effective Use of Continuing Contracts

What GAO Found

The Corps does not know how many continuing contracts it awarded in fiscal years 2003–2005 or the dollar value of these contracts, because it does not track information on the contracts awarded with a continuing contracts clause. Although the Corps was directed to provide the appropriations committees with quarterly reports on their use of continuing contracts in fiscal year 2006, GAO found that the information was inaccurate. For example, at least 13 continuing contracts were missing from the reports and 10 continuing contracts had inaccurate values. Because the Corps could not provide information on the number of continuing contracts awarded for fiscal years 2003–2005, GAO analyzed the Corps' contracting data and determined that 1,592 contracts awarded in these 3 years most likely included and used a continuing contracts clause. These contracts were expected to cost more than \$3.96 billion when awarded and would generally be funded to cover the full contract amount (fully funded) pursuant to requirements of the Antideficiency Act. However, continuing contracts are exempt from the act. Consequently, the Corps only obligated \$655 million when it awarded these contracts, leaving an outstanding commitment of about \$3.30 billion to be covered by future years' appropriations.

During fiscal years 2003–2005, the Corps' standard operating practice was to include a continuing contracts clause in most contracts. As a result, many continuing contracts were used for short term and low dollar value contracts. The Corps might have been able to fully fund some of these contracts if, at the time of award, the Corps had adequate appropriations to cover the contract amount. For example, for the 107 continuing contracts GAO reviewed, about one-third were valued at less than \$1 million. In only 8 of 107 continuing contracts that GAO reviewed, the contract value was more than \$10 million and involved work that required more than 12 calendar months to complete. The Corps also used continuing contracts extensively to move funds among projects and help meet its policy of expending all available appropriations in the fiscal year appropriated. For fiscal years 2003–2005, GAO found that over half of the contracts reviewed were awarded during the last quarter of the fiscal year as continuing contracts with little or no associated obligations, thereby shifting the obligations to pay for these contracts into future years.

The Corps responded to congressional committee direction in 2005 and again in 2006 to monitor the use of continuing contracts by, among other things, requiring districts to obtain headquarters' approval before using such contracts. The new processes reduced the use of continuing contracts, but have not prevented the approval of continuing contracts for short-term, low dollar value contracts. This occurred because the Corps established criteria on when contracts should be fully funded, but did not establish criteria for when continuing contracts should be used.