

Subchapter 3043.70 Undefined Contract Actions**3043.7000 Definitions.**

"Undefined contract action" (UCA) means any contract action for which the contract terms, specifications, or price are not established before performance is begun under the action, and includes, but is not limited to:

- (1) *Change Orders*. All modifications/supplemental agreements issued under the "Changes" clause when the price for the change has not been negotiated; and
- (2) Letter Contracts (See HSAM 3016.603).

3043.7001 Policy.

Undefined actions shall:

- (a) Be used only when:
 - (1) Negotiation of a definitive contract action is not possible in sufficient time to meet the Government's requirements; and
 - (2) The Government's interest requires that the contractor be given a binding commitment so that contract performance can begin immediately.
- (b) Be as complete and definite as feasible under the circumstances.

3043.7002 Limitations**3043.7002-1 Authorization.**

- (a) The contracting officer shall obtain prior written approval for use of a UCA as follows:
 - (1) From the Head of the Contracting Activity (HCA) if the estimated cost of the definitive contract action is expected to exceed \$1 million.
 - (2) From the Chief of the Contracting Office (COCO), without redelegation, if the estimated cost of the definitive contract action is not expected to exceed \$1 million.
- (b) Modifications that add to the scope of a UCA after performance has begun require approvals from the official specified in (a) (1) or (2) above, as appropriate.
- (c) Requests for approval discussed in (a) and (b) above shall fully explain (i) the need to begin performance prior to definitization, and (ii) the adverse impact on agency requirements resulting from delays in beginning performance.

3043.7002-2 Price Ceiling.

UCAs shall include a not-to-exceed price.

3043.7003 Administration of UCAs.

Contracting officers shall negotiate the UCA and issue the definitized contractual document within six months after the UCA has been issued to the contractor.

3043.7004 UCA monitoring system and report.

DHS uses the Enterprise Reporting Application (ERA) to record and monitor progress on the management of UCAs. ERA includes summary reports of UCAs that reflect the status of UCAs. The COCO shall (a) ensure that all UCAs, except for UCAs on classified contracts, are entered into the ERA under the UCA tab, (b) regularly monitor the ERA reports, and (c) ensure that progress is made to definitize the UCAs within the six-month period (except see FAR 16.603-2 for additional requirements for letter contracts.) Also, see HSAM 3016.603-2(c) for COCO approval to extend the definitization schedule under letter contracts.