



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

APR 16 2020

The Honorable James M. Inhofe  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized report and required data referenced by both Acts will be submitted electronically via the Department of Defense Secure Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,



Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Jack Reed  
Ranking Member



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

APR 16 2020

The Honorable Richard C. Shelby  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized OT report and data required are referenced by both Acts on the Department's OTs for FY 2019 and the first quarter of FY 2020 will be submitted electronically via the Department of Defense Secure Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,

Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Patrick J. Leahy  
Vice Chairman



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

APR 15 2020

The Honorable Richard C. Shelby  
Chairman  
Subcommittee on Defense  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized OT report and data required are referenced by both Acts on the Department's OTs for FY 2019 and the first quarter of FY 2020 will be submitted electronically via the Department of Defense Secure Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,

A handwritten signature in black ink that reads "Ellen M. Lord".

Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Richard J. Durbin  
Ranking Member



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

APR 16 2020

The Honorable Adam Smith  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized OT report and data required are referenced by both Acts on the Department's OTs for FY 2019 and the first quarter of FY 2020 will be submitted electronically via the Department of Defense Secure Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,

A handwritten signature in cursive script that reads "Ellen M. Lord".

Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable William M. "Mac" Thornberry  
Ranking Member



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

APR 16 2020

The Honorable Nita M. Lowey  
Chairwoman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized OT report and data required are referenced by both Acts on the Department's OTs for FY 2019 and the first quarter of FY 2020 will be submitted electronically via the Department of Defense Safe Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen M. Lord".

Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Kay Granger  
Ranking Member



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

ACQUISITION  
AND SUSTAINMENT

The Honorable Peter J. Visclosky  
Chairman  
Subcommittee on Defense  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20510

APR 16 2020

Dear Mr. Chairman:

Section 873 of the John S. McCain National Defense Authorization Act (NDAA) for FY 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), requires the Secretary of Defense to submit a report to the congressional defense committees on the use of the other transaction (OTs) by December 31, 2018, and annually thereafter through December 31, 2023. Additionally, the Joint Explanatory Statement (JES), page 153, accompanying the Department of Defense (DoD) and Labor, Health and Human Services, and Education Appropriations Act, 2019, (Public Law 115-245) requests the Secretary of Defense report to the House and Senate Appropriations Committees on other transaction authority beginning not later than 30 days after the first quarter of FY 2019 and quarterly thereafter.

This report covers the Department's use of OTs for prototype projects for two periods: fiscal year 2019 and the first quarter of FY 2020. The finalized OT report and data required are referenced by both Acts on the Department's OTs for FY 2019 and the first quarter of FY 2020 will be submitted electronically via the Department of Defense Secure Access File Exchange. The Department plans to submit the annual reporting requirement for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020, and the second, third and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act, and any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act, by the end of January 2021 to provide time to verify and validate the inputs received from the Components.

I am sending identical letters to the other congressional defense committees.

Sincerely,

Ellen M. Lord

Enclosure:  
As stated

cc:  
The Honorable Ken Calvert  
Ranking Member

**Report to Congress  
on the  
Use of Other Transactions (OT)  
Authority for Prototype Projects in  
FY 2019 and First Quarter of FY 2020**



Office of the Under Secretary of Defense  
for Acquisition and Sustainment

April 2020

The estimated cost of this report for the Department of Defense is approximately \$135,000 in Fiscal Year 2020 Quarter 2.

This includes \$135,000 in DoD labor.

Generated on 2020 March 13 RefID: C-4C13170

# **DEPARTMENT OF DEFENSE USE OF OTHER TRANSACTIONS AUTHORITY FOR PROTOTYPE PROJECTS**

## **Introduction**

Pursuant to section 873 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Public Law 115-232), as amended by section 819 of the NDAA for FY 2020 (Public Law 116-92), the Department of Defense (DoD) submits this report to the congressional defense committees on the use of the Other Transactions (OT) Authority for FY 2019 and the first quarter of FY 2020. In addition, page 153 of the Joint Explanatory Statement (JES) accompanying the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act for 2019 (Public Law 115-245) requests that the Department report to the House and Senate Appropriations Committees on OTs on a quarterly basis beginning in FY 2019. This report includes data responsive to both of the references.

The Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD (A&S)), Defense Pricing and Contracting (DPC) is responsible for preparing the report and promulgation of policy and guidance on OTs for prototype projects (i.e., title 10 U.S.C. § 2371b). This report to Congress combines the authorization and appropriation requirements into a single annual report due to the significant resources, time, complexity, and coordination necessary to prepare the response. Collecting, consolidating, and analyzing the data required a manual data call to the DoD components with OT authority because the existing Federal Procurement Data System—Next Generation (FPDS-NG) module for OT reporting does not capture all of the data elements and information required for the report.

The Acting Principal Director of DPC obtained inputs from the military departments and defense agencies on activities that used the title 10 U.S.C. § 2371b authority. The full report, provided via the DoD SAFE web app, lists each active OT award reported in FPDS-NG for FY 2019 and first quarter of FY 2020, as of February 6, 2020, with the following data elements: the contracting agency, major command, contracting office, award/effective date and completion date (period of performance), product service code, awardee/vendor, award value, dollars obligated, agreements officer, appropriation, budget line item, consortium, total expenditures for the reporting period, purpose/program goal/description, status of project, brief description of successes/challenges for case examples. The OTs include follow-on production, which are identified in the report, and include the estimated cost, period of performance, deliverables, delivery dates, and source of funding.

## **Background**

Congress has provided the Department additional authority and flexibility in the use of OTs for prototypes to spur innovation and attract non-traditional and small businesses with leading edge technologies to enable more rapid acquisition of innovative technologies. Therefore, the Department is pursuing innovative business practices to increase the use of OT authorities to provide the agility and speed necessary to outpace our adversaries' capabilities. The title 10 U.S.C. § 2371b authority offers the Department broad flexibility in terms of the award process. Virtually all terms and conditions of an OT are negotiable between the two



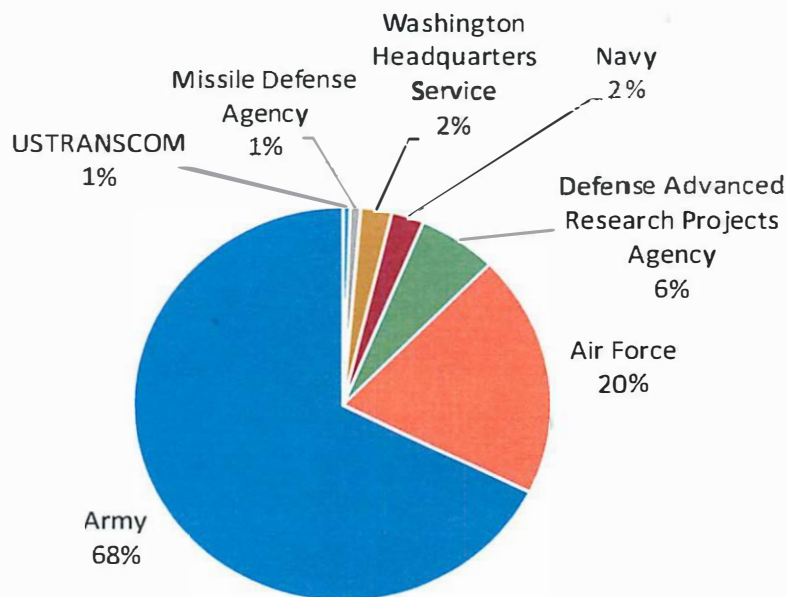
parties, including data rights, payment terms, and dispute processes. OTs for prototype project authority was expanded to all DoD components with acquisition authority in a USD(A&S) policy memorandum in November 2018. The Department also released an updated “Other Transactions Guide” in November 2018, to help educate the acquisition community on their appropriate use. As a result of Congress’s provisions and the Department’s efforts, the acquisition community is increasingly using OTs to acquire innovative products and services in support of rapidly evolving Warfighter needs.

### Analysis

The Department has experienced significant growth in the use of OTs for prototype projects over the past four fiscal years as measured by the total number of OT actions and dollars obligated set forth in the table below for FY 2016 through the first quarter of FY 2020.

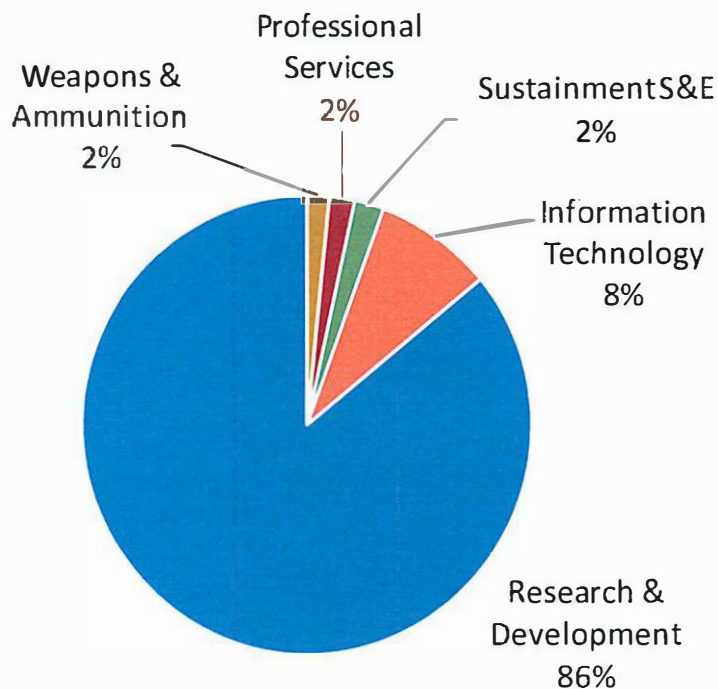
Department of Defense		
Fiscal Year	Total Actions	Total Dollars
2016	308	\$1,392,828,813
2017	501	\$2,200,262,428
2018	843	\$3,982,545,323
2019	1,704	\$7,378,804,576
2020 Q1	501	\$1,007,862,610

The table shows the increase in number of OTs and amount obligated for these years, with the number of actions increasing from 308 in FY 2016 to 1,704 in FY 2019 and total dollars obligated increasing from \$1.39 billion to \$7.38 billion. Over three-quarters (78 percent) of the FY 2019 and the first quarter of FY 2020 obligations were made on competitively awarded instruments.



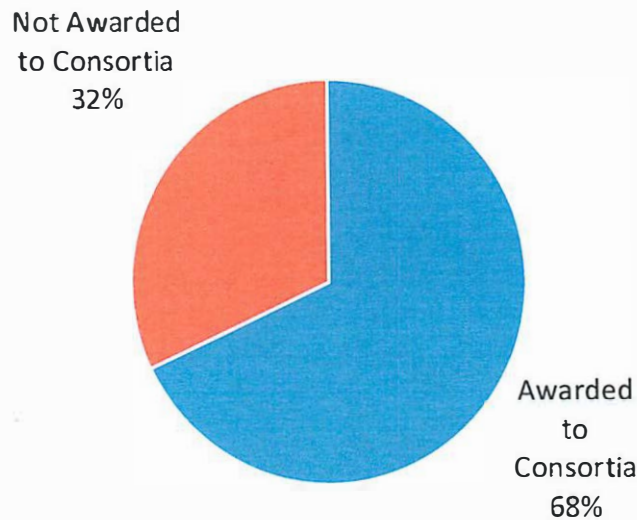
**Figure 1 – FY 2019 and First Quarter of FY 2020 OT Obligations by Contracting Agency**

On the previous page, Figure 1 presents the FY 2019 and first quarter of FY 2020 obligations by DoD Contracting Agencies with OT for prototype project authority. Consistent with prior years, the Army spending was the largest at 68 percent of obligations followed by the Air Force at 20 percent, Defense Advanced Research Projects Agency (DARPA) at 6 percent, Washington Headquarters Service (WHS) and Navy at 2 percent, and Missile Defense Agency and U.S. Transportation Command (USTRANSCOM) at approximately 1 percent each. The Army obligations are more than the other components because they awarded OTs on behalf of others; and in some cases through Army awarded consortia OTs that components can leverage to meet their own requirements.



**Figure 2 – FY 2019 and First Quarter of FY 2020 Obligations by Category Management Group**

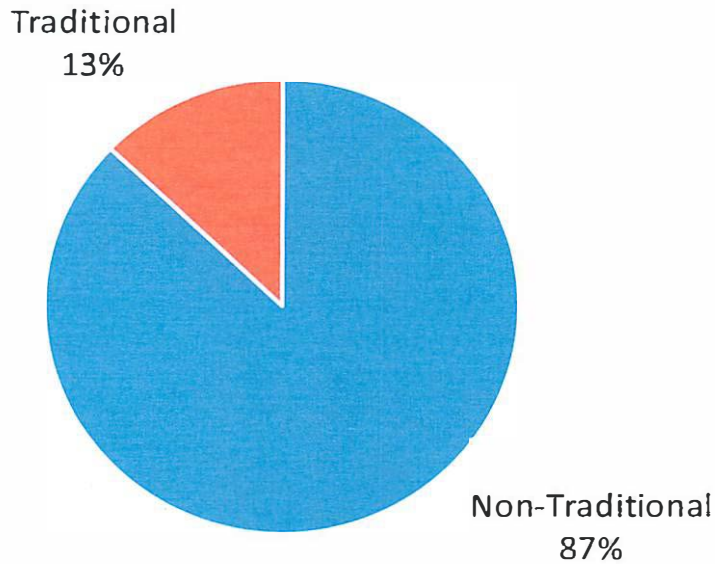
Figure 2 shows the distribution of FY 2019 and first quarter of FY 2020 OT obligations by Category Management Group based on product service code descriptions. The authority under title 10 U.S.C. § 2371b is designated for carrying out OT prototype projects focused on research, development, test, and evaluation activities directly relevant to enhancing the mission effectiveness of the military. As a result, the majority (86 percent) of FY 2019 and first quarter FY 2020 obligations are under the research and development category, further separated into phases for systems development (57 percent), technology base (20 percent), and operational systems development (9 percent). Information technology products and services, sustainment supplies and equipment, professional services, and weapons and ammunition categories have much smaller percentages of the remaining obligations.



**Figure 3 – FY 2019 and First Quarter of FY 2020 OTs with Consortia Breakout**

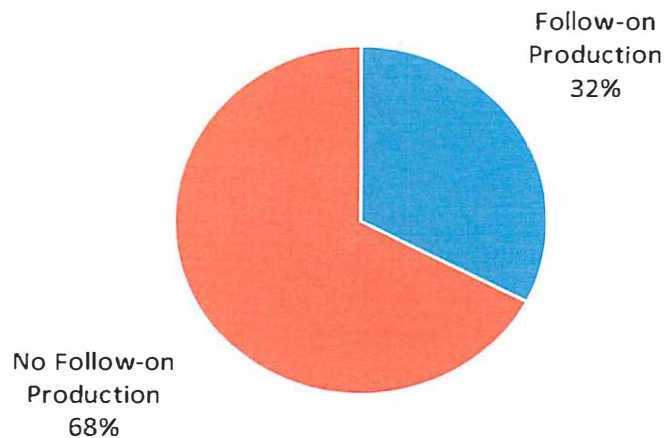
Figure 3 provides a breakout of how many of the FY 2019 and first quarter of FY 2020 FPDS-NG reported OT prototype project awards were to consortia (68 percent) and to other than consortia (32 percent). Each consortia is made up of contractors, nonprofit organizations, and academic institutions in a specific technology area established to offer the Department a pool of stakeholders to help develop new technologies or processes that further innovation. OTs for prototype projects permit numerous types of arrangements, including awards to a consortium for performance by its members, a single company, prime-subcontractor, joint venture, or partnership. Each arrangement has benefits and challenges depending on the nature of the requirement, and the consortia model is no different. In each case, the government acquisition team is expected to possess the knowledge, business acumen, and judgment necessary to determine the appropriate arrangement for the requirement.

The Department considers the consortium model beneficial to help stimulate innovation and attract non-traditional contractors. However, there are challenges of using the consortium model, including FPDS-NG reporting, the presence of competition for awards to be made by consortium managers, accountability of performance with the authorized agent, and intellectual property rights.



**Figure 4 – FY 2019 and First Quarter of FY 2020 OTs by Traditional and Non-Traditional Contractors**

Figure 4 above shows the breakout of OT prototype project obligations in FY 2019 and first quarter of FY 2020 by the number of Traditional and Non-Traditional Defense Contractors (NDCs). In FY 2019 and first quarter of FY 2020, 87 percent of obligations went to NDCs and the other 13 percent went to traditional contractors. Congress authorized OTs for prototype projects to bolster innovation in military use, and the OT authority facilitates acquisitions with NDCs by removing some of DoD’s traditional contracting rules. The definition of an NDC (paraphrased from 10 U.S.C. 2302(9)) is a company that has not done business with DoD within the last year, or does not meet the full coverage requirements for cost accounting standards. This definition permits a large number of entities, including nearly all small business concerns, to be considered NDCs.



**Figure 5 - FY 2019 and First Quarter of FY 2020 OTs with Follow-on Production**

On the previous page, Figure 5 represents the breakout of OT prototype projects with follow-on production included in the prototype award. Follow-on production may only be included when the underlying prototype was competitively awarded, and the prototype project was successfully completed. In FY 2019 and first quarter of FY 2020, 32 percent of OT prototype projects included follow-on production capability while the other 68 percent did not include the production capability.

## **Conclusion**

As noted in the introduction, FPDS-NG does not capture all of the data elements and information required for this report, resulting in inconsistent and incomplete reporting. DPC coordinated with the components to prepare the information in Appendix A, which includes a listing of all OTs for prototype projects actions reported in FPDS-NG for FY 2019 and first quarter of FY 2020 as of February 6, 2020. DPC continues to work with the components to establish standard reporting formats to improve future collection of OT data in support of the congressional authorization reporting requirements. The planned reporting format will improve transparency and accountability on the use of OTs for prototype projects. This system will help increase visibility and tracking of all prototype OT actions, including those issued under consortia arrangements. Collectively, these actions will support the increased use and provide proper oversight of the OTs.

The Department plans to submit the next report to congress on the use of OTs by the end of January 2021, to provide time to verify and validate the inputs received from the Components. This report will fulfill the requirements for DoD's Use of OTs in FY 2020 under section 873 of the FY 2019 NDAA, as amended by section 819 of the NDAA for FY 2020; and the second, third quarter, and fourth quarter FY 2020 reporting requirements on DoD's Use of OTs under the JES of the 2019 Appropriations Act. Additionally, any use of OTs subject to section 13006 of the Coronavirus Aid, Relief, and Economic Security Act will also be covered in the FY 2021 report.

## **Appendix A: Complete list of active OT awards reported in the Federal Procurement Database System – Next Generation for FY19 and First Quarter FY20**

This report will be provided to Congress digitally via the Department of Defense (DoD) Secure Access File Exchange web application.

Within the DoD, this report will be provided digitally via e-mail.