

GAO Highlights

Highlights of [GAO-25-107069](#), a report to congressional committees

Why GAO Did This Study

Some employers require arbitration—in which disputes are resolved by a neutral third party—as a condition of employment. In 2010, Congress prohibited DOD's use of appropriated funds unless DOD contractors agreed that they would not require arbitration of claims related to sexual assault or harassment, or certain civil rights violations. Instead, covered contractors must allow employees to seek relief in a court of law for such claims.

A House report includes a provision for GAO to examine the use of mandatory arbitration agreements by government contractors. GAO examined the extent to which DOD and its contractors implemented the restriction on the use of mandatory arbitration in selected contracts.

GAO selected and analyzed a nongeneralizable sample of 14 contracts from the DOD components with the highest contract obligations in fiscal year 2023 (the Army, Navy, Air Force, and DLA). The estimated contract value of these contracts ranged from \$3.7 million to several valued at more than \$100 million. GAO also interviewed contracting officials and contractor representatives; and analyzed relevant contractor documents.

What GAO Recommends

GAO recommends that DOD assess the extent to which DLA's ongoing contracts include the mandatory arbitration clause as required; and determine what actions, if any, are needed to improve compliance for ongoing contracts. In an email response, DOD concurred with GAO's recommendation.

View [GAO-25-107069](#). For more information, contact Mona Sehgal at (202) 512-4841 or sehgal@gao.gov.

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DEFENSE CONTRACTING

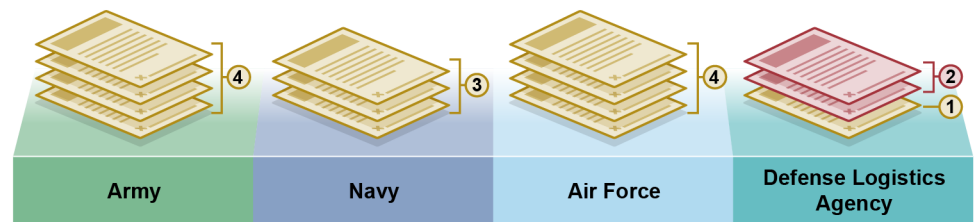
DOD Is Taking Steps to Restrict Mandatory Arbitration, but Additional Action Needed

What GAO Found

A former employee of a Department of Defense (DOD) contractor alleged sexual assault by her colleagues while overseas during the Iraq War. The employee sought to bring these claims in court but her employer required arbitration, as the employee had signed an agreement to do so as a condition of employment.

DOD contracting officers correctly included a clause, provided in the Defense Federal Acquisition Regulation Supplement, restricting contractors' use of mandatory arbitration for certain disputes in 12 of the 14 contracts that GAO reviewed. The clause applies to contracts for noncommercial products and services over \$1 million, among other criteria. Additionally, GAO found that the contractors for the 12 selected contracts that included the clause limited their use of mandatory arbitration appropriately. Nine contractors generally provided documentation showing that they did not incorporate mandatory arbitration in any of their workplace policies for resolving employee claims. The remaining three contractors provided workforce policies that included the use of mandatory arbitration for resolving some claims, but not for those claims covered by the clause.

Inclusion of the Mandatory Arbitration Clause in DOD Contracts Reviewed by GAO



- Selected contracts that included the clause restricting mandatory arbitration
- Selected contracts that did not include the clause restricting mandatory arbitration

Source: GAO analysis of Department of Defense (DOD) contracts meeting the criteria for inclusion of the clause at Defense Federal Acquisition Regulation Supplement 252.222-7006. | [GAO-25-107069](#)

The Defense Logistics Agency (DLA) did not include the clause in two of its three contracts that GAO reviewed. The contracting officer overseeing the two contracts told GAO they misinterpreted the effective date of the clause. Furthermore, the contract writing system used to award both contracts recommended, but did not require, that contracting officers include the clause in contracts that met the criteria for inclusion. During GAO's review, DLA revised the contract writing system so that the clause would be included as required in future contracts.

However, DLA's actions will not affect its ongoing contracts that have already been awarded, including the two that GAO identified. For context, during fiscal year 2023, DLA awarded at least 900 contracts that met the criteria for inclusion of the clause. Without an assessment of ongoing contracts, DLA will not know the extent to which the clause was not included or be able to determine appropriate action.