

Why GAO Did This Study

DOD spends more than any other federal agency on contracts for goods and services and must be able to protect itself from irresponsible contractors. Once a case of misconduct—such as fraud—is identified, DOD can use suspensions and debarments to prevent irresponsible contractors from receiving new contracts. As requested, GAO determined (1) the extent to which DOD has processes for identifying and referring cases of contractor misconduct for possible suspension or debarment, and (2) how DOD makes suspension and debarment decisions once cases have been referred for potential action. GAO’s review focused on four DOD components—the Departments of the Air Force, Army, Navy (including the U.S. Marine Corps), and Defense Logistics Agency—which together took a total of 3,443 suspension and debarment actions during fiscal years 2009 through 2011, accounting for nearly 100 percent of all such actions in DOD. GAO reviewed DOD and component regulations, procedures, and policies; reviewed case files; analyzed information from federal databases; and interviewed DOD and component officials.

What GAO Recommends

GAO recommends that DOD ensure that DOD components are aware of and comply with the requirement to notify GSA when awarding contracts to suspended or debarred contractors based on compelling reason determinations. DOD concurred with this recommendation.

View [GAO-12-932](#). For more information, contact William T. Woods at (202) 512-4841 or woodsw@gao.gov.

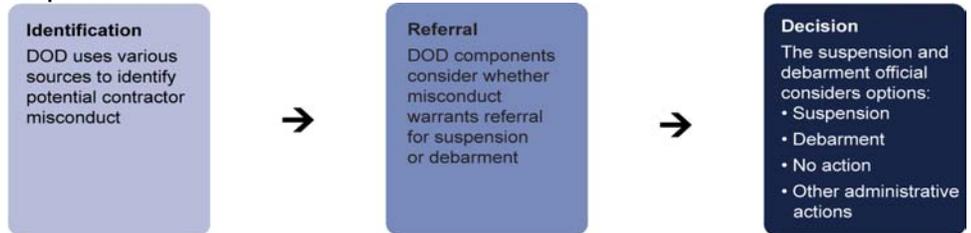
SUSPENSION AND DEBARMENT

DOD Has Active Referral Processes, but Action Needed to Promote Transparency

What GAO Found

The four Department of Defense (DOD) components GAO examined have active processes for referring identified cases of contractor misconduct for appropriate action, including suspension or debarment. The components identify numerous cases of actual or alleged contractor misconduct each year from various internal and external sources. The figure below shows the process for identifying and referring cases to the suspension and debarment official for consideration.

Suspension and Debarment Identification and Referral Process



Source: GAO analysis of DOD process and documents.

DOD received hundreds of leads on contractor misconduct from sources such as lawsuits against contractors or contractor disclosures in fiscal years 2009 through 2011, although it is not possible to know the full extent of potential leads. Some cases are referred to suspension and debarment officials for their consideration or to other agencies for further action. GAO’s analysis of selected cases shows that DOD follows its procedures for identifying and referring cases involving contractor misconduct or poor performance for possible suspension and debarment.

Once a case is referred, DOD generally makes suspension and debarment decisions in accordance with the discretion provided by the Federal Acquisition Regulation (FAR). GAO found in reviewing 75 case files that DOD generally maintained adequate records, informed the contractor of the cause and rationale for its decisions, and provided notice of the action to the contractor as required by the FAR. Given the discretion provided by the FAR, suspension and debarment periods vary based on the circumstances of the case, as do the reasons for removing contractors from the suspension and debarment list. For example, the FAR provides that the period of debarment generally should not exceed 3 years, but notes that the debarment period must be for a period commensurate with the seriousness of the cause. GAO found that nearly half the contractors DOD debarred during fiscal years 2009 through 2011 had debarment periods that exceeded 3 years.

The FAR prohibits all agencies from doing business with suspended or debarred contractors unless there is a compelling reason for doing so. The four DOD components made 14 compelling reason determinations during fiscal years 2009 through 2011. In none of these cases, however, did the components provide notice of their compelling reason determinations to the General Services Administration (GSA), as required by statute and regulation, until GAO raised this as an issue. Component officials said they were uncertain why these determinations which can promote transparency to the public were not forwarded to GSA.