

DOD Reviews and Responses to GAO Reports: Second Semiannual Report Examining Delays

GAO-24-106928

Q&A Report to Congressional Committees

February 29, 2024

Why This Matters

GAO provides audited agencies with an opportunity to review and comment on draft reports before GAO issues the final report.¹ For the Department of Defense (DOD), this period is usually 30 days, but it can range from 7 to 30 days.²

Additionally, for any reports that may contain controlled unclassified or classified information, GAO requests that the department complete a review for such information and communicate the results of the review in writing to GAO. Sensitivity reviews are completed to identify sensitive information, such as controlled unclassified information. Reviews for classified information, such as information designated as Secret or Top Secret, are generally referred to as security reviews.

Delays in DOD submitting agency comments and sensitivity/security reviews result in GAO issuing products later than congressionally directed or requested.

Following concerns raised about the timeliness of DOD comments and GAO being able to issue its reports in time to inform congressional and public debate, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 includes a provision for GAO to report every 6 months over a 2-year period on the extent to which DOD submitted agency comments and sensitivity/security reviews in a timely manner and in accordance with GAO protocols.³ This report is the second in a series of four reports on this topic, covering the period of GAO's review from May 16, 2023, to November 11, 2023.

Key Takeaways

- DOD submitted 55 percent of its agency comments and almost 70 percent of its sensitivity reviews to GAO after the deadline. DOD conducted two security reviews, and both were submitted late.
- DOD took 35 days, on average, to submit agency comments. For over half of the reports, it took an additional 16 days, on average, for DOD to submit agency comments past the deadline. For one report, DOD took 128 days to provide its comments.
- On average, DOD completed sensitivity reviews in 40 days and security reviews in 77 days. In one case, DOD took 118 days to complete its sensitivity review; and in another, it took 114 days to complete its security review.
- For about half of the reports provided to DOD, GAO granted an extension to the deadline for submitting comments and reviews. DOD did not provide agency comments within the period of the extension for 10 of 34, or nearly 30 percent of those reports. DOD also did not provide sensitivity and security reviews within the extension period for about 43 percent and 50 percent of those reports, respectively.

- Compared with the time period reviewed in GAO’s first semiannual report on this topic, DOD was less timely in providing both agency comments and sensitivity/security reviews for this time period.

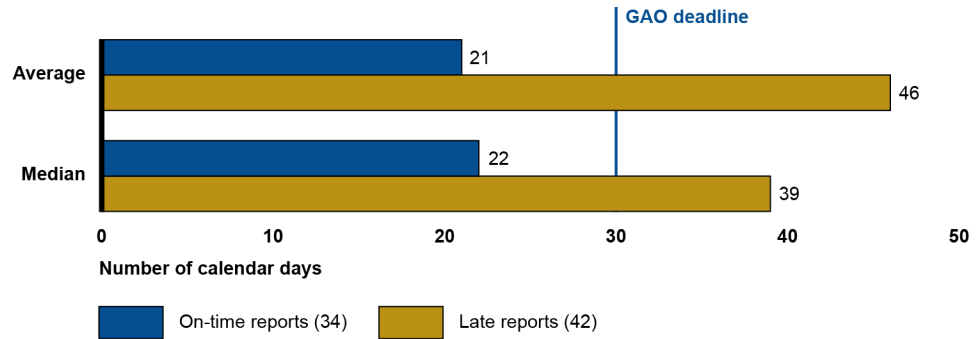
How much time did DOD take to provide agency comments on GAO reports?

DOD took an average of about 35 and median of about 31 number of days to provide agency comments, exceeding the 30-day deadline. During the period of this review, DOD provided agency comments for 76 reports.

Of the 76 reports, DOD submitted comments for 42 after the 30-day deadline. For those 42 reports, DOD took 16 additional days, on average, to submit agency comments. DOD exceeded the 30-day deadline by as few as one day and as many as 98 days. For the 34 reports submitted before or by the deadline, it took DOD an average of 21 days to provide agency comments.

The average and median number of days DOD took to provide agency comments for on-time and late reports are shown in figure 1.

Figure 1: Average and Median Number of Calendar Days the Department of Defense (DOD) Took to Provide Agency Comments, May 16, 2023–Nov. 11, 2023



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

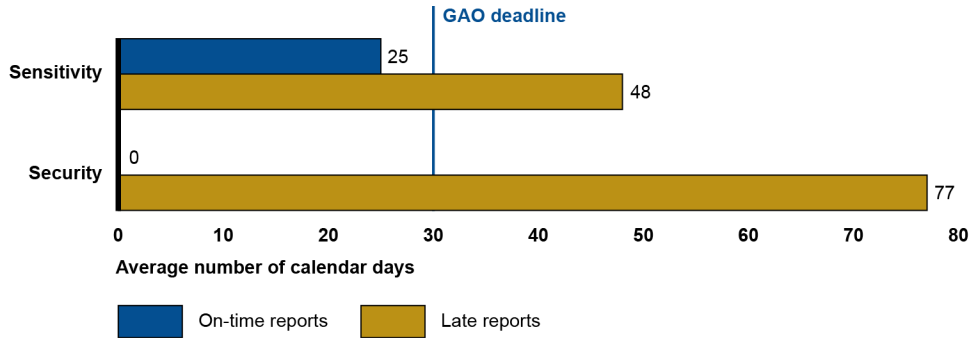
How much time did DOD take to complete sensitivity and security reviews of GAO reports?

DOD generally completed its reviews after the 30-day deadline, taking 40 days, on average, to complete sensitivity reviews and 77 days, on average, to complete security reviews. During the period of this review, DOD completed reviews for 28 reports—26 requiring a sensitivity review and two a security review.

For 19 reviews—17 sensitivity reviews and 2 security reviews—DOD missed the GAO 30-day deadline. DOD took an additional 18 and 47 days, on average, to complete these sensitivity and security reviews, respectively. For one sensitivity review, DOD took 118 days to complete the review, and for one security review, DOD took 114 days.

The average number of days DOD took to complete sensitivity and security reviews for on-time and late reports are shown in figure 2.

Figure 2: Average Number of Calendar Days the Department of Defense (DOD) Took to Complete Sensitivity/Security Reviews, May 16, 2023–Nov. 11, 2023



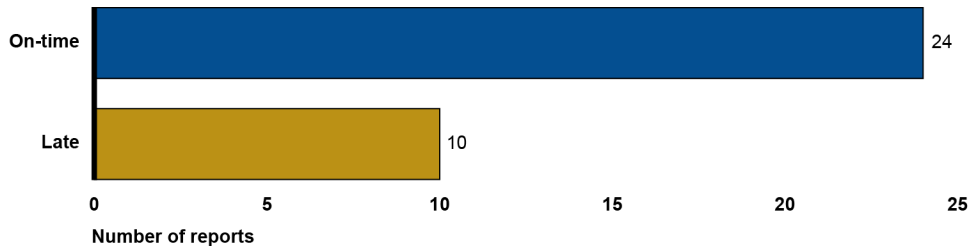
Source: GAO analysis of GAO and DOD information. | GAO-24-106928

See appendix I for a list of the reports for which DOD missed the 30-day deadline for submitting agency comments and sensitivity/security reviews. The table also shows the number of days DOD took for its submissions.

If an extension was granted, how frequently did DOD submit comments and reviews by the agreed-upon extension date?

Of the 42 agency comments that DOD submitted after the deadline, GAO granted extensions to DOD for 34. Of the 34 granted extensions, DOD did not provide its comments within the extension period for 10 reports, as shown in figure 3. For the 10 reports whose comments were submitted beyond the new deadline, DOD required 19 additional days, on average, to submit agency comments. DOD also submitted comments late for eight additional reports without requesting extensions.

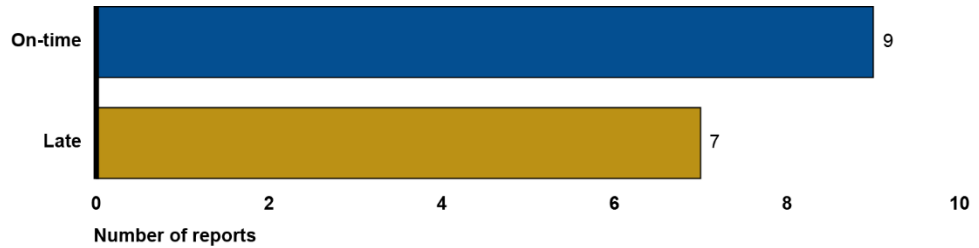
Figure 3: Number of Reports for Which the Department of Defense (DOD) Was Granted an Extension to Provide Agency Comments, May 16, 2023–Nov. 11, 2023



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

GAO granted an extension to DOD for sensitivity reviews of 14 reports and security reviews of two reports. DOD completed reviews for nine reports (eight sensitivity and one security) within the extension period as shown in figure 4. For the seven reports that DOD submitted to GAO after the new extended deadline, DOD required 10 additional days, on average, to complete its sensitivity reviews, and 69 additional days, on average, to complete its security reviews.

Figure 4: Number of Reports for Which the Department of Defense (DOD) Was Granted an Extension to Complete Sensitivity/Security Reviews, May 16, 2023–Nov. 11, 2023



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

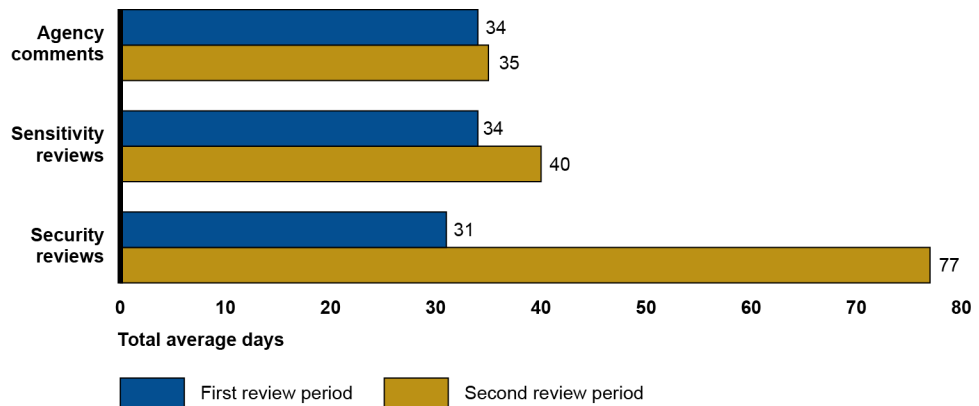
See appendix II for a list of the reports for which GAO granted DOD an extension to submit agency comments and sensitivity/security reviews. The table also shows the number of additional days DOD took for its submissions. In some cases, DOD requested more than one extension for the same report.

How has DOD’s timeliness changed over the past year?

In August 2023, we issued the first semiannual report on this topic, which reviewed the period from December 23, 2022, to May 15, 2023.⁴ In comparing the results of our analysis of DOD’s performance during this period of review with those in the first semiannual report on this topic, DOD was less timely in providing both agency comments and sensitivity/security reviews.⁵

Figure 5 compares the average number of days DOD took to provide agency comments, sensitivity reviews, and security reviews during each of the two review periods.

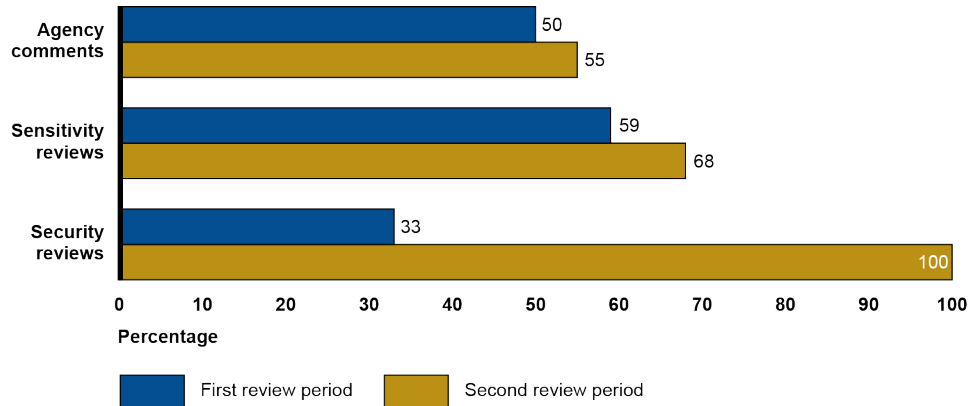
Figure 5: Average Number of Calendar Days the Department of Defense (DOD) Took to Provide Responses during GAO’s First (Dec. 23, 2022–May 15, 2023) and Second (May 16, 2023–Nov. 11, 2023) Review Periods



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

The percentage of DOD’s responses to GAO’s requests for agency comments and reviews that were provided after the 30-day deadline was also higher during this period than during the first, as shown in figure 6. For this period of review, DOD took more than 30 days to provide its responses for about 55 percent of the reports submitted for agency comments, for about 70 percent of the reports submitted for sensitivity reviews, and for all reports submitted for security reviews.

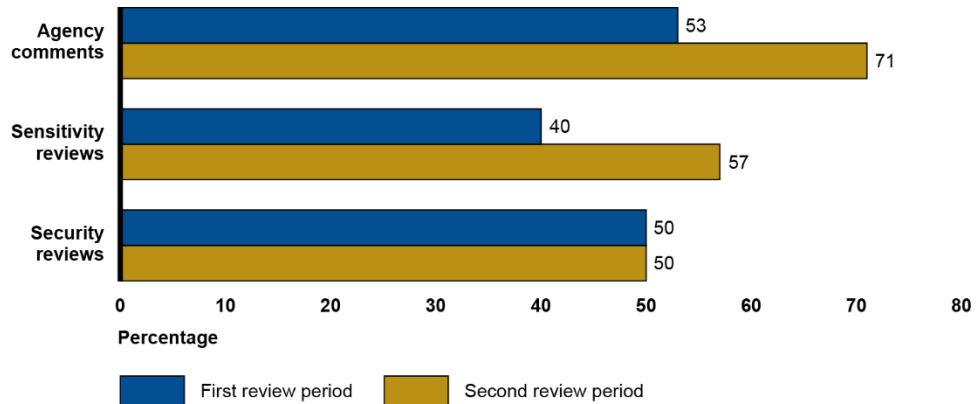
Figure 6: Percentage of Department of Defense (DOD) Responses That Took More Than 30 Days during GAO’s First (Dec. 23, 2022–May 15, 2023) and Second (May 16, 2023–Nov. 11, 2023) Review Periods



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

Regarding extensions granted by GAO to provide agency comments, DOD requested more extensions during this period of review than during the first—45 percent compared with 40 percent of total reports, respectively. However, DOD generally met the extension deadline more often during the second review period than during the first, as shown in figure 7.

Figure 7: Percentage of Department of Defense (DOD) Responses That Met Extension Deadlines during GAO’s First (Dec. 23, 2022–May 15, 2023) and Second (May 16, 2023–Nov. 11, 2023) Review Periods



Source: GAO analysis of GAO and DOD information. | GAO-24-106928

Agency Comments

We provided a draft of this report to DOD for review and comment. DOD provided written comments, which are reprinted in appendix III.

In its comments, DOD stated that it partially concurs with our conclusions. Specifically, the department stated that it agrees with our assertion that improvement is needed for timeliness of draft report responses and sensitivity or security reviews. However, DOD stated that our data do not accurately capture the department’s improvements during this reporting period, as its records show that 80 draft GAO reports required comment (not the 76 reported by GAO). As stated in this report, we used an internal data system to identify the reports for which we requested agency comments and sensitivity or security reviews from DOD and received DOD’s responses from May 16, 2023, to November 11, 2023. The additional reports identified by DOD were not included in the scope of this semiannual report because of the dates on which agency comments were completed. As we informed department officials when discussing a draft of this report, these reports will be included in the next semiannual report.

In its comments, DOD identified internal factors that contributed to delays in responses and reviews, such as Primary Action Officers' workload and leave. However, DOD also identified aspects of GAO's processes as significant factors contributing to delays in DOD's completion of both agency comments and sensitivity or security reviews.

For example, consistent with its comments on the first semiannual report on this topic, DOD stated that to improve the timeliness of DOD's draft report responses, GAO should increase the time frame given to DOD for these responses, from 30 to 45 days, stating that the 30-day timeframe is not realistic for an agency with the size and complexity of DOD. We acknowledge DOD's views but disagree that an across-the-board expansion of the timeframe is necessary. More importantly, the timeframe given is not an arbitrary one. As stated in this report, under our agency protocols, we generally give agencies between 7 and 30 calendar days to comment on a draft product. Of note, these protocols are grounded not only in GAO policy, but also in statute, and are echoed in DOD policy.⁶ In practice, we almost always give DOD the maximum amount (i.e., 30 days), recognizing that DOD is a large and complex federal agency. In addition, we have granted extensions to this comment period, at the request of DOD, in cases of extenuating circumstances.

We also note that, in addition to the 30-day agency comment period, we hold an exit conference with each audited agency, including DOD, to confirm that the critical facts and key information used to formulate GAO's analyses and findings are current, correct, and complete. At this time, we generally provide a Statement of Facts that contains the findings of our draft reports. The exit conference is held several weeks to months before the draft is provided to DOD for agency comment, which provides considerable time before the official agency comment period for the department to begin consideration of the draft report's findings. Given all of these factors, and the fact that DOD can request extensions from GAO on specific drafts when appropriate, we do not believe that routinely providing DOD more than 30 days to comment on our draft products is warranted.

DOD also stated that GAO should make it standard practice to include a review of the planned recommendations during the exit conference as GAO expects those recommendations to appear in the draft report. Our agency protocols, which have been coordinated with the Office of Management and Budget, provide that observations, preliminary conclusions, and potential recommendations that flow from the factual information collected may be discussed at exit conferences but are not provided in writing at the exit conference. We follow this practice because, among other reasons, our recommendations are not finalized at the time of the exit conference but rather are informed by technical and other comments received during and following this meeting. We do however discuss our planned recommendations at the exit conferences and will continue to do so.

DOD also stated in its comments that GAO's processes for handling classified and non-public information in our draft reports continue to be a significant contributing cause of the department's tardiness in sensitivity and security reviews. Specifically, DOD stated that GAO draft reports are provided for review without any portion markings to identify classified national security information in accordance with requirements for derivative classification, referencing Executive Branch and DOD guidance. As noted in our prior semiannual report, GAO does not have derivative classification authority. As GAO's agency protocols state and as is reflected in DOD guidance, GAO does not determine the classification or sensitivity level of its products. We do provide a tentative overall classification marking of the draft report based on the highest classification of source material

used in its development. This is to ensure the draft is treated with all necessary security precautions. However, we request that the relevant agency perform a security review; thus, we rely on security officials within DOD who have the expertise, training, source documentation, and established guidance—particularly the relevant security classification guides—to appropriately conduct sensitivity and security reviews.⁷

DOD further stated that GAO teams do not consistently provide detailed lists of source documents that help ensure accurate markings. As stated in GAO's response to DOD comments for the previous semiannual report, for nearly 5 years we have as a standard practice included with every draft classified product sent to DOD a list of classified documents obtained and used in drafting the product. In its current comments, DOD acknowledges that GAO's Defense Capabilities and Management teams have made great efforts to provide such information, although it suggests this is the exception. We appreciate DOD's acknowledgment. GAO will continue to work to ensure that draft products sent to DOD for classification reviews contain these lists. As noted in the previous semiannual report, GAO offers various additional forms of assistance to agencies as they conduct classification reviews, including providing a point of contact for every report who can work with DOD to provide greater detail about the sources of information.

We would reiterate our prior encouragement that DOD take GAO up on its offers of assistance more often as the department conducts sensitivity and security reviews of GAO products. In addition, we plan to begin applying tentative portion markings for our classified draft reports to further assist agencies as they conduct classification determinations, once our internal guidance and procedures for doing so are finalized. These tentative markings would be based on the sources of the information and may also include further annotations regarding those sources. Importantly, we agree with DOD that taking this additional step would not eliminate the department's obligation to review all draft reports in a sensitivity and security review. Even if this step is implemented, the need remains for a thorough and unbiased evaluation by the audited agency's experts, which will continue to be critical to the proper classification of GAO reports and to ensure reports are not over or under classified.

How GAO Did This Study

Using an internal data system, GAO identified the reports for which GAO requested agency comments and sensitivity/security reviews from DOD and received DOD's responses from May 16, 2023, to November 11, 2023.

GAO used a data collection instrument to gather specific dates for each step in each report's agency comment and sensitivity/security review process. GAO analyzed these data to determine the average and median number of days between the date GAO provided the report to DOD for comments and the date GAO received comments from DOD. Similarly, GAO assessed the average number of days that DOD took to complete sensitivity and security reviews.

For those reports for which GAO granted an extension to DOD for comments or reviews, GAO also analyzed the data collected through the data collection instrument to determine the time frame of the extension and the number of days that DOD took for its submissions. To ensure data reliability, GAO compared its data to similar data collected by DOD.

GAO compared the results of the analysis for this period of review with DOD's past performance in timeliness of submissions for agency comments and sensitivity/security reviews identified in GAO's first semiannual report on this topic.⁸

GAO conducted this performance audit from July 2023 to February 2024 in accordance with generally accepted government auditing standards. Those standards require that GAO plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. GAO believes that the evidence obtained provides a reasonable basis for its findings and conclusions based on its audit objectives.

List of Addressees

The Honorable Jack Reed
Chairman
The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
United States Senate

The Honorable John Tester
Chair
The Honorable Susan Collins
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Ken Calvert
Chair
The Honorable Betty McCollum
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

We are sending copies of this report to the appropriate congressional committees and the Secretary of Defense. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

GAO Contact Information

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Staff Acknowledgments: Suzanne Perkins (Assistant Director), Barbara Wooten (Analyst-in-Charge), Nicole Ashby, Christopher Gezon, Chad Hinsch, Lillian Ofili, and Michael Shaughnessy.

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Appendix I

Table 1: GAO Reports for Which the Department of Defense (DOD) Submitted Agency Comments and Sensitivity/Security Reviews Past the 30-Day Deadline, May 16, 2023–Nov. 11, 2023

Report title and unique identifier (report number or GAO job code)	Total calendar days		
	Agency comments	Sensitivity review	Security review
Impact of U.S. Aid to Mexico (GAO-23-103795)	34	42	n/a
F-35 Maintenance (GAO-23-105341)	90	90	n/a
Unwanted Sexual Behavior in Military Service (GAO-23-105381)	67	n/a	n/a
VA Benefits for Reserve and National Guard Veterans (GAO-24-105400)	31	n/a	n/a
DOD Medical Facility Transition (GAO-23-105441)	n/a	61	n/a
Cybersecurity Threat Information Sharing with Critical Infrastructure Entities (GAO-23-105468)	39	39	n/a
DOD Bulk Fuel Program Accounting (GAO-23-105531)	37	n/a	n/a
DOD Logistics in the European Theater (105585)	60	n/a	n/a
DOD AI Workforce (GAO-24-105645)	50	n/a	n/a
DOD Cybersecurity Efforts for Acquisition Programs (105654)	70	118	n/a
National Background Investigation Services (GAO-23-105670)	48	48	n/a
Military Health System Reform Progress (GAO-23-105710)	32	n/a	n/a
Intel Support to Global Strategic Competition (105724)	96	n/a	39
DOD Management and Reform (GAO-24-105793)	31	31	n/a
Military Barracks Condition (GAO-23-105797)	32	n/a	n/a
DOD Flexible Financial Authorities (GAO-23-105822)	35	41	n/a
Building Capacity of Foreign Security Forces (GAO-23-105842)	42	42	n/a
DOD'S Acquisition Approach to Artificial Intelligence (GAO-23-105850)	58	n/a	n/a
Reserve Officer Training Corps Diversity (GAO-23-105857)	56	n/a	n/a
DOD Agile Software Acquisition Accountability (GAO-23-105867)	31	33	n/a
Space Command and Control Program (GAO-23-105920)	33	33	n/a
Coast Guard Polar Security Cutter (GAO-23-105949)	34	32	n/a
Corps Watercraft Inspection and Decontamination Program (GAO-24-105960)	31	n/a	n/a
Army Corps' Cleanup of Radioactive Waste Sites (GAO-23-105968)	55	n/a	n/a
Safeguard Sensitivity University Research II: Confucius Institutes (GAO-24-105981)	33	n/a	n/a
Army Privatized Housing Initiative (GAO-23-105983)	37	37	n/a
Troops-to-Teachers Program (GAO-23-105992)	36	n/a	n/a

Report title and unique identifier (report number or GAO job code)	Total calendar days		
	Agency comments	Sensitivity review	Security review
GPS Modernization, 2022-2023 (GAO-23-106018)	53	37	n/a
Navy Shipyard Improvement Efforts (GAO-23-106067)	45	n/a	n/a
Indo-Pacific Command Military Personnel Policies (GAO-23-106070)	31	n/a	n/a
Processing, Exploiting, and Disseminating Intelligence in Contested Environments (106088)	128	n/a	114
Military Medical Personnel Reductions (GAO-23-106094)	34	n/a	n/a
DOD Management of Service Contracts (GAO-23-106123)	45	n/a	n/a
GSA Implementation of Online Marketplace (GAO-23-106128)	41	n/a	n/a
Mergers and Acquisitions Effects on Defense Industrial Base (GAO-24-106129)	52	48	n/a
National Guard Youth Challenge Program (GAO-24-106172)	35	n/a	n/a
Assessment of Transnational Repression and U.S. Arms Transfers (106183)	36	44	n/a
Federal Contracting Good Faith Standard (GAO-24-106225)	42	n/a	n/a
DOD Cloud Data User Fees (GAO-23-106247)	32	n/a	n/a
Foreign Security Forces Capacity-Building Activities and Evaluation (GAO-23-106275)	48	34	n/a
DOD Enterprise Software Licenses (GAO-23-106290)	39	n/a	n/a
Open Topics in Small Business Research Programs (2023) (GAO-23-106338)	32	n/a	n/a
Army Corps Architect-Engineering Contracts (GAO-24-106730)	43	n/a	n/a
Total average days	46	48	77

Legend: n/a = not applicable

Source: GAO analysis of GAO and DOD information. | GAO-24-106928

Note: Classified reports and reports not yet issued as of November 2023 are identified by a GAO job code.

Appendix II

Table 2: GAO Reports for Which the Department of Defense (DOD) Was Granted an Extension to Submit Comments and/or Reviews, May 16, 2023–Nov. 11, 2023

Report title and unique identifier (report number or GAO job code)	Did DOD meet new, extended deadline? (Yes/No)	Additional days needed beyond extension deadline		
		Agency Comments	Sensitivity Review	Security Review
Impact of U.S. Aid to Mexico (GAO-23-103795)	No	n/a	7	n/a
F-35 Maintenance (GAO-23-105341)	No	30	30	n/a
Unwanted Sexual Behavior in Military Service (GAO-23-105381)	No	27	n/a	n/a
Cybersecurity Threat Information Sharing with Critical Infrastructure Entities (GAO-23-105468)	Yes	n/a	n/a	n/a
DOD Bulk Fuel Program Accounting (GAO-23-105531)	Yes	n/a	n/a	n/a

Report title and unique identifier (report number or GAO job code)	Did DOD meet new, extended deadline? (Yes/No)	Additional days needed beyond extension deadline		
		Agency Comments	Sensitivity Review	Security Review
DOD Logistics in the European Theater (105585)	No	10	n/a	n/a
DOD AI Workforce (GAO-24-105645)	Yes	n/a	n/a	n/a
DOD Cybersecurity Efforts for Acquisition Programs (105654)	Yes	n/a	n/a	n/a
National Background Investigation Services (GAO-23-105670)	No	6	6	n/a
Intel Support to Global Strategic Competition (105724)	No	21	n/a	n/a
DOD Flexible Financial Authorities (GAO-23-105822)	No	n/a	4	n/a
Building Capacity of Foreign Security Forces (GAO-23-105842)	No	7	7	n/a
Reserve Officer Training Corps Diversity (GAO-23-105857)	Yes	n/a	n/a	n/a
DOD Agile Software Acquisition Accountability (GAO-23-105867)	Yes	n/a	n/a	n/a
Corps Watercraft Inspection and Decontamination Program (GAO-24-105960)	Yes	n/a	n/a	n/a
Army Corps' Cleanup of Radioactive Waste Sites (GAO-23-105968)	No	1	n/a	n/a
Safeguard Sensitivity University Research II: Confucius Institutes (GAO-24-105981)	No	3	n/a	n/a
Army Privatized Housing Initiative (GAO-23-105983)	Yes	n/a	n/a	n/a
Troops-to-Teachers Program (GAO-23-105992)	Yes	n/a	n/a	n/a
GPS Modernization, 2022-2023 (GAO-23-106018)	Yes	n/a	n/a	n/a
Indo-Pacific Command Military Personnel Policies (GAO-23-106070)	Yes	n/a	n/a	n/a
Processing, Exploiting, and Disseminating Intelligence in Contested Environments (106088)	No	80	n/a	66
Military Medical Personnel Reductions (GAO-23-106094)	Yes	n/a	n/a	n/a
DOD Management of Service Contracts (GAO-23-106123)	Yes	n/a	n/a	n/a
GSA Implementation of Online Marketplace (GAO-23-106128)	Yes	n/a	n/a	n/a
Mergers and Acquisitions Effects on Defense Industrial Base (GAO-24-106129)	Yes	n/a	n/a	n/a
National Guard Youth Challenge Program (GAO-24-106172)	Yes	n/a	n/a	n/a
Assessment of Transnational Repression and U.S. Arms Transfers (GAO-24-106183)	Yes	n/a	n/a	n/a
Federal Contracting Good Faith Standard (GAO-24-106225)	Yes	n/a	n/a	n/a

Report title and unique identifier (report number or GAO job code)	Did DOD meet new, extended deadline? (Yes/No)	Additional days needed beyond extension deadline		
		Agency Comments	Sensitivity Review	Security Review
DOD Cloud Data User Fees (GAO-23-106247)	Yes	n/a	n/a	n/a
Foreign Security Forces Capacity- Building Activities and Evaluation (GAO-23-106275)	No	6	n/a	n/a
DOD Enterprise Software Licenses (GAO-23-106290)	Yes	n/a	n/a	n/a
Testing Practices in DOD Schools (GAO-24-106322)	Yes	n/a	n/a	n/a
Army's Optionally Manned Fighting Vehicle (GAO-23-106549)	No	n/a	4	n/a
Army Corps Architect-Engineering Contracts (GAO-24-106730)	Yes	n/a	n/a	n/a

Legend: n/a = not applicable

Source: GAO analysis of GAO and DOD information. | GAO-24-106928

Note: Classified reports and reports not yet issued as of November 2023 are identified by a GAO job code. Additionally, there are a total of 34 engagements requesting an extension for comments; however, engagement 106549 only requested an extension for a sensitivity review. Resulting in 35 engagements listed in this table.

Appendix III: Comments from the Department of Defense



OFFICE OF THE PERFORMANCE IMPROVEMENT OFFICER AND DIRECTOR OF ADMINISTRATION AND MANAGEMENT

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

January 25, 2024

Ms. Elizabeth Field
Director, GAO Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Field,

The Department of Defense (DoD) partially concurs with the Government Accountability Office's (GAO) conclusions presented in GAO-24-106928: "DoD REVIEWS AND RESPONSES TO GAO REPORTS: Second Semiannual Report Examining Delays" dated December 18, 2023. This notification satisfies requirements in Section 1064 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, directing the Secretary of Defense to submit a response to the congressional defense committees that includes:

1. An identification of factors that contributed to any delays identified in the report with respect to DoD comments and sensitivity or security reviews requested by the GAO.
2. A description of any actions the DoD has taken or plans to take to address such factors.
3. A description of any improvements the Department has made in the ability to track timeliness in providing such comments and sensitivity or security reviews.
4. Any other information the Secretary determines relevant to the information contained in the report submitted by the Comptroller General.

Generally, GAO provides the Department with 30 days to review and comment on a draft report, including conducting a sensitivity and/or security review of the draft report when needed. As GAO notes, this review period "can range from 7 to 30 days." In their audit, GAO identified 76 draft reports issued between May 16, 2023, and November 11, 2023, that required a response from the Department. GAO reported that the DoD was late providing a response for 42 of those draft reports and met the suspense for the remaining 34 draft reports. GAO granted DoD an extension on 34 occasions and DoD met the extended suspense for 24 of those draft reports. Additionally, the DoD was required to conduct 28 sensitivity reviews and two security reviews. Of those, according to GAO, DoD was late completing 17 of 28 sensitivity reviews and both security reviews. On average, DoD was close to meeting GAO's 30-day suspense for draft report responses, taking only 35 days to submit agency comments and completed sensitivity reviews in 40 days. GAO calculated the DoD's average response for security reviews is 77 days.

The Department partially concurs with GAO's findings. Please see attachment for specific data. The Department agrees with GAO's assertion that improvement is needed for timeliness of draft report responses and sensitivity or security reviews. However, GAO's data does not accurately capture the Department's improvements during this reporting period. Specifically, the Department's records show that 80 draft GAO reports required comment (not the 76 reported by GAO). Of those 80, the Department timely provided 40 responses within the original thirty-day suspense. In addition, as GAO noted, for an additional 24 reports, the Department timely provided responses under extensions that GAO granted.

There are several factors that contributed to the DoD's 80% timeliness rate for responses to GAO draft reports and sensitivity or security reviews, including: the time it takes to coordinate responses and input among the various Department components, impact of competing demands in Primary Action Offices (PAOs) such as workload and other extenuating circumstances, including leave or temporary duty. Additionally, while the Department agrees it has work to do to improve timeliness, there are factors that are outside of the Department's control. This is especially evident when it comes to the timeliness of the sensitivity and security reviews required of a growing number of GAO draft reports.

To improve the timeliness of both the DoD's draft report responses and results of the sensitivity and security reviews for GAO reports, the Department recommends that GAO work with DoD to align GAO protocols with the requirements that DoD derivative classifiers must adhere to when incorporating controlled unclassified or classified DoD information into its reports. Proper citations of security classification will accelerate DoD's sensitivity and security reviews and reduce the risk of inadvertent spillage of controlled or classified national security information in GAO's reporting.

GAO's processes for handling classified and non-public information in its reports continue to be a significant factor in the Department's timeliness in sensitivity and security reviews. When a review is required during the draft report phase, the draft reports are provided without portion markings to identify classified national security information in accordance with requirements for derivative classification in 32 Code of Federal Regulations (CFR), Part 2001 and implementing DoDM 5200.01, "DoD Information Security Program: Protection of Classified Information." In addition to portion-marking concerns, GAO teams do not consistently provide detailed lists of source documents which help ensure accurate markings.¹ This is a requirement for derivative classifiers.

Currently, when GAO provides a draft report to the Department for review, the report has a blanket classification marking that covers all the materials included in the audit, with no indication as to what parts of the report were pulled from Controlled Unclassified Information (CUI) or classified sources. Providing a draft report with a blanket disclaimer requires the Department to again identify material already provided to GAO. GAO's identifying such material would not eliminate the Department's obligation to review all draft reports in a sensitivity and security review, but it would decrease the timeframe for such review.

DoD recommends that GAO mark information in draft reports in the same manner as the source material underlying that information—i.e., mark specific portions of the draft report with specific CUI or classification markings—and indicate with specificity which source material supports which portions of the draft report. Without these two elements, the sensitivity and security review processes require broad coordination and extensive research, both of which take a considerable amount of time. According to generally accepted government auditing standards, the necessary documentation for portion marking and sourcing should be in GAO's audit files and working papers, and therefore readily available to share with the Department in the performance of a security or sensitivity review.

These issues of portion marking and information sourcing have been an ongoing discussion between the DoD and GAO over the last decade and has, unfortunately, only led to minor

¹ There is a notable exception of GAO's Defense Capabilities and Management (DCM) teams who have made great efforts to provide source documents when dealing with classified engagements.

improvements from GAO. The Department stands by the response from the first iteration of this audit and cannot streamline sensitivity and security review processes to meet GAO's suspense.

In addition, we again recommend that GAO revisit its protocols for the DoD to respond to draft reports. Due to the complexity and size of the DoD, a 30-day suspense is often not an adequate amount of time to thoroughly coordinate across the Department. The DoD also recommends that GAO make it standard practice to include a review of the planned recommendations during the exit conference as GAO expects those recommendations to appear in the draft report. This will ensure the recommendations are clearly understood prior to providing the draft report to the DoD. Reviewing recommendations during the exit conference will allow for discussion and may reduce the number of clarification requests or recommendation revisions once the draft report is issued.

To continue to improve the way we engage with GAO, the Department has joined an Inter-Agency Working Group, where all members have similar responsibilities with GAO. This group discusses processes and current issues across the federal government creating an opportunity for sharing best practices and learning what works and doesn't with our colleagues. Through involvement in this effort, it has become increasingly clear that the DoD has a significantly larger number of active audits, GAO reports, and recommendations than any other federal agency. Given this information, the Department requests that GAO consider increasing the timeline for DoD responses to draft reports from 30 days to 45 days. The current time frame established in GAO's Protocols may be sufficient for smaller federal agencies but is not realistic for an agency as large and complex as the DoD. Often, a 30-day suspense is compressed into 20 or fewer active working days, and fewer when there are holidays within the suspense period. This is seldom adequate to compile and fully coordinate a response and conduct a sensitivity or security review. The inadequacy of these short time frames is particularly evident in GAO draft reports where the DoD is issued recommendations with actions directed to Military Services, Combatant Commands, Defense Agencies, and DoD Field Activities who are all required to conduct their own review with one final consolidated review at the end.

The Department has taken measures to address the timeliness deficiencies reported by GAO. At an organizational level, the Deputy Secretary of Defense elevated the DoD's audit management function from Washington Headquarters Services (WHS) to the Office of the Performance Improvement Officer of DoD, who also serves as the Director of Administration and Management (ODAM/PID). Under the leadership of the Department's Deputy Performance Improvement Officer (DPIO), the audit management team has transformed its oversight processes to a cradle-to-grave and portfolio-based audit management system, resulting in improved alignment with the Secretary's strategic priorities. The PIO and Deputy PIO are personally invested in working with their colleagues across the Department to ensure they all understand the importance of GAO audits and how imperative it is that the Department respond in a timely manner.

The Audit Management Team in ODA/PID works diligently with DoD Audit Component Liaisons across the Department to promote new processes and best practices when engaging with GAO. In addition, ODA/PID uses a workflow tracker and database that reports on several timeliness elements for DoD leadership visibility and action necessary to meet suspense requirements.

Additionally, ODA/PID has begun hosting DoD components' GAO portfolio reviews and DoD-wide GAO working groups in which DoD Components have the opportunity to share and learn best practices with other Components. The first portfolio review was conducted with

OUSD Personnel and Readiness early January 2024, establishing the benchmark and way forward for all portfolio reviews. These reviews are now supported by the first iteration of dashboard to support dynamic searches of GAO open recommendations by Special Category, OPR, PAO, CAO and the age of recommendations.

Ensuring DoD senior leadership has visibility of all ongoing GAO audits, draft reports, and final reports is a priority for the Department and will continue to be a part of our improvement processes going forward. We thank GAO for its continued partnership in helping improve the Department and hope it will adopt the recommendations the Department is offering. A copy of this letter will be provided to Congressional Armed Services Committees. My action officer for this audit is Ms. Miranda Garza, Associate Director, Audit Management Division, Performance Improvement Directorate who can be reached at miranda.l.garza.civ@mail.mil.

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Silvana Rubino-Hallman, Ph.D.
*Deputy Performance Improvement Officer and
Evaluation Officer of DoD*

Director, Performance Improvement Directorate

Attachments: as stated.

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Endnotes

¹GAO, *GAO's Agency Protocols*, [GAO-19-55G](#) (Washington, D.C.: Jan. 23, 2019).

²For purposes of this report, "days" indicates calendar days, including Saturday and Sunday, and "reports" refers to draft reports. In some cases, GAO has provided more than 30 days as generally called for by the protocols. GAO has, for example, provided an agency more days than the 30-day protocol when the deadline fell on a weekend day or federal holiday.

³Pub. L. No. 117-263, § 1064 (2022).

⁴GAO, *DOD Reviews and Responses to GAO Reports: First Semiannual Report Examining Delays*, [GAO-23-106583](#) (Washington, D.C.: Aug. 14, 2023).

⁵During the first review period, DOD provided agency comments for 42 reports and completed sensitivity and security reviews for 17 and six reports, respectively. During the second review period, DOD provided agency comments for 76 reports and completed sensitivity and security reviews for 26 and two reports, respectively.

⁶Section 718(b)(1) of title 31, U.S. Code, states that the Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a

more accurate report. Department of Defense Instruction 7650.02, *Engaging with the Government Accountability Office (GAO) on GAO Audits*, which was updated as recently as January 26, 2022, states that it is DOD policy to provide timely responses to GAO reports, in accordance with this statute.

⁷This expectation is consistent with the roles of the DOD-identified Primary Action Officer, Collateral Action Officers, and the Defense Office of Prepublication and Security Review (DOPSR) with respect to reviews of GAO drafts, as outlined in Department of Defense Instruction 7650.02. See, e.g., DOD Instruction 7650.02, para. 5.5.g (requiring, among other things, that DOD reviewers “[i]dentify specific classified information, or unclassified information that must be withheld from release to the public” and “[i]dentify the level of classification and reasons for withholding the classified or unclassified information”).

⁸[GAO-23-106583](#).