252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements.

As prescribed in 222.7405 , use the following clause:

RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (JAN 2023)

(a) *Definitions*. As used in this clause–

“Covered subcontractor” means any entity that has a subcontract valued in excess of $1 million, except a subcontract for the acquisition of commercial products or commercial services, including commercially available off-the-shelf items.

“Subcontract” means any contract, as defined in Federal Acquisition Regulation subpart 2.1, to furnish supplies or services for performance of this contract or a higher-tier subcontract thereunder.

(b) The Contractor—

(1) Agrees not to–

(i) Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration–

(A) Any claim under title VII of the Civil Rights Act of 1964; or

(B) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or

(ii) Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration–

(A) Any claim under title VII of the Civil Rights Act of 1964; or

(B) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; and

(2) Certifies, by signature of the contract, that it requires each covered subcontractor to agree not to enter into, and not to take any action to enforce, any provision of any existing agreements, as described in paragraph (b)(1) of this clause, with respect to any employee or independent contractor performing work related to such subcontract.

(c) The prohibitions of this clause do not apply with respect to a contractor’s or subcontractor’s agreements with employees or independent contractors that may not be enforced in a court of the United States.

(d) The Secretary of Defense may waive the applicability of the restrictions of paragraph (b) of this

clause in accordance with Defense Federal Acquisition Regulation Supplement 222.7404 .

(End of clause)

Parent topic: 252.222 RESERVED