

An impact analysis of DFARS Clause 252.242.7005 on contractor business system approval and disapproval



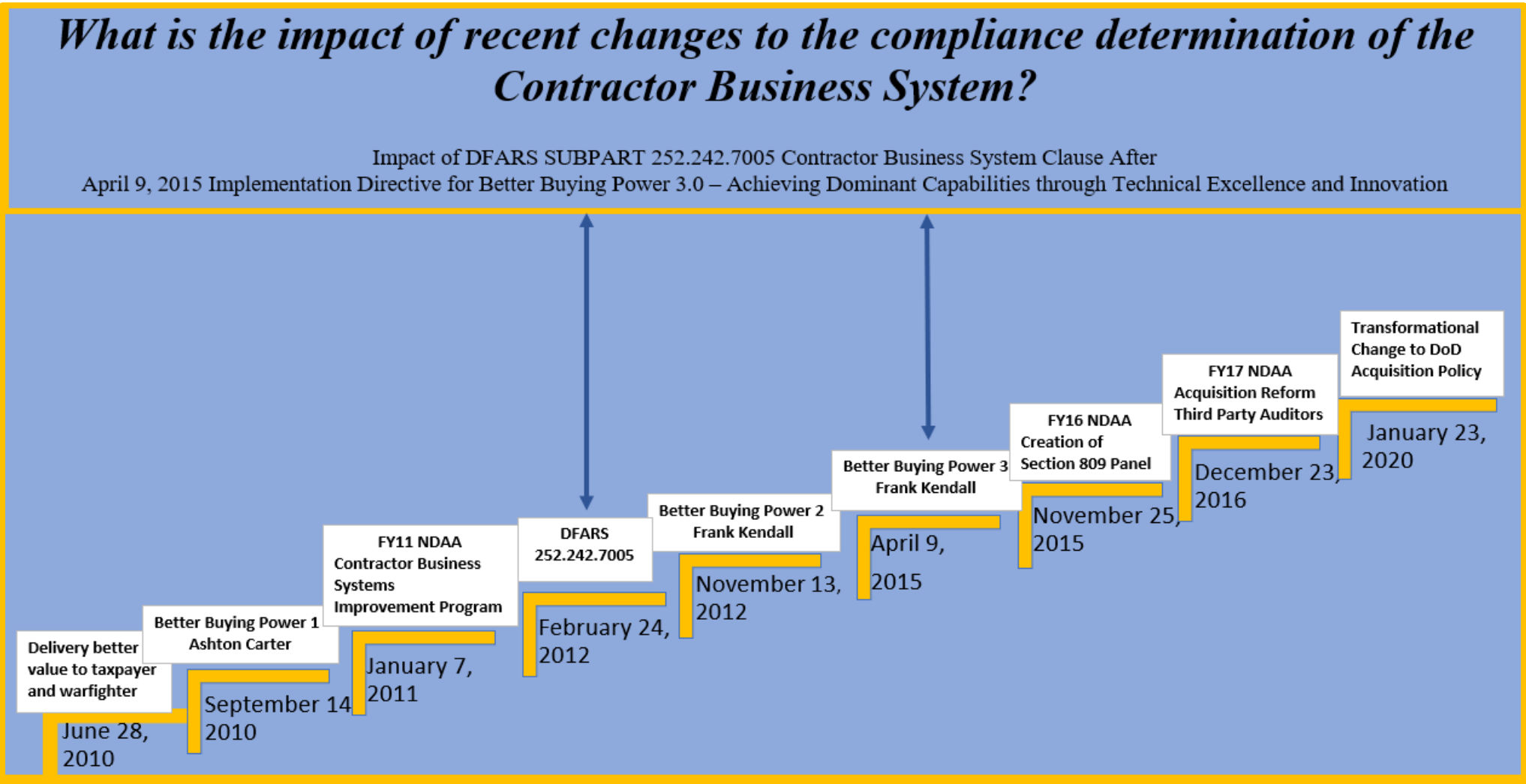
Naval
Postgraduate
School

Abstract

This research attempted to quantify the impact to the government, contractor, and warfighter of the implementation of the Better Buying Power Initiative 3.0, and specifically, Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.242.7005, Contractor Business Systems, which allowed for more stringent government oversight of contractors. Data was collected from Contract Business Analysis Repository (CBAR), which shows the contractor business systems’ approval or disapproval status. A qualitative analysis was then performed using DCMA business system compliance review reports, letters, and contractor data to verify significant deficiencies with business systems that led to system disapproval. This research details the significant deficiencies of this process, given that there were contractors with multiple business system disapprovals who are still actively contracting with the federal government, potentially affecting both government efficiency and warfighter readiness. Finding 1: Analysis of the CBAR data from 2015 and 2019 for the six contractor business systems revealed that once a business system is reapproved there is no method for viewing historical data of past deficiencies. Finding 2: The data analysis revealed the lack of a responsibility tracking tool. Finding 3: The corrective action requests that were analyzed on the disapproved contractor business systems did not impact the urgent fielding of critical equipment.

Research Methods

- The methodology is a qualitative analysis using DCMA business system compliance review reports, letters, and contractor data to verify significant deficiencies with business systems that lead to system disapproval.
- Data for this thesis were collected and analyzed from Contract Business Analysis Repository (CBAR), which shows the contractor business systems’ status of approved or disapproved.
- The data from CBAR provides descriptive information that is entered by the CO to verify and validate the contractors’ business system status.
- This thesis presents research detailing the significant deficiencies of this process—given that there were contractors with multiple business system disapprovals—and determines the impact of the contractor business systems clause, as well as warfighter readiness impacts due to delivery delays and nonconforming material.



Findings and Recommendations

- Finding 1: Analysis between 2015 and 2019 of the CBAR data for the six contractor business systems revealed that once a business system is reapproved there is no method to view historical data of past deficiencies.

Recommended: Integrated Data Repository

It is recommended that the CAR and CBAR tools are integrated and maintained by the responsible authorities. A systematic feature of the repository would be to track the time from initiation to closure of all approved and disapproved systems. This would provide visibility and warrant action to verify and validate the timely closure of significant deficiencies.

- Finding 2: The data analysis revealed the lack of a responsibility tracking tool.

Recommended: Track Contracting Officer and Functional Specialist Responsibilities

It is recommended that an integrated decision tool is needed to track the responsibilities of contracting officers and functional specialist. This would be enable the contracting officer and functional specialist, as well as internal and external customers, to track responsibilities, actions, and closures. A decision tool that is integrated with the CAR and CBAR tool would provide visibility of the contracting officer and functional specialist responsibilities, as this would ensure current, accurate, and timely actions.

- Finding 3: The CARs that were analyzed on the disapproved contractor business systems did not impact the urgent fielding of critical supplies, services, and lifesaving equipment with better value and rapid fielding to U.S. armed forces (Gates, 2014).

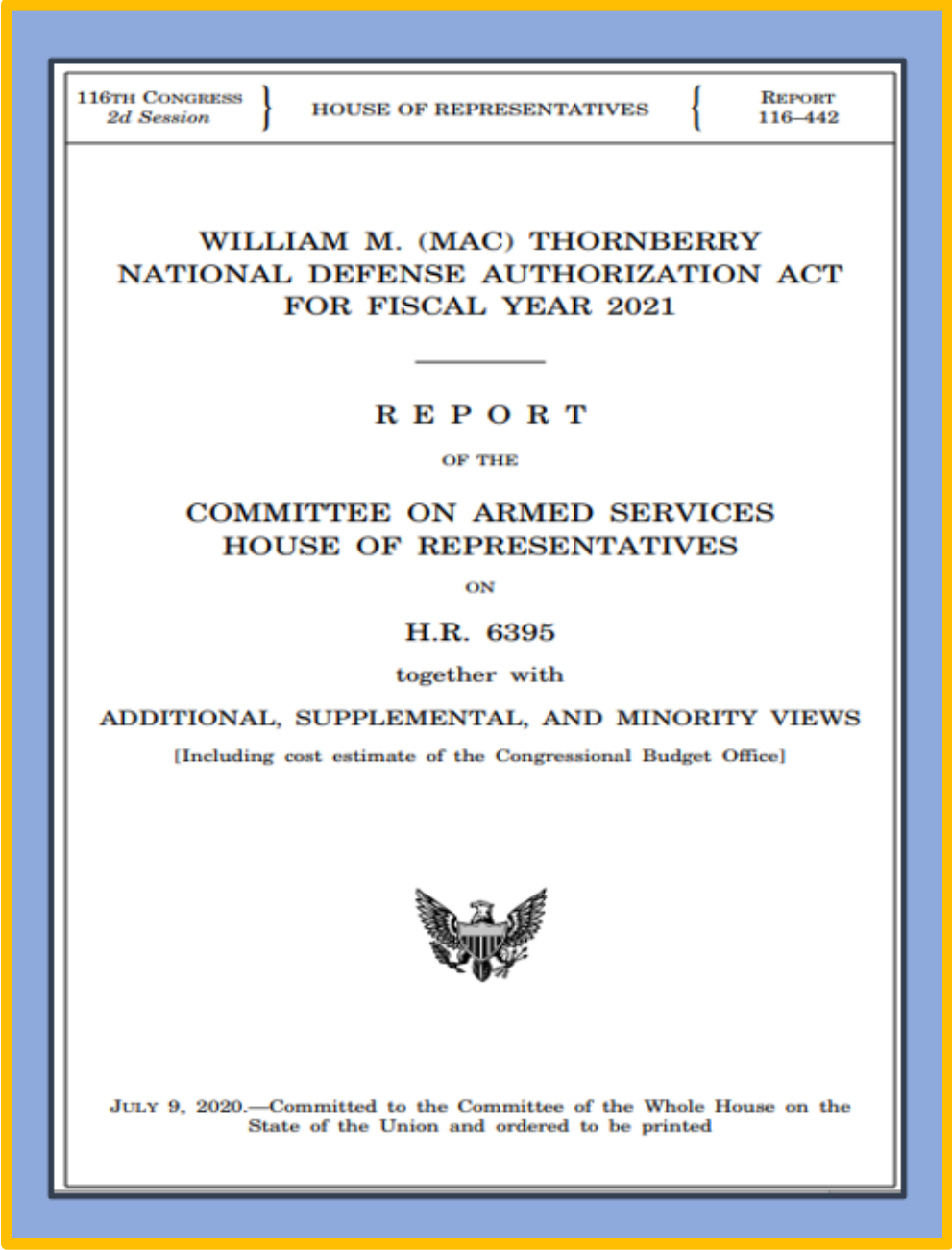
Recommended: DFARS Amendment to Production, Quality, and Manufacturing (PQM)

It is recommended that the DOD propose a rule, to amend the DFARS, that would improve the effectiveness of DOD contract compliance oversight related to significant deficiencies related to PQM. The amendment to the DFARS would provide a requirement for risk mitigation, subject to penalties for non-compliance, on delivery delays and nonconforming material. It is urgent to add these improvement measures in the next NDAA FY21, as this would reduce warfighter readiness impacts.

Future Research: The Section 809 Panel Report

- Based on this research, it is clear that more contract compliance oversight reform is needed. Therefore, it is recommended that future research revisit the previously discussed corrective actions and the recommendations of the 2016 Section 809 panel report regarding streamlining government processes.
- Their findings stressed that DoD contract compliance oversight lacks consistent timeliness, efficiency, and effectiveness. The panel provided recommendation 7 (Volume 1, Section 2, p. 70): “Provide flexibility to contracting officers and auditors to use audit and advisory services when appropriate.”
- If the corrective actions and recommendations are researched, it would highlight measures and impacts that were created and implemented by DoD policy-makers.
- Jim Mattis, the 26th U.S. secretary of defense, best described the intent of government reform in the publication of the *Summary of the 2018 National Defense Strategy of the United States of America* when he said it is to “transition to a culture of performance where results and accountability matter ... prioritize speed of delivery ... and empowering the warfighter with the knowledge, equipment and support systems to fight and win” (Mattis, 2018, p. 10).

FY21 NDAA Bill Marks: Potential CBS Changes



- On July 1, 2020, there were three CBS measures documented in the House Committee on Armed Services in the H.R. 6395-FY21 NDAA Bill, Chairman’s Mark (NDAA Bill, 2020). The Bill was named after Texas Congressman, William M. (MAC) Thornberry and if it is not amended by the House or Senate, would become law with the Presidents signature (NDAA, 2020).
- The first measure by the Committee On Armed Services House Of Representatives would direct the Comptroller General to make an assessment of DCAA and DCMA improving “their execution, management, and oversight of [CBS] reviews, including their use of [Independent Public Accountants] IPAs” (2020b, p. 168).
- The second measure by the Committee corresponds with the Section 809 Panel Report, Volume 3 (Rec. 72, 2019). The Committee recommends streamlining the DoD by reviewing the government evaluation criteria, “internal control audit framework used to evaluate contractor business systems” (2020b, p. 170). This review would verify whether it is more efficient and effective to use an auditing framework consistent with the private industry auditing standards instead of the DFARS standard used by the government (2020b).
- The third measure by the Committee corresponds with the Section 809 Panel Report, Volume 3 (Rec. 73, 2019). This measure would “amend section 893 of the Ike Skelton for FY 2011 (Public Law 111 383; note 2302 of title 10, United States Code) by replacing ‘significant deficiency’ with the term ‘material weakness.’” (2020b, p. 177).
- In theory, if the first and second measures become law, they would increase efficiency, effectiveness, and reduce expenses for government oversight of contractor business systems. However, if the third measure becomes law, the language change of noncompliance from “significant deficiency” to “material weakness” could potentially obscure notable contractor performance system issues, and therefore weaken the current DFARS regulation (2020b, p. 177).