



## ACQUISITION RESEARCH PROGRAM SPONSORED REPORT SERIES

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### **An Impact Analysis of DFARS Clause 252.242.7005 on Contractor Business System Approval and Disapproval**

September 2020

**Symantha C. Loflin**

Thesis Advisors: Dr. Charles K. Pickar, Senior Lecturer  
Raymond D. Jones, Professor of the Practice

Graduate School of Defense Management

**Naval Postgraduate School**

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Prepared for the Naval Postgraduate School, Monterey, CA 93943.



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## 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.



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## LIST OF ACRONYMS AND ABBREVIATIONS

|       |   |
|-------|---|
| ACO   | administrative contracting officer                |
| CACO  | corporate administrative contracting officer      |
| CAGE  | Commercial and Government Entity                  |
| CAP   | corrective action plan                            |
| CAS   | Contract Administration Services                  |
| CBAR  | Contract Business Analysis Repository             |
| CBS   | contractor business system                        |
| CAR   | corrective action request                         |
| CFR   | Code of Federal Regulations                       |
| CMO   | contract management office                        |
| CO    | contracting officer                               |
| CPSR  | Contractor Purchasing System Review               |
| DACO  | divisional administrative contracting officer     |
| DARS  | Defense Acquisition Regulations System            |
| DCAA  | Defense Contract Audit Agency                     |
| DCMA  | Defense Contract Management Agency                |
| DFARS | Defense Federal Acquisition Regulation Supplement |
| DOD   | Department of Defense                             |
| EVMS  | Earned Value Management System                    |
| FAR   | Federal Acquisition Regulation                    |
| FY    | Fiscal Year                                       |
| HNAO  | Host Nation Audit Organization                    |
| IPA   | Independent Public Accountant                     |
| MMAS  | Material Management and Accounting Systems        |
| NASA  | National Aeronautics and Space Administration     |
| NDAA  | National Defense Authorization Act                |
| PCO   | procurement contracting officer                   |
| PQM   | production, quality, and manufacturing            |
| PM    | program manager                                   |
| SSR   | system surveillance report                        |



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## I. INTRODUCTION

In 2020, the Defense Contract Management Agency (DCMA) celebrated two decades of delivering contract management support to the nation's warfighters. DCMA reports to the under secretary of defense for acquisition and sustainment and is "a valued contributor to the greater national defense team, ensuring readiness and delivering 500 million items to the warfighter annually" (Lewis, 2020, p. 3). According to the *DCMA Insight Magazine*, a yearly publication where the agency provides data related to its contract management role. DCMA's role is primarily funded by the military or federal government (e.g., Department of the Army, Navy, Marines, Air Force, or NASA). The agency's oversight role, as the first line of defense against fraud, waste, and abuse of taxpayer dollars, ensures that a contractor business system (CBS)<sup>1</sup> is compliant. Since it has managed more than 300,000 contracts at 15,129 contractor facilities valued at \$7.2 trillion, there is a return on investment of two-to-one on every dollar invested (Tremblay, 2020). This measure is critical in identifying fraud, waste, and abuse of taxpayer dollars.

A notable change in contractor business systems occurred on February 24, 2012, when the Defense Federal Acquisition Regulation Supplement [DFARS] Case 2009-D038, the final rule, became law for contractor business systems, as this provided a financial incentive for the contractor to maintain an approved business system. Prior to the enactment of the DFARS 252.242-7005, when a contractor had significant deficiencies with one or more business systems, as determined by DCMA or the Defense Contract Audit Agency (DCAA), the functional specialist would write and submit to the contractor officer, via the CAR eTool system, a corrective action request (CAR) that detailed the deficiencies. In some cases, these deficiencies caused a delay in fielding items to the warfighter. Additionally, the contractor was required to submit a corrective action plan (CAP) to the functional specialist who entered the CAP into the CAR eTool system. The CAP was tracked with the CAR and approved. The functional specialist analyzed objective evidence to validate CAP completion. The functional specialist submitted the CAP completion verification data to the administrative contracting officer (ACO) for final determination of

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<sup>1</sup> Contractor business system and CBS are used interchangeably throughout the document.



an approved system.<sup>2</sup> While these actions worked to keep contractors accountable, particularly regarding their accounting systems, prior to the implementation of 252.242-7005, there was little incentive for the contractor to correct any identified deficiencies. The exception to this was that if the accounting system was disapproved, it could, depending on the contract value and type, prevent the contractor from being awarded additional government contracts until it was reapproved.

Notably, the law established the actions of assessing the new withholding clause, which calls for the withholding of a percentage of payment to the contractor until the situation is rectified. Specifically, “ACOs apply a 2 to 5 percent contract payment withholding for a single deficient system and a maximum of a 10 percent withhold when multiple systems were found to have significant deficiencies” (DFARS, 252.242-7005, 2012, p. 5). In addition:

“Significant deficiency,” in the case of a contractor business system [CBS] means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes. (DFARS 252.242-7005, 2012, p. 5)

Without this kind of internal control mechanism to ensure that a contractor’s business system maintains its approval, there would be an increase in the risk of uncontrollable government contract cost. However, despite the clear benefits of these compliance efforts, an analysis of the six contractor business systems is necessary to further understand the comprehensive nature of the checks and balances and how they impact the government, contractors, and warfighters in practice.

## **A. RESEARCH SCOPE**

The problem is to determine the impact of DFARS Subpart 252.242.7005 Contractor Business System Clause after the April 9, 2015, implementation of *Better Buying Power 3.0: Achieving Dominant Capabilities Through Technical Excellence and Innovation* (Kendall, 2015). The research project data review, which included the years 2015 to 2019, was essential to answering the primary and secondary research questions.

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<sup>2</sup> Contracting officer (CO) is used interchangeably with ACO throughout the document.



Most importantly, answering the impact to the government, contractor, and warfighter related to DFARS clause 252.242.7005 Contractor Business Systems, disapproval. The six contractor business systems are as follows: Earned Value Management Systems (EVMS), Contractor Property Management Systems, Contractor Purchasing Systems (CPSR), Accounting Systems, Cost Estimating Systems, and Material Management and Accounting Systems (MMAS). In addition, data analysis was conducted on surveillance reviews that were used to assess government compliance on contractors (DFARS 252.242-7005, 2012). Contractors for this research were selected based on significant deficiencies that then led to business system disapproval. The data were then analyzed regarding compliance, along with DCMA policy, oversight, and processes for performing contractor business system surveillance reviews and evaluating data integrity. It was further assessed according to Department of Defense [DOD] policy, FAR parts, DFARS clauses, and guidance.

## **B. RESEARCH OBJECTIVE**

The objective of this research project was to quantify the impact to the government, contractor, and warfighter related to implementation of the DFARS clause 252.242.7005 Contractor Business Systems.

### **a. Primary Research Question**

What is the impact of recent changes to the compliance determination of the contractor business systems after the April 9, 2015, implementation of *Better Buying Power 3.0: Achieving Dominant Capabilities Through Technical Excellence and Innovation* (Kendall, 2015)?

### **b. Secondary Research Question**

What has a direct impact to fielding supplies to the warfighter?

## **C. METHODOLOGY**

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.<sup>3</sup> 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.

#### **D. ORGANIZATION**

The research paper is categorized in a logical progression from contract receipt and review to the determination of contractor business system approval and disapproval, which answers the primary research question: What is the impact of recent changes to the compliance determination of the contractor business system?

Chapter I provides the progression of the research proposal. It defines the importance of the thesis, scope, methodology, and organization.

Chapter II provides fundamental conceptions of the contractor business system.

Chapter III provides the data elements used in the contractor business system surveillance, analysis, reporting, and business system determination.

Chapter IV examines six DOD programs using contractor business system compliance data indicators. It documents systems surveillance review results from the systems functional specialist to the Administrative Contracting Officer (ACO). This determines the impact to the government, contractor, and warfighter related to DFARS 252.242.7005.

Chapter V provides the answer to the primary and secondary research questions.

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<sup>3</sup> The Appendix provides additional information regarding the contractor business system rule contract application, the contract administrative functions, and the DCMA, FAR 42.302, and contract administration services (CAS).



## II. BACKGROUND

To understand recent changes to the contractor business systems, it is important to go back to the efforts of Dr. Robert M. Gates and the publication of the *Better Buying Power Initiative*. Gates served as the U.S. secretary of defense from December 2006 to July 2011. President Barack Obama, the eighth president Gates served, was the only incoming president, in U.S. history, to ask the current secretary of defense to remain in office.. When Gates knew that he would remain in his position under Obama, he strategized how he would successfully implement his ideas into the budget (Gates, 2014).

Gates's highest mission priority was, first and foremost, the urgent fielding of critical supplies, services, and lifesaving equipment with better value and rapid fielding to the U.S. armed forces (Gates, 2014). On June 28, 2010, Under Secretary of Defense for Acquisition, Technology, and Logistics Dr. Ashton Carter sent a Better Buying Power mandate memorandum for acquisitions professionals (2010a, p. 1). He noted that in his previous written communication to the acquisition professionals, "to emphasize, with President Obama and Secretary Gates, that your highest priority is to support our forces at war on an urgent basis" (Carter, 2010a, p. 1).

Gates's most notable streamlining successes in government were long-lasting, and some even grew after his 2011 retirement. They include increasing the fielding rate of mine-resistant ambush protected vehicles; increased coverage of intelligence, surveillance, and reconnaissance (ISR); directing the creation of the U.S. Cyber Command; and directing the Better Buying Power initiative that continued after his retirement in 2011 through three memorandum updates, all of which are detailed below (Gates, 2014).

On September 14, 2010, Carter sent a Better Buying Power guidance memorandum for acquisition professionals that he credited as President Obama and Secretary Gates's highest priority. The guidance objective is as follows:

Deliver better value to the taxpayer and warfighter by improving the way the Department does business. I emphasized that, next to supporting our forces at war on an urgent basis, this was President Obama's and Secretary Gates's highest priority for the Department's acquisition professionals. To



put it bluntly: we have a continuing responsibility to procure the critical goods and services our forces need in the years ahead, but we will not have ever-increasing budgets to pay for them. We must therefore strive to achieve what economists call productivity growth: in simple terms, to DO MORE WITHOUT MORE. (Carter, 2010b, p. 1)

## A. THE CONTRACTOR BUSINESS SYSTEM IMPROVEMENTS

The CBS improvements will show the impact to the government, contractor, and warfighter related to Defense Acquisition Regulations System (DFARS) 252.242.7005. The supplementary information in the proposed rule describes the importance of strengthening the weak internal control systems of government contractors. Most importantly, “contractor business systems and internal controls are the first line of defense against waste, fraud, and abuse. Weak control systems increase the risk of unallowable and unreasonable costs on Government contracts” (Defense Acquisition Regulations System [DARS], 2012). After this mandate was issued, several supporting memos and laws were also passed, including those detailed in Figure 1.

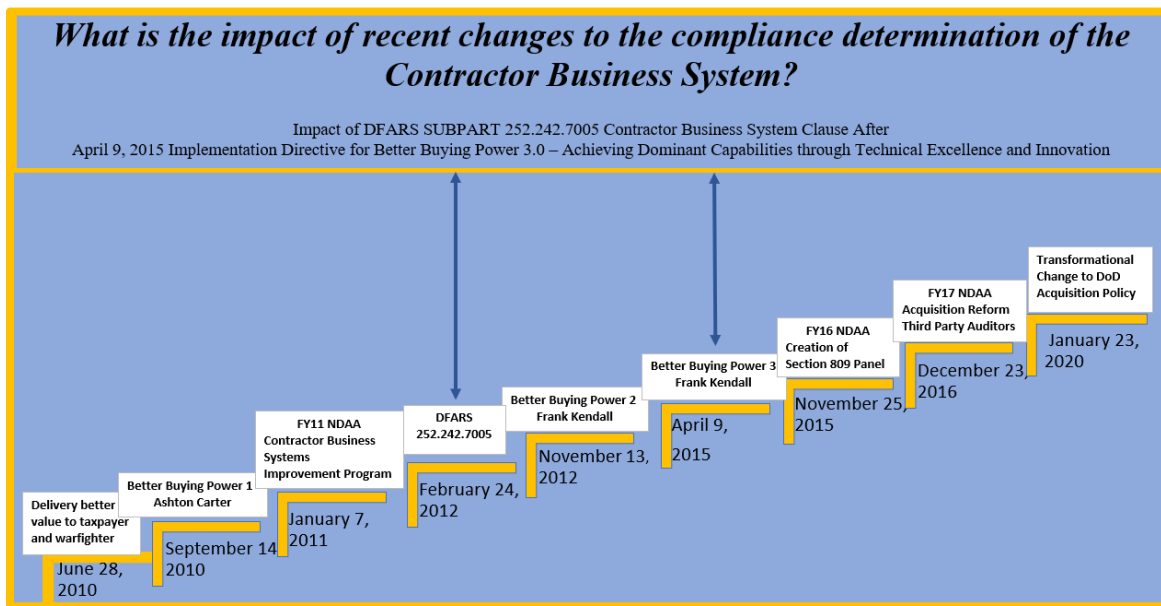


Figure 1. Timeline of Government Streamlining and Oversight of Contractors.





Specifics of the timeline:

- September 14, 2010: Ashton Carter issued a memorandum for acquisition professionals, *Better Buying Power: Guidance for Obtaining Greater Efficiency and Productivity in Defense Spending* (Carter, 2010b). The memorandum was guidance for achieving the June 28, 2010, *Better Buying Power: Mandate for Restoring Affordability and Productivity in Defense Spending*, that improves industry productivity and provides an affordable, value-added military capability to the warfighter (Carter, 2010a).
- January 7, 2011: Under Ike Skelton, the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 was enacted to provide additional oversight and accountability of government contractors. The guidance was covered in Section 831: “oversight and accountability of contractors performing private security”; Section 834: “enhancements of authority of the secretary of defense to reduce or deny award fees to companies found to jeopardize the health or safety of government personnel” (NDAA, 2011, pp. 138 and 142).
- November 13, 2012: Under Secretary of Defense Frank Kendall issued a memorandum for acquisition professionals, *Better Buying Power 2.0: Continuing the Pursuit for Greater Efficiency and Productivity in Defense Spending*, that continued the DOD’s efforts toward increasing efficiencies, “do more without more” (2012, p. 1).
- April 9, 2015: Kendall issued a memorandum for acquisition professionals, *Implementation Directive for Better Buying Power 3.0: Achieving Dominant Capabilities through Technical Excellence and Innovation*, that provided “the next step in our continuing effort to increase the productivity, efficiency, and effectiveness of the Department of Defense’s many acquisition, technology, and logistics efforts.” (2015, p. 1).

## **B. THE FINAL BUSINESS SYSTEMS RULE**

After the NDAA was enacted on January 7, 2011, the final business system rule was formally adopted into law on February 24, 2012. It states:

The final Business System rule is very similar to the interim rule published on May 18, 2011. Major system reviews have been performed by the federal government since 1985. Internal controls have been a major focus of the federal government for several years and have been paid even more attention since the adoption of FAR 52.203-13, Contractor Code of Business Ethics and Conduct (effective as of December 24, 2007). One of the stated criteria of FAR 52.203-13 was to create an internal control system that will facilitate timely discovery and disclosure of improper conduct in connection with government contracts. Over the next several years, internal control requirements slowly evolved into system-specific requirements for major Business Systems, as defined by the DOD (NDAA, 2011).



Importantly, the above rule provides clarification of the administration of contract oversight effectiveness of DCMA and DCAA over the six contractor business systems.

### **C. ROLE OF THE DCMA AND DCAA IN CONTRACT MANAGEMENT**

The DCMA is the cognizant federal agency responsible for the management of contracts. Additionally, these laws and timelines directly affect the DCAA and DCMA as they are the government audit agencies responsible for surveillance and auditing of DOD contractor accounting systems. A DCMA or DCAA functional specialist issues a business system report, and they make compliance recommendations to DCMA through an audit report (FAR 42.101, 2020).

DCMA issues a business system analysis summary (BSAS) for

- Earned value management systems (EVMS; DFARS 252.234-7002)
- Contractor property management systems (DFARS 252.245-7003)
- Contractor purchasing systems (CPSR; DFARS 252.244-7001)

DCAA issues a business system report (audit report) for

- Accounting systems (DFARS 252.242-7006)
- Cost estimating systems (DFARS 252.215-7002)
- Material management and accounting systems (MMAS; DFARS 252.242-7004)

When the military or federal government (e.g., Department of the Army, Navy, Marines, Air Force, or NASA) awards a contract, if the program manager (PM) uses DCMA to manage the contract, the procurement contracting officer (PCO) will send a delegation authority to DCMA. The PCO can withhold all but FAR 42.302 (2020), Contract Administration Functions, to DCMA:

The contracting officer normally delegates the following contract administration functions to a contract administration office [CAO]. The contracting officer may retain any of these functions, except those in paragraphs (a)(5), (a)(9), (a)(11) and (a)(12) of this section, unless the cognizant Federal agency (see 2.101) has designated the contracting officer to perform these functions. (FAR 42.302, 2020)

Applicable Federal Acquisition Regulation (FAR) “is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, sections, and subsections” (FAR 1.105-2, 2020), as well as DFARS clauses that are added to applicable



contracts. In addition to the clauses, DCMA directives, policies, manuals, and instructions are used to determine and mitigate risk with the contractor business systems. DCMA provides contract oversight, surveillance, and compliance processes when performing contractor business system compliance reviews and evaluating data integrity.

It is DCMA policy to:

- Ensure contractors maintain effective business systems, processes, and procedures.
- Perform contractor business system reviews and determinations in a multi-functional, integrated, synchronized, and coordinated manner.
- Execute this [DCMA-MAN 2301–01] manual in a safe, efficient, effective, and ethical manner. (DCMA, 2019c, p. 5)

On April 28, 2019, the DCMA Manual (DCMA-MAN) 2301–01, *Contractor Business System*, was published. It contains 10 sections and

applies to all DCMA organizational elements who enable or perform contractor business system (CBS) review activities on DCMA administered contracts/non-procurement instruments, contracts awarded by DCMA, contracts with delegations (e.g., National Aeronautics and Space Administration (NASA), Foreign Military Sales, and other federal agencies), and Direct Commercial Sales, and section 1.2 Policy, states it is DCMA policy to: a. Ensure contractors maintain effective business systems, processes, and procedures; b. Perform contractor business system reviews and determinations in a multi-functional, integrated, synchronized, and coordinated manner; c. Execute this manual in a safe, efficient, effective, and ethical manner. (DCMA, 2019c, p. 5)

#### **D. SIX MAJOR CONTRACTOR BUSINESS SYSTEMS**

DFARS requires “contractors who do business with the federal government to maintain an approved business system; the contractors may have up to six business systems” that require approval” (GAO, 2019, p. 4). The DFARS establishes the execution of validation review criteria for each of the six business systems with a contract clause specific to the type and total dollar threshold value of the contract. The review and approval of a business system indicates the health and compliance of the contractor’s program, and it reduces risk to the taxpayer, government, and contractor.

A summary, from the GAO report to Congressional Committees, of the descriptions and factors of the six contractor business systems is as follows:



- Accounting: System review to determine current, “accurate, and timely reporting of financial data that is applicable to laws and regulations.” (GAO, 2019, p. 4) Factors: Contract types “include but are not limited to” cost-reimbursement, incentive, time and materials, etc. (GAO, 2019, p. 4).
- Estimating: System review to determine estimating of cost and “data included in proposals submitted to the government” reflect proper policies, procedures, and practices (GAO, 2019, p. 4). Factors: Contracts that are awarded, but not limited to the evaluation of the “certified cost or pricing data” (GAO, 2019, p. 4).
- Material Management and Accounting: System review of standalone or integrated internal tools used for planning the acquisition and use of material. Factors: Cost or “fixed-price contracts that exceed the simplified acquisition threshold” and have progress payments (GAO, 2019, p. 4). Non-applicable to nonprofits, small businesses, or educational institutions.
- Purchasing: System or systems review for purchasing and subcontracting that include execution and delivery of materials through vendor selection, price quotes, and administration of orders. Factors: Certain contracts with FAR subcontracts clause that exceed the simplified acquisition threshold.
- Property Management: System or systems used in “managing and controlling government property” (GAO, 2019, p. 5). Factors: Cost, fixed-price, time and material, “or labor hour contracts that” include FAR clauses for government property (GAO, 2019, p. 5).
- Earned Value Management: System review of program management tools and internal controls used to ensure government compliance with the integration of the scope of work to cost, schedule, and performance. Factors: Cost or incentive contracts subject to the EVM clause (GAO, 2019, pp. 4–5).



### **III. DATA**

Data collected and analyzed from Contract Business Analysis Repository (CBAR) indicates which of the contractor business systems, enterprise-wide, have the “disapproved” status. The data also reveals the percentage of payments being withheld until the CO determination. The functional specialist then submits the verification and deficiency closure data, obtained during the DCMA business system review to the CO. The CO reviews the verification data to determine whether there are remaining significant deficiencies. When this is confirmed, the CO issues a letter of final determination of the contractor’s business system “approved” status.

An analysis of the significant deficiencies of a contractor with multiple business system disapprovals will determine the impact of the contractor business systems clause, as well as warfighter readiness impacts due to delivery delays and nonconforming material.

#### **A. CONTRACTOR BUSINESS SYSTEM SURVEILLANCE**

On April 9, 2015, the issuance of Implementation Directive for Better Buying Power 3.0: Achieving Dominant Capabilities through Technical Excellence and Innovation provided implementation instructions to “increase the productivity, efficiency, and effectiveness of the DOD’s many acquisitions, technology, and logistics efforts” (Kendall, 2015, p. 1).

Since November 5, 2018, DCMA-MAN 2303, which was published by Vice Admiral Lewis, DCMA Director, was provided guidance in the execution of contractor business system surveillance events (DCMA, 2018a). This publication was issued in accordance with the authority in DOD Directive 5105.64 (DOD, 2013). It established the policy and responsibility for surveillance responsibilities assessing contractor business system risk. The risk assessment is used in the planning, execution, documentation, and feedback for business system surveillance (DCMA, 2018a). Surveillance is a contract administration requirement used by the functional specialist “to evaluate the contractor’s data on performance and contractual compliance to statutory and regulatory requirements” (see Figure 2). Surveillance uses four steps to “assess risk, plan events, execute standard techniques, and document and provide feedback” to all stakeholders (DCMA, 2018a, p. 5).



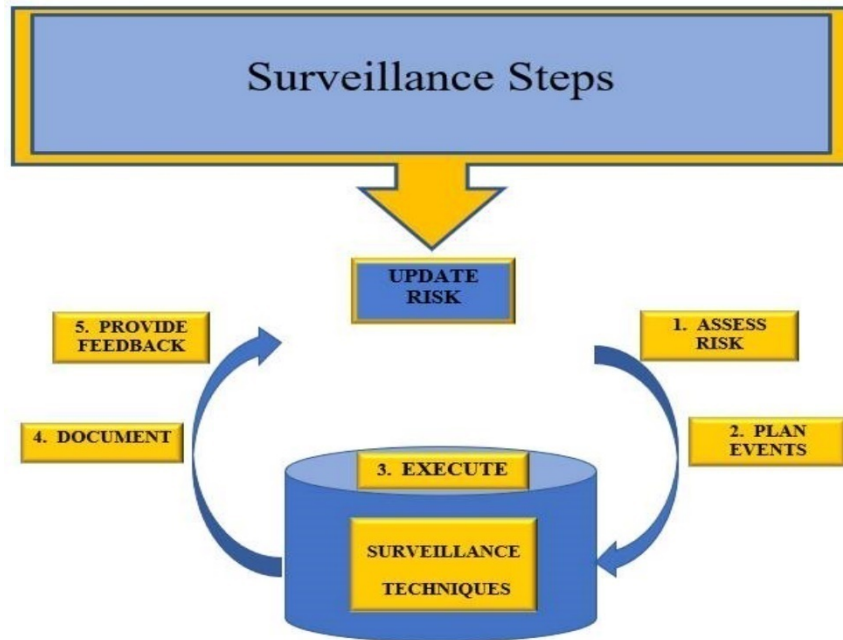


Figure 2. Surveillance Steps. Source: Adapted from DCMA (2018a, p. 5).

DCMA’s guidance in conducting surveillance is to use the following manuals that support DCMA-INST-2303, *Contractor Effectiveness Capability*:

- DCMA-MAN 2303–01, *Surveillance: Assess Risk*. This manual prescribes “the procedures for implementing a risk assessment process that will be used to plan surveillance events” (DCMA, 2018a, p. 5).
- DCMA-MAN 2303–02, *Surveillance: Plan Events*. This manual provides “procedures for implementing a surveillance planning process that will be used to plan and schedule surveillance events” (DCMA, 2018a, p. 5).
- DCMA-MAN 2303–03, *Surveillance: Execute with Standard Techniques*. “This manual standardizes surveillance terminology and surveillance techniques that will be used when planning and executing surveillance events” (see Figure 3) (DCMA, 2018a, p. 5).
- DCMA-MAN 2303–04, *Surveillance: Document Results, Corrective Actions & Provide Feedback* (DCMA, 2019d). “This manual provides procedures for documenting surveillance event(s) completion, results, CAR, and feedback” (DCMA, 2018a, p. 5).

On April 28, 2019, Vice Admiral Lewis issued DCMA-MAN 2301–01 “in accordance with the authority in DOD Directive 5105.64” (2019c, p. 2), which provides instruction to the functional specialist on the process and procedures for contractor business system reviews and implements DCMA Instruction 2301, *Evaluating Contractor*

*Effectiveness* (2019a, January 24). The issuance of DCMA-MAN 2301–01 detailed the responsibilities and procedures used in assessing the “approval or disapproval of the contractor’s system” (2019c, p. 2).

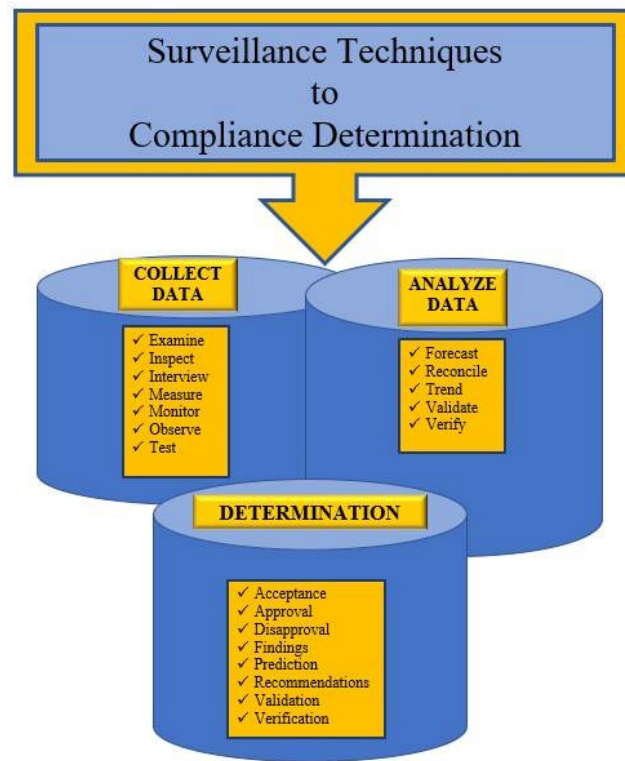


Figure 3. Surveillance Techniques in Support of Compliance Determination.  
Source: Adapted from DCMA (2018b, p. 10).

## B. SURVEILLANCE REPORTING AND DETERMINATION: OVERVIEW OF THE DCMA DISAPPROVAL PROCESS

A summary of the DCMA-MAN 2303–03 disapproval process is as follows:

- An analysis of the exhibits, contractual requirements, and contractor procedures with the noncompliance description from the corrective action request (CAR) identifies the severity of the noncompliance and the impact it has on the contract, cost, schedule, and technical performance, as well as people, process, and tools.
- The analysis of the data provided by the contractor, through a corrective action plan (CAP), provides the root cause of the significant deficiency, corrective action plan implementation schedule, and the prevention of reoccurrence.



- The DCMA business system review functional specialist verifies the exit criteria, prevention of reoccurrence, and closure of the CAP.
- Next, the DCMA business system functional specialist reviews the contractor business system and provides the documented findings to the administrative contracting officer (ACO) with a recommendation for business system disapproval, including a category of severity (Level I, II, III, or IV) and an approved CAP.
- The ACO then issues a final determination for business system disapproval. If disapproved, a determination to withhold a percentage of payments can be made.
- The contractor is then given the chance to rectify their deficiencies written in the CAR. Penalties are to be lifted or reduced until verification of a CAP has been completed and then closed.
- Lastly, the ACO determines, with verification and validation of deficiency closure data, that there are no remaining significant deficiencies. A final CBS determination letter is then issued to the contractor on their reviewed system, changing their status from disapproved to approved (DCMA, 2018b).

This research project was based on contractors with a disapproved business system. The analysis was based on the documentation obtained from the DCMA CAR eTool system and CBAR. The documentation included SSRs, CARs, and CAPs, as well as ACO determination, withholds, and closeout determination for CBS approval. A review of the DCMA system surveillance functional specialists' contractor system surveillance report (SSR) reveals the FAR parts, DFARS clauses, DCMA policy, instruction, and processes that were used in evaluating and documenting contract progress and compliance (DCMA, 2019c).

The contractor's data is assessed by contractual, regulatory, statutory, and internal process requirements. As noted, "all surveillance falls within one or more overarching surveillance categories: Process Evaluations, Progress Evaluations, and Deliverable Supplies/Service Evaluations" (DCMA, 2018e, p. 5). When significant deficiencies (noncompliance) are identified, a CAR is issued.

Contracting officer determination of a business system disapproval for applicable Commercial and Government Entity (CAGE) codes, and any contracts that have the applicable clause under that CAGE code, would be subject to a withhold per DFARS 252.242-7005. The government contractors' CAGE code is tied to the site address of





contract execution and entered into the CBAR. The CBAR data entry is entirely manual and dependent on the ACO, divisional administrative contracting officer (DACO), and corporate administrative contracting officer (CACO) to make timely updates related to contractor business systems (DCMA, 2019c).

### **C. FUNCTIONAL SPECIALIST AND CONTRACTING OFFICER REPORTING**

The information captured from CBAR traces back to where the business system's significant deficiency originated. The review of the DCMA findings reported from government business system compliance reviews provides the detailed analysis of the business system findings. The findings report is submitted to the assigned ACO for final business system disapproval determination. The analysis of the findings report and business system disapproval with "determination to withhold payments" determines the impact of withholding payments. The functional specialists provide the ACO with the CAR Level I, II, III, or IV; CAP; and CAP approval with verification of business system compliance by the DCMA business system review functional specialist. Table 1 describes the CAR levels.



Table 1. CAR Levels, Coordination, Approval, and Distribution Matrix.  
Adapted from DCMA (2019d).

| CAR Levels   | Pre-Release Coordination*   | Release Approval CAP Acceptance*   | Pre-Release Notification  | Release to Contractor Management Level                     | Post-Release Distribution  |
|--|---|--|---|--|--|
| I  | N/A   | Functional Specialist  | N/A   | Lowest management responsible to correct defect**          | N/A  |
| II   | Other functional levels impacted. Additional coordination prescribed locally.   | Functional Specialist  | Other functional levels impacted. Additional coordination prescribed locally. | Functional level responsible for corrective action.        | Provide copy to applicable DCMA centers.<br>Additionally:<br>- ACO/DACO/CACO,<br>- Originator of QA Letters of Instruction<br>- CMO Letters of Delegation<br>- Command functions or DCAA                   |
| III  | Applicable DCMA centers & customers.<br>Additionally:<br>- CMO or<br>- Command Commander/Director<br>- Legal Counsel<br>- Contract Integrity Center (CIC) | ACO /DACO /CACO<br>Additionally:<br>For EV CARs issued at subcontractor level. | Operational Unit Command. Agency Director.                                    | Top-level manager at business segment or corporate manager | Upload/provide copy to applicable DCMA centers & customers.<br>Additionally:<br>- DCMA Forum<br>- CMO or Command Commander & Director:<br>- Component Heads<br>- CIC<br>- DCAA representative              |
| IV   | Applicable DCMA centers & customers.<br>Additionally:<br>- CMO or<br>- Command Commander/Director<br>- Legal Counsel<br>- Contract Integrity Center (CIC) | ACO /DACO /CACO  | Operational Unit Command. Agency Director.                                    | Top level manager at business segment or corporate manager | A copy must be uploaded/provided to applicable DCMA centers & customers.<br>Additionally:<br>- DCMA Forum<br>- CMO or Command Commander & Director:<br>- Component Heads<br>- CIC<br>- DCAA representative |
| * For EVMS CARs, follow CBS Guidance for CAR Approval and CAP Acceptance.<br>**Optional when a root cause is known |   |  |   |  |  |

The analysis of the exhibits, contractual requirements, and contractor procedures with the noncompliance description from the CAR identifies the severity of the noncompliance and the impact. The analysis of the data provided by the contractor through a CAP provides the root cause of the significant deficiency, the corrective action plan implementation schedule, and the prevention of reoccurrence.

Table 2 identifies DCMA's required criteria for the contractors to include in their CAP prior to submitting to the functional specialist for approval. The CAP is evaluated on the basis of the necessary requirements by the functional specialist. If the CAP requirements are deficient, is the CAP will be returned to the contractor for correction and resubmittal until it is approved by the functional specialist. Lastly, the DCMA business system review functional specialist verifies the exit criteria, prevention of reoccurrence, and closure of the CAP prior to submitting to the ACO for final determination of approved or disapproved CBS.

Table 2. Required Criteria for CAR Response.  
Adapted from DCMA (2019d).

| CAR Response Requirements  | Level I | Level II | Level III | Level IV |
|--|---------|----------|-----------|----------|
| Root Cause(s)  | X*      | X        | X         | X        |
| Corrective Action(s) taken or planned to:<br>- Eliminate the cause(s)<br>- Prevent recurrence<br>- Address people process and tools  | X*      | X        | X         | X        |
| Corrective Action(s) to eliminate deficiency.  | X       | X        | X         | X        |
| Determination:<br>Identify Root Cause(s) that affect:<br>- Products/services<br>- Products delivered to customer   | X*      | X        | X         | X        |
| Corrective Action(s) to prevent delivery of deficient products/services for government acceptance.   | X*      | X        | X         | X        |
| Corrective Action(s) implementation schedule.<br>(e.g., CAP Approved Date, Verification Date, Validation Date)   | X*      | X        | X         | X        |
| *Optional, not normally required.  |         |          |           |          |
| For example, CAR(s) issued for nonconforming products/services under FAR Part 12 contracts require the contractor to identify corrective action(s) taken to eliminate the specific product deficiency. |         |          |           |          |

On February 19, 2020, an analysis data set was retrieved on CAGE code entries from CBAR. There were 1,632 contractor CAGE entries for the six contractor business systems statused between 2015 and 2019. There were 1,600 contractor CAGEs with approved business systems and 32 with disapproved business systems that are described in Chapter IV.



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## IV. ANALYSIS

This analysis examines the impact of clause 252.242.7005 Contractor Business System after the April 9, 2015, Implementation Directive for Better Buying Power 3.0: Achieving Dominant Capabilities through Technical Excellence and Innovation (Kendall, 2015). The contracting officer is responsible for current, accurate, and timely entry of CAGE level status, for the six contractor business systems, into CBAR (DCMA, 2019c). Figures 4–11 represent the number of contractor business systems in each category that were statused as approved and disapproved in CBAR between 2015 and 2019.

### A. BUSINESS SYSTEM ANALYSIS

#### (1) Approved and Disapproved Contractor Business Systems

Figure 4 shows a total of 1,600 approved and 32 disapproved contractor business systems that were statused in CBAR.

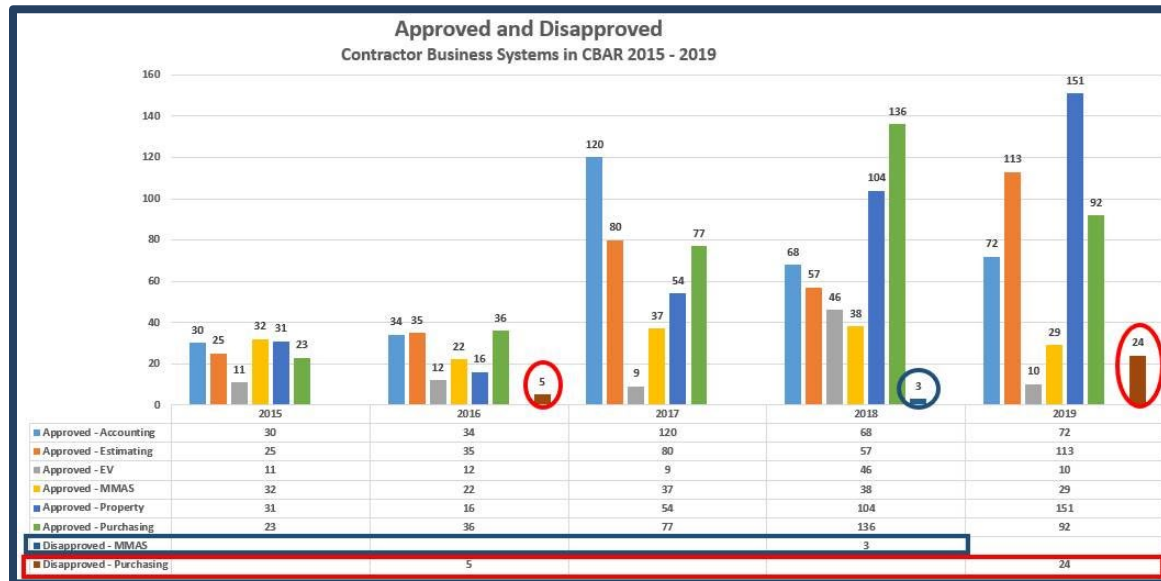


Figure 4. CBAR Contractor Business Systems with Approved (1,600) and Disapproved (32) Status, by Year, 2015–2019.

Figure 5 shows that between 2015 and 2019 there were 32 contractor business systems that had significant deficiencies and were disapproved by the contracting officer.



Only three out of the 32 disapproved contractor business systems had a percentage of payments withheld. There were no disapproved contractor business systems in 2015 and 2017.

In 2016, there were five, and in 2019 there were 24 disapproved purchasing systems. Since 2016, one of the five purchasing systems had payments withheld by the contracting officer, and today all five systems remain disapproved with significant deficiencies. Between mid- to late-2019, none of the 24 disapproved systems had payments withheld, and today all remain disapproved with significant deficiencies.

In 2018, there were three disapproved material management and accounting systems (MMAS), and two of the three had payments withheld by the contracting officer. All three contractor business systems remain disapproved with significant deficiencies.

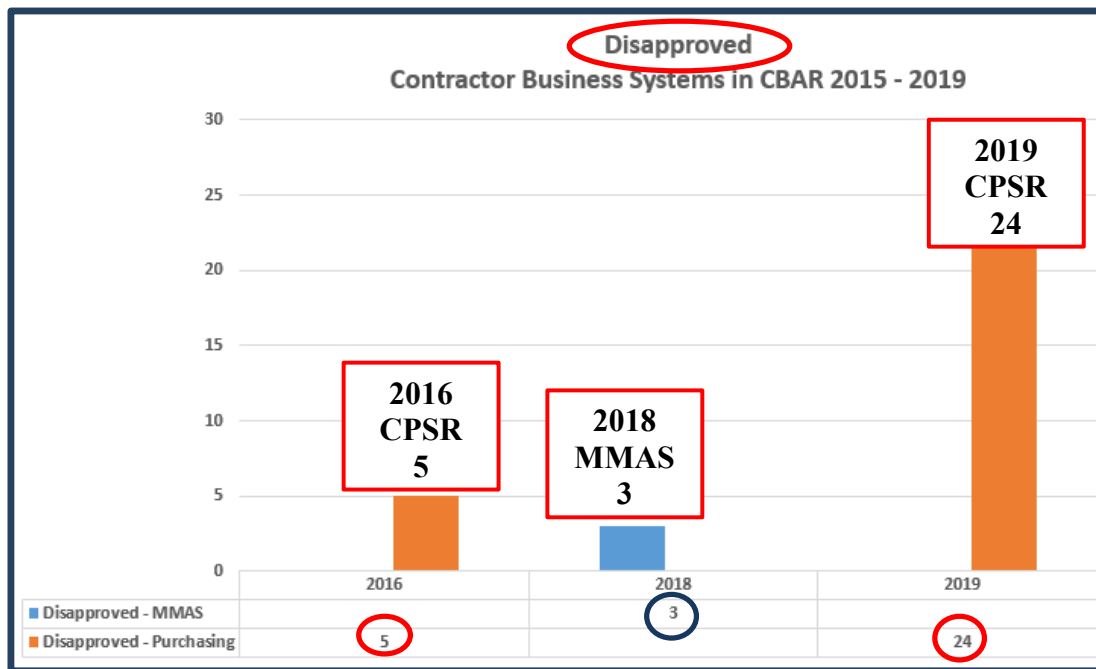


Figure 5. CBAR Contractor Business Systems with Disapproved (3) Material Management and Accounting systems and Disapproved (29) Purchasing Systems Status by Year, 2015-2019.

## **B. ANALYSIS OF SIX CONTRACTOR BUSINESS SYSTEMS**

As stated previously, the analysis of the following six contractor business systems is used to answer the primary and secondary research questions.

### **(1) Earned Value Management System (EVMS)**

Figure 6 shows that between 2015 and 2019 there were 365 records that are classified as 88 approved, nine not evaluated, and 268 that do not apply under the EVMS requirement. Although there were no disapproved EVMS, it is important to understand the execution of the EVMS review. There are two guides, one is for implementation and the other is for interpretation, from the Office of “Acquisition Analytics and Policy (AAP)...is accountable for EVM Policy, oversight, and governance across the DOD” (AAP, 2019a, p. 1). The AAP Earned Value Management Implementation Guide (EVMIG) provides guidance for the EVM concepts, use, and application to contracts (AAP, 2019a, p. i). The AAP Earned Value Management System Interpretation Guide (EVMSIG) provides the “DOD interpretation of the 32 guidelines” (AAP, 2019b, p. 4). The guidance for interpretation of EVM policy pertains to a number of internal and regulatory requirements, for example, 32 guidelines covered in the EIA-748-C Standard, “Earned Value Management Systems,” and DFARS 252.234-7002, as well as DFARS Subpart 242.302, “Contract Administrations Functions, etc.” (AAP, 2019b, p. 90). Additionally, the DCMA-MAN 2301-01, Section 5: Earned Value Management System, provides guidance related to a number of internal and regulatory requirements (2019c).

The contractor must ensure they have the proper internal control tools and a formal documented process that includes standard business management practices. To this end, the contractor maintains internal controls documented in their EVM System Description (SD). The EVMS functional specialist must review and ensure that the contractor’s internal controls and business management practices comply with the 32 guidelines. The guidelines are divided into five areas. Each of the following areas are covered by specific guidelines: Organization—Guidelines 1–5; Planning, Scheduling, and Budgeting—Guidelines 6–15; Accounting Considerations—Guidelines 16–21; Analysis and Management Reporting—Guidelines 22–27; and Revisions and Data Maintenance (AAP, 2019b, pp. 4–6).



The EVMS functional specialist documents compliance review deficiencies that do not support with DFARS 252.245-7002, as well as contractor-identified deficiencies on the contractor's EVMS in the CAR eTool system. The same process described previously is used for issuing a CAR and approving the contractor's CAP, as well as for significant deficiencies and reapproval of the contractor's business system.

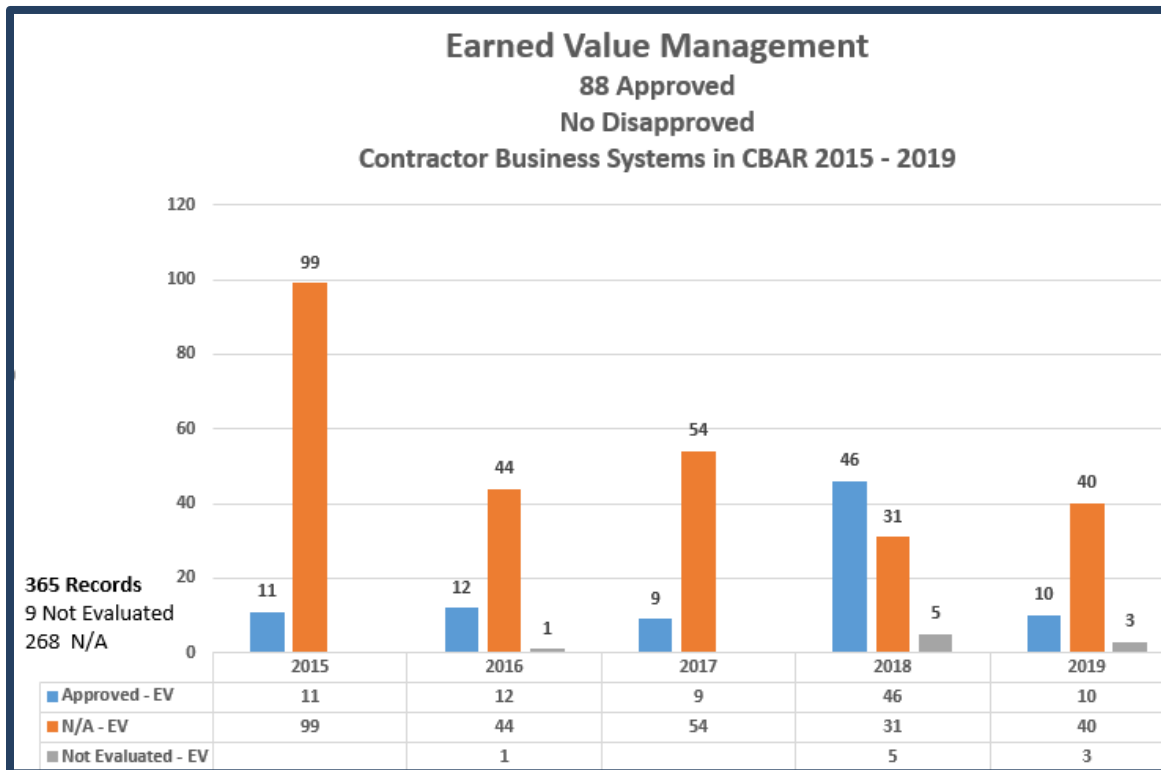


Figure 6. CBAR Contractor Business Systems with Approved (88), Not Evaluated (9), Not Applicable (268), and Disapproved (0) Earned Value Management Systems Status by Year, 2015-2019.

## (2) Property Management System

Figure 7 shows that between 2015 and 2019 there were 459 records that are classified as 356 approved, seven not evaluated, and 96 that do not apply under the property management systems requirement. Although there were no disapproved property management systems, it is important to understand the execution of the property management system analysis (PMSA). The DCMA Guidebook, *Contract Property Administration*, provides guidance that pertains to a number of internal and regulatory





requirements, such as DFARS 252.245-7003, FAR 52.245-1, etc. Additionally, The DCMA-MAN 2301-01, Section 7: Property Management System, provides guidance related to a number of internal and regulatory requirements (2019c).

The contractor must ensure they have a process to manage government property effectively and efficiently. The responsibility of the contracting officer is to determine whether the contractor's property management system is acceptable based on analysis results of a compliance review, that is conducted and reported, by the government property administrator (PA) (DCMA, 2020): "The Government shall have access to the Contractor's premises and all Government property" (DCMA, 2020, p. 3). The PA functional specialist must ensure the contractor has the proper internal controls to effectively and efficiently manage the government's property.

The PA is responsible for accessing the contract to ensure the appropriate clauses and property attachments with terms and conditions are included. Additionally, the PA is responsible for reviewing, testing, and documenting the contractor risk rating by using the methodologies of "22 elements." These elements are reviewed at least once every three years (DCMA, 2020, p. 14).

The PA functional specialist documents compliance review deficiencies that do not support DFARS 252.245-7003, as well as contractor-identified deficiencies on the contractor's property management system in the CAR eTool system. The same process described previously is used for issuing a CAR and approving the contractor's CAP, as well as for significant deficiencies and reapproval of the contractor's business system.



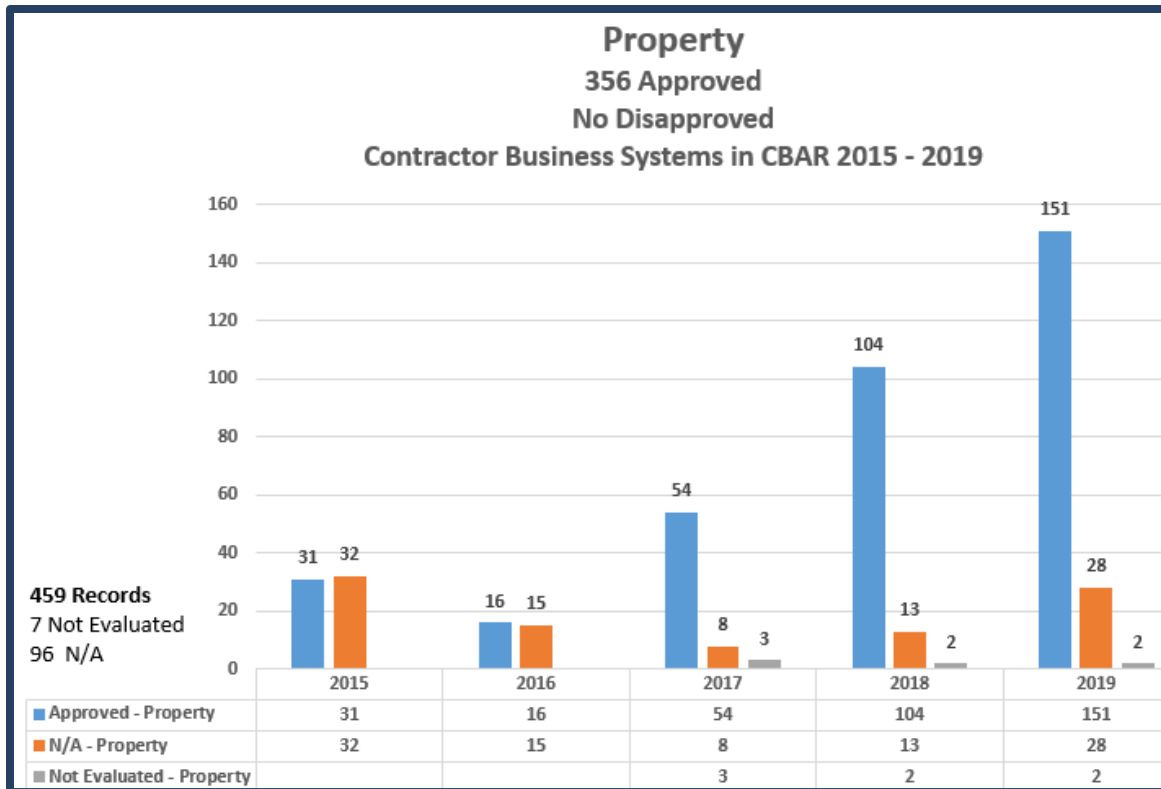


Figure 7. CBAR Contractor Business Systems with Approved (356), Not Evaluated (7), and Not Applicable (96), and Disapproved (0) Property Management Systems Status by Year, 2015-2019.

### (3) Contractor Purchasing System Review (CPSR)

Figure 8 shows that between 2015 and 2019 there were 481 records that are classified as 364 approved, 29 disapproved, three not evaluated, and 96 that do not apply under the CPSR requirement. There were 29 disapproved purchasing systems, and 1 out of the 29 had payments withheld. All 29 remain disapproved with significant deficiencies. It is important to understand the execution of the CPSR, as well as documented significant deficiencies. The DCMA Guidebook, *Contractor Purchasing System Review*, provides guidance that pertains to a number of internal and regulatory requirements, such as DCMA Instruction 109, FAR subpart 44.3, DFARS 252.244-7001, etc., (2019, p. 5). Additionally, The DCMA-MAN 2301-01, Section 8: Purchasing System, provides guidance related to a number of internal and regulatory requirements (2019c).



The CPSR functional specialist must ensure the contractor's purchasing system has the proper internal controls to effectively and efficiently manage the expenditure of government funds. To that end, they review the contractor's purchasing system at a minimum of every three years. They ensure the contractor is in compliance with 30 elements that pertain to the review of the purchasing system.

The functional specialist documents compliance review deficiencies, as well as contractor-identified deficiencies, on the purchasing system that do not support DFARS 252.244-7001(c), in the CAR eTool system. The same process described previously is used for issuing a CAR and approving the contractor's CAP, as well as for significant deficiencies and reapproval of the contractor's business system.

Between 2015 and 2019, there were 29 disapproved purchasing systems. A review of the cost and pricing area, in a random selection, of disapproved CPSRs showed a consistency of significant deficiencies related to cost and/or price analysis. These were related to contractor performance cost and pricing data as required by DFARS 252.244-7001(c). The analysis of cost and pricing is required to be completed and documented on all appropriate purchase orders, revisions, and adjustments as defined by the guidelines in FAR 15.404-1. This ensures the fair and reasonableness of the final price (2019, p. 55). The cost of pricing deficiencies create a higher cost of contractor purchases, which is passed on to the government.



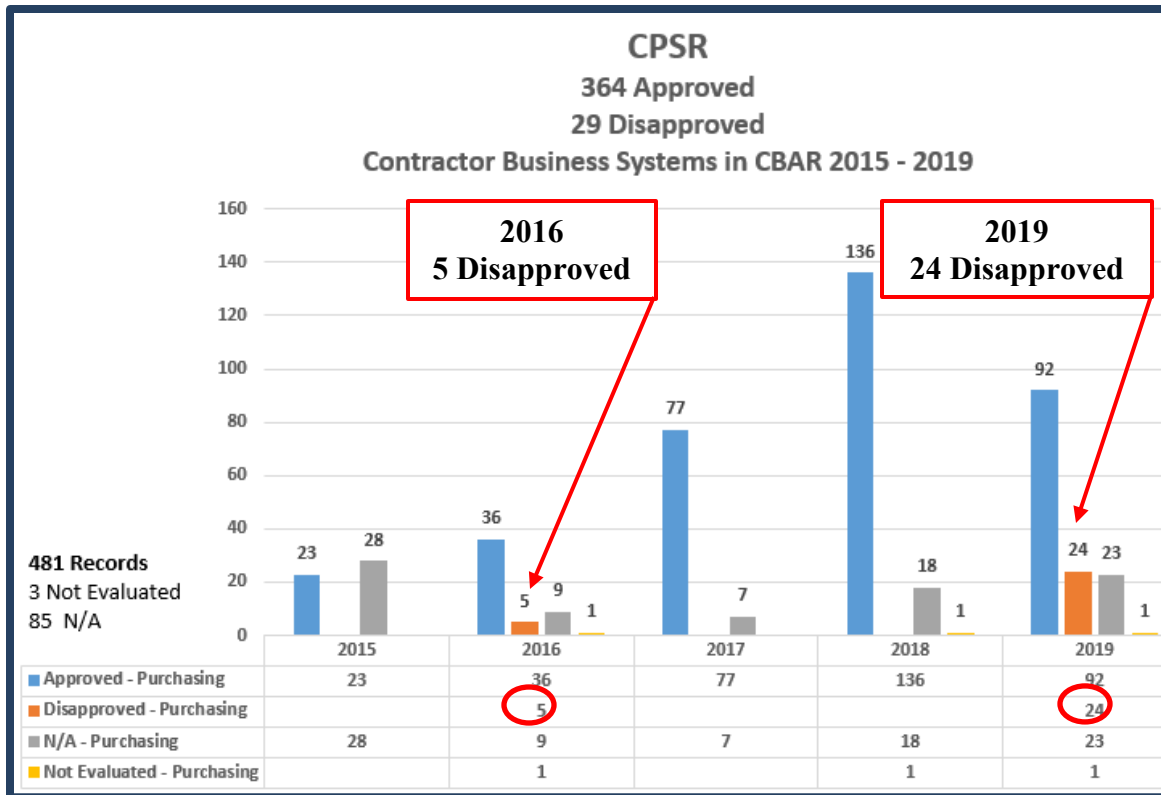


Figure 8. CBAR Contractor Business Systems with Approved (364), Not Evaluated (3), Not Applicable (85), and Disapproved (29) Purchasing Systems Status by Year, 2015-2019.

#### (4) Accounting Systems

As Figure 9 shows, between 2015 and 2019 there were 362 records that are classified as 324 approved, three not evaluated, and 35 that do not apply under the accounting system requirement. It is important to understand the execution of the accounting system review. The DCMA Manual 2301-01, *Contractor Business System*, section 3, Accounting System, provides guidance related to a number of internal and regulatory requirements, such as DFARS 252.242-706, DFARS 242.75, etc. (2019c).

Additionally, The DCMA-MAN 2301-01, Section 3: Accounting System, provides guidance related to a number of internal and regulatory requirements (2019c). “DCAA or a Host Nation Audit Organization (HNAO) generally conducts accounting system reviews and issues the business system report to the [DCMA administrative contracting officer] ACO” (2019c, p. 10). The ACO is responsible for surveillance and has the authority to

request an accounting system review be conducted by DCAA when the contractor's accounting system has not been approved (2019c).

The DCAA functional specialist must review the contractor's accounting system to ensure that it complies with the government regulations and laws, the cost data is reliable, the risk related to errors in allocations and charges are controlled, and they are reliable with internal billing practices that are required by DFARS 252.242-7006(a)(1). The accounting system is further defined by DFARS 252.242-7006(a)(2) as "the contractor's accounting system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions" (2012).

Specifically, the functional specialist determines allowability by reviewing the accounting system to ensure the total contract costs are allowable and reasonable under FAR 32.201-2 (2020). These contract costs include direct and indirect expenses (material, manufacturing, engineering, and site overhead), general expenses, and administrative expenses. Additionally, the functional specialist completes a review of the accounting system to ensure unallowable costs are not charged on government contracts as required by FAR 31, Contract Cost Principles and Procedures (2020).

The DCAA functional specialist documents compliance review deficiencies, as well as contractor-identified deficiencies, in a business system report that is sent to the DCMA ACO. The ACO is responsible for documenting the deficiencies in the CAR eTool. The ACO in coordination with the DCAA functional specialist approved the contractor's CAP. The contractor notifies the ACO when the corrective actions are complete and ready for validation that there are no significant deficiencies. The ACO coordinates with DCAA to review the contractor's accounting system to verify there are no remaining deficiencies. When DCAA provides the contracting officer with the contractor's business system report that verifies compliance, the contracting officer will approve the accounting system (DCMA, 2019c).



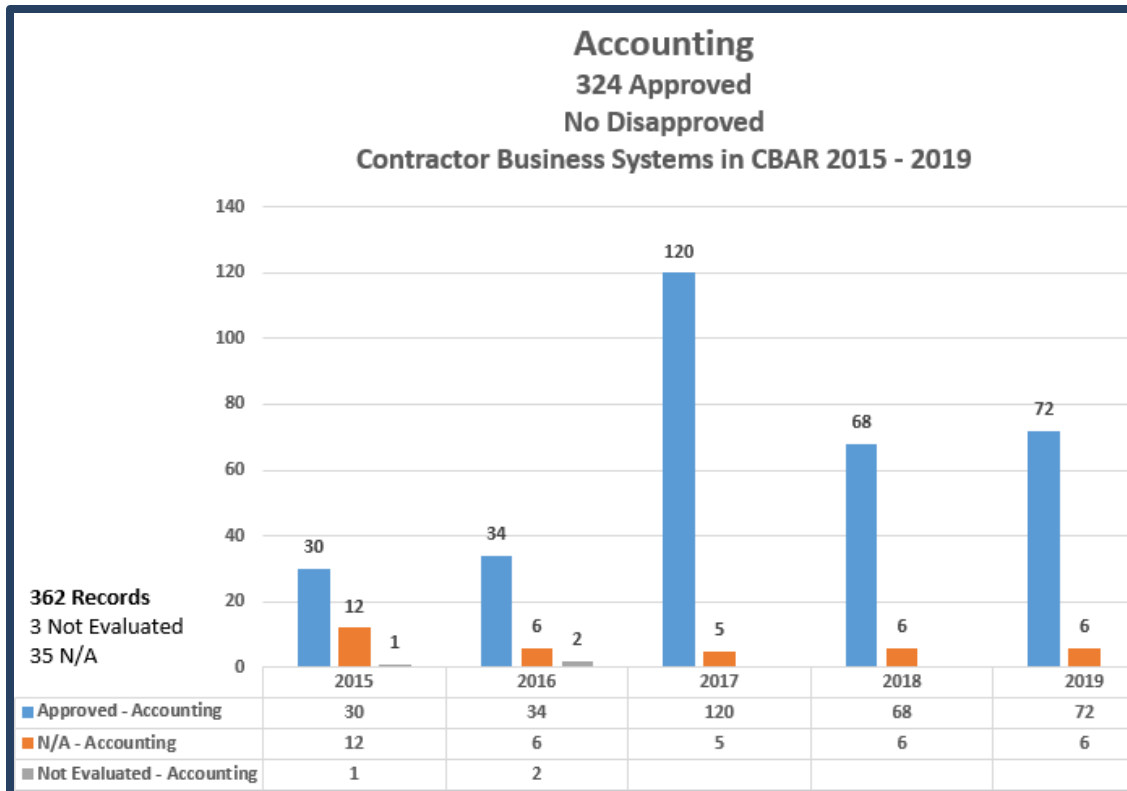


Figure 9. CBAR Contractor Business Systems with Approved (324), Not Evaluated (3), Not Applicable (35), and Disapproved (0) Accounting Systems Status by Year, 2015-2019.

#### (5) Cost Estimating Systems

Figure 10 shows that between 2015 and 2019 there were 387 records that are classified as 310 approved, six not evaluated, and 71 that do not apply under the cost estimating requirement. It is important to understand the execution of the cost estimating system review. The DCMA-MAN 2301-01, Section 4: Cost Estimating System, provides guidance related to a number of internal and regulatory requirements, such as DFARS 252.242-7002, DFARS 215.407-5-70(b), etc. (2019c).

“DCAA or a Host Nation Audit Organization (HNAO) generally conducts cost estimating system reviews with input from the DCMA functional specialists, and issues business system reports to the [DCMA administrative contracting officer] ACO” (2019c, p. 11). The ACO is responsible for surveillance and has the authority to request that a DCMA functional specialist perform a cost estimating system review. Also, the ACO can request a review be conducted by DCAA when the contractor’s cost estimating system has

not been approved (2019c). The surveillance ensures that “estimating systems must be consistent and integrated with the contractor’s related management systems and be subject to applicable financial control systems pursuant to DFARS 252.242-7002” (DCMA, 2019c, p. 11). A compliant cost estimating system increases the efficiency, effectiveness, and “accuracy and reliability of individual proposals” (2019c, p. 11).

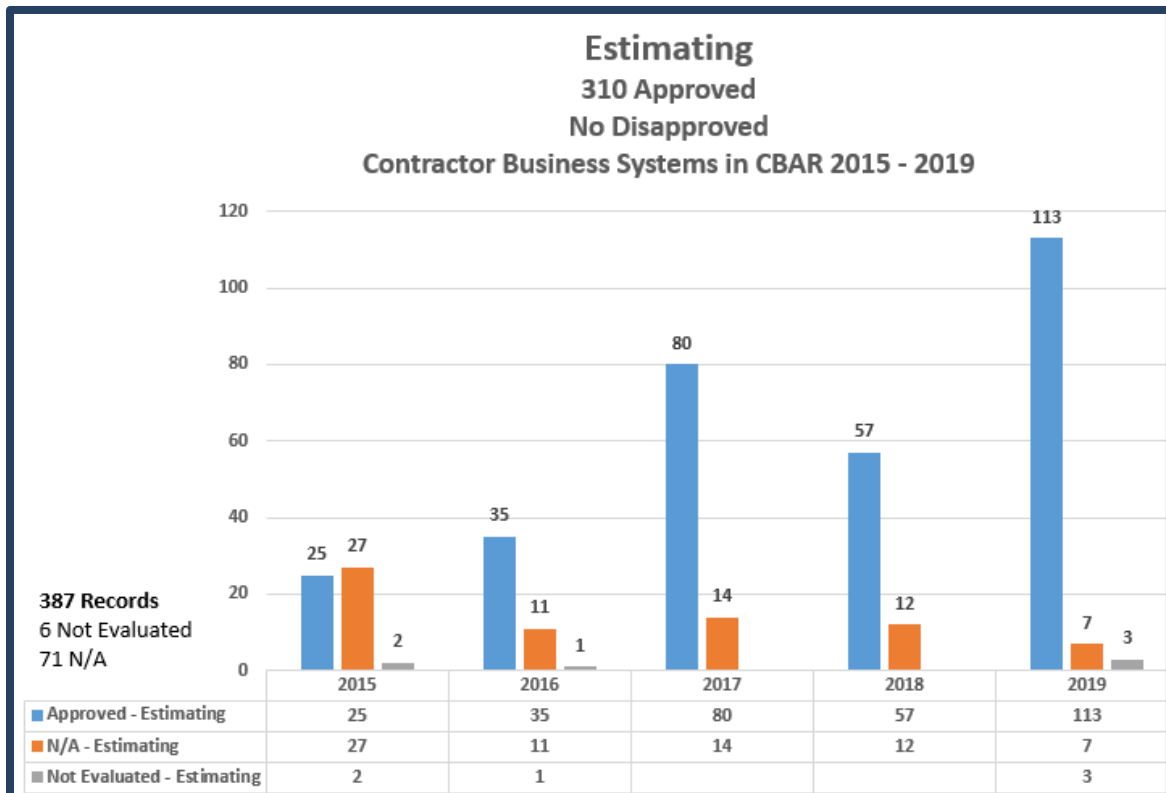


Figure 10. CBAR Contractor Business Systems with Approved (310), Not Evaluated (6), Not Applicable (71), and Disapproved (0) Estimating Systems Status by Year, 2015-2019.

#### (6) Material Management and Accounting System (MMAS)

Figure 11 shows that between 2015 and 2019 there were 400 records that are classified as 158 approved, three disapproved, 11 not evaluated, and 228 that do not apply under the MMAS requirement. It is important to understand the execution of the accounting system review. The DCMA-MAN 2301-01, Section 6: Material Management and

Accounting System, provides guidance related to a number of internal and regulatory requirements, such as DFARS 252.242-7004, DFARS 242.72, etc. (DCMA, 2019c).

The ACO is responsible for surveillance and is authorized to request a review of the contractor's MMAS. The surveillance ensures "a compliant MMAS maintains effective planning, controlling, and accounting for the acquisition, use, issuance, and disposition of materials as prescribed in DFARS 252.242-7004" (DCMA, 2019a, p 15). Additionally, DFARS 252.242-7004(d)(5) stipulates a maintainable recorded inventory reconciliation at a "95% accuracy level as desirable" (DCAA, 2020, p. 23). If the "accuracy level falls below 95% the, contractor shall provide" evidence that validates there is no quantifiable harm to the government (DCAA, 2020, p. 23).

In 2018, there were three disapproved MMAS, and two of the three had payments withheld by the contracting officer. A review of the inventory area, in a random selection, of disapproved contractor MMAS reviews showed a consistency of significant inventory deficiencies. The internal policy, procedures, and controls to efficiently and effectively maintain an adequate level of inventory was either nonexistent or was not practiced. All three contractor business systems remain disapproved with significant deficiencies. A compliant MMAS protects the government from excess/residual inventories, ineffective and untimely release of purchase orders, lost or found parts, etc. (DCMA, 2019a).

The DCAA functional specialist documents compliance review deficiencies, as well as contractor-identified deficiencies, in a business system report that is sent to the DCMA ACO. The ACO is responsible for documenting the deficiencies in the CAR eTool. The ACO in coordination with the DCAA functional specialist approved the contractor's CAP. The contractor notifies the ACO when the corrective actions are complete and ready for validation that there are no significant deficiencies. The ACO coordinates with DCAA to review the contractor's MMAS to verify there are not remaining deficiencies. When DCAA provides the contracting officer with the contractor's business system report that verifies compliance, the contracting officer will approve the MMAS (DCMA, 2019a).





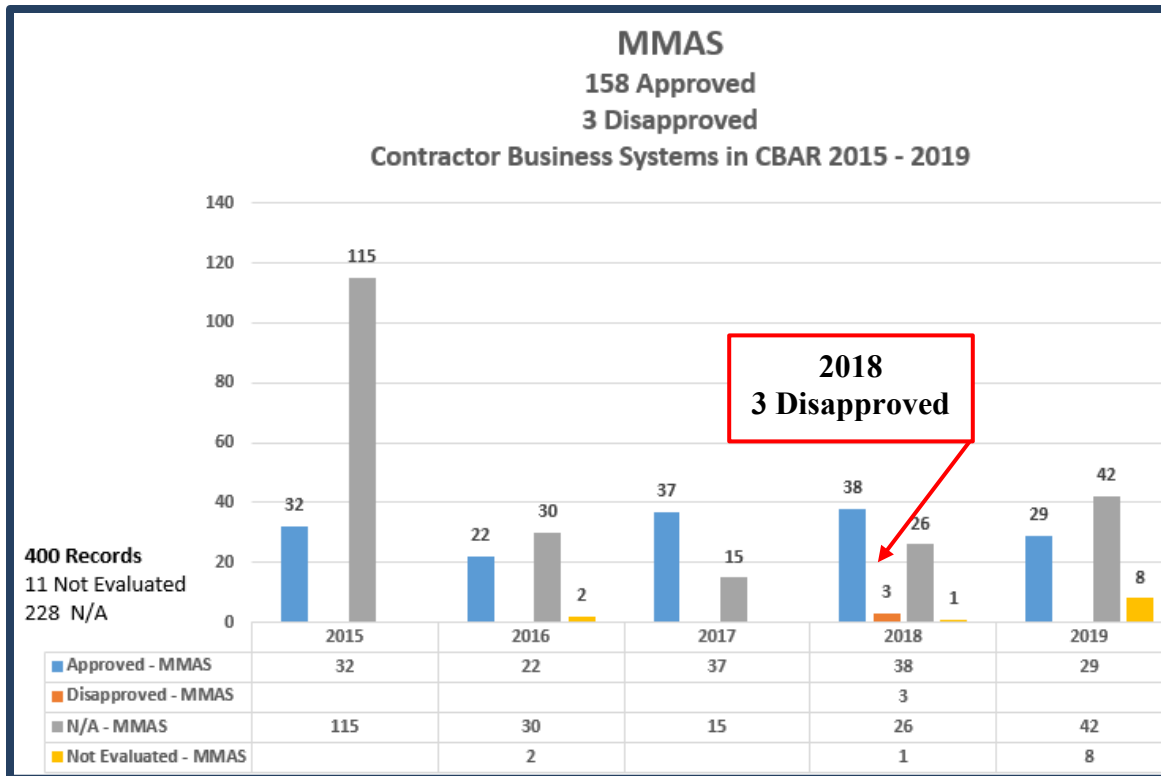


Figure 11. CBAR Contractor Business Systems with Approved (158), Not Evaluated (11), Not Applicable (228), and Disapproved (3) Material Management And Accounting Systems Status by Year, 2015-2019.

### C. SUMMARY

The primary research question: What is the impact of recent changes to the compliance determination of the contractor business systems after the April 9, 2015, implementation of *Better Buying Power 3.0: Achieving Dominant Capabilities through Technical Excellence and Innovation* (Kendall, 2015)?

The answer to the primary research question revealed there was no impact to the government, contractor, and warfighter related to DFARS clause 252.242.7005 (2012). The government improvement measures were not used by the contracting officer to enforce contractor payment withholds on 29 of the 32 disapproved systems. The research project examined contractor business system data, between 2015 and 2019, retrieved from CBAR.

The data collected included 1,632 contractor CAGEs. There were 1,600 approved and 32 with disapproved contractor business systems.

The secondary research question: What has a direct impact to fielding supplies to the warfighter?

The answer to the secondary research question was not revealed. However, it is believed further research on CARs, written on significant deficiencies related to production, quality, and manufacturing, would provide the answer.



## V. CONCLUSIONS

As Robert Burns (2009) wrote, “the best-laid plans of mice and men oft go astray” (p. 48), which describes the results of this thesis’s primary research question, specifically, the impact of DFARS 252.242.7005, which was designed with the intent to get critical supplies fielded to the warfighter faster, better, and cheaper. As discussed in the opening chapters of this thesis, on January 15, 2010, the intent of DOD policy-makers in proposing Business Case 2009-D038, which later became law in 2012 as DFARS 252.242.7005, was “to improve the effectiveness of DCMA and DCAA oversight of contractor business systems” (Federal Register, 2010, p. 2,457). This law gave contracting officers the mechanism to enforce compliance on deficient systems by withholding a contractors payments. The withhold can not “exceed 5 percent for any single business system or 10 percent for two or more CBS that have been disapproved” (DCMA, 2019c, p. 37). As the deficiencies were corrected, the contracting officer could reduce the percentage of the payments withheld until there were no remaining deficiencies and contractor business system was reapproved (DCMA, 2019a).

As previously stated, on June 28, 2010, the government’s improvement efforts started with a memorandum from Dr. Ashton Carter, under secretary of defense for acquisition, technology, and logistics, on *Better Buying Power: Mandate for Restoring Affordability and Productivity in Defense Spending* (2010a). Carter emphasized President Obama and Secretary Gates’s priority to “support our forces at war on an urgent basis” (2010a, p. 1). Between 2010 and 2015, this priority was initiated and implemented through Carter and Kendall’s Better Buying Power Initiative, “delivering better value to the taxpayer and improving the way the Department does business” (2010a, p. 1). However, upon analysis of these various policies, memorandums, and laws, via contractor case study data, this researcher concluded there was no impact on a disapproved contractor business system or associated penalties in terms of continued government contracts and relationships. Therefore, there continues to be no impact of these requirements in improving contractor business systems compliance, government cost and efficiency, and warfighter readiness.



## A. FINDINGS AND RECOMMENDATIONS

This research produced three main findings and corresponding recommendations for effectively and efficiently provide contract oversight and ensure that contractor data is current, accurate, and timely. Essentially, in order to address and reduce risk management, the implementation of an integrated CAR and CBAR repository is required. The integrated system would track historical data, responsibilities, and action due dates of the contractor officer and functional specialist responsibilities, and actions on significant deficiencies related to production, quality, and manufacturing (PQM). The three findings and corresponding recommendations are as follows:

- a. **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.
- b. **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.

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



- e. **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).
- f. **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.

## **B. FUTURE RESEARCH CONSIDERATION: RECOMMENDATIONS AND 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).



### **C. POTENTIAL CONTRACTOR BUSINESS SYSTEM (CBS) CHANGES - FY21 NDAA BILL MARKS**

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).



## APPENDIX. CONTRACTOR BUSINESS SYSTEM RULE CONTRACT APPLICATION

DFARS 252.242-7000 Contractor business system deficiencies states:

“Covered contract” means a contract that is subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201-1 (see the FAR Appendix) (10 U.S.C. 2302 note, as amended by section 816 of Public Law 112-81).

“Significant deficiency” is defined in the clause at [252.242-7005](#), Contractor Business Systems.

(b) *Determination to withhold payments.* If the contracting officer makes a final determination to disapprove a contractor’s Business System in accordance with the clause at [252.242-7005](#), Contractor Business Systems, the contracting officer shall—

- (1) In accordance with agency procedures, identify one or more covered contracts containing the clause at [252.242-7005](#), Contractor Business Systems, from which payments will be withheld. When identifying the covered contracts from which to withhold payments...

### 1. Contract Administration Functions

### 2. PCO Delegation and can withhold all but 42.302—Contract Administration Functions to DCMA

“3.1. GENERAL GUIDANCE. CRR is the process by which DCMA receives and reviews contracts and modifications to identify customer requirements for CAS. Assignment of contract administration and functions are governed by FAR Subpart 42.202, FAR Subpart 42.302, DFARS Subpart 242.202, and DFARS Subpart 242.302 (see References on the Resource Page).

a. DCMA receives requests for CAS support that either meet mission requirements (core work) or don’t meet mission requirements (non-core work). DCMA’s core mission work is directed and funded by the Office of the Secretary of Defense to provide CAS in support of the Military Services and DOD agencies (mission customers) as well as other federal agencies, foreign governments and international organizations as authorized in accordance with DODD 5105.64. Requests to perform non-core



work must be processed in accordance with paragraph 3.5.c. of this manual. b. DCMA Functional Specialists performing CRR must be familiar with the process and tools for identifying and addressing core work and non-core work. c. Complete to include cross functional/multifunctional/integrated review. 3.2. CONTRACT RECEIPT. In accordance with DFARS Procedures, Guidance, and Information (PGI) 204.201(3)(i), issuing offices must distribute contracts and modifications electronically. DCMA retrieves electronic information for contracts and modifications that have been assigned to DCMA for administration to populate its systems to begin the contract administration process”(DCMA, 2019a).

### **3. SUBPART 42.302—Contract Administration Functions**

The contracting officer normally delegates the following contract administration functions to a CAO. The contracting officer may retain any of these functions, except those in paragraphs (a)(5), (a)(9), (a)(11) and (a)(12) of this section, unless the cognizant Federal agency (see [2.101](#)) has designated the contracting officer to perform these functions.(*FAR -- Part 42 Contract Administration and Audit Services*, n.d.-b)

### **4. DCMA Contract Administration Services (CAS)**

1.2. POLICY. It is DCMA policy to: a. Conduct an initial review of contracts assigned to DCMA within 30 calendar days of receipt. This review assures contracts are correctly assigned as well as identifies contract requirements for which DCMA Functional Specialists provide surveillance and oversight of contract compliance. b. Ensure functional specialists properly review, identify, and document contract requirements associated with their area of responsibility. c. Conduct Contract Receipt and Review (CRR) consistent with Federal Acquisition Regulation (FAR) Subpart 42.201, Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 242.202, DOD Directive 5105.64, and DCMA Instruction (DCMA-INST) 2501, “Contract Maintenance.” d. Promote an environment of cross functional integration during requirements identification. e. Execute this Manual in a safe, efficient, effective, and ethical manner (DCMA, 2019b).





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