

Deaf, Dumb, and Blind Auditors from GAO

Written by Nick Sanders

Monday, 11 February 2019 00:00



GAO released its long-awaited [report](#) on DoD's management of the Contractor Business Systems (CBS) oversight process. We read it. It didn't take very long, as there wasn't really anything there.

You know that feeling when you have a first date with somebody you are really attracted to? You look forward to it. You think about what you will wear. You think about the best place to meet each other, one that is slightly romantic (but not *too* romantic—after all, it's a first date). It can't be too loud, because then you won't be able to talk to each other and get to know each other, and explore that connection you feel. And then it's time! You both get to this special place, wearing nice clothes. You sit down and look at each other

... and then you realize you have *nothing in common*. Nothing at all. All the conversational gambits fail. Questions get one-word answers. Or maybe he spends all the time looking at the game on the TV over the bar. Whatever. But after a few minutes you realize that attraction you felt has faded away and you start looking at your watch (or phone), counting the minutes until the date is over. Maybe you start texting your friend to call you with a made-up emergency, just to get out of there that much faster.

What you looked forward to has evaporated and it's been replaced with *nothing*. There's now a hole where the expectation of a potential great relationship used to be.

"Disappointment" is a word that might describe your feelings about the situation, but it's hardly the right description. Sure, there's disappointment. But there's also anger as well. Anger that the opportunity was wasted. Anger that the money was wasted. Anger that the you were misled, that the attraction you felt was really a mirage.

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Disappointment and anger and maybe a bit of a betrayal.

Those are our feelings about GAO's report on Contractor Business Systems.

How did this fiasco get started?

Section 890 of the 2018 National Defense Authorization Act (NDAA), required the Comptroller General of the United States to “submit to the congressional defense committees a report evaluating the implementation and effectiveness of the program for the improvement of contractor business systems established pursuant to section 893 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2302 note).”

Note that key word: *evaluate*.

But more than that was required. Section 890 went on to say:

The report shall—

- (1) describe how the requirements of such program were implemented, including the roles and responsibilities of relevant Defense Agencies and known costs to the Federal Government and covered contractors;
- (2) analyze the extent to which implementation of such program has affected, if at all, covered contractor performance or the management and oversight of covered contracts of the Department of Defense;
- (3) assess how the amendments to contractor business system requirements made by section 893 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2324) were implemented, including—

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(A) the effects of revising the definition of “covered contractor” in section 893(g)(2) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2302 note) and the feasibility and the potential effects of further increasing the percentage of the total gross revenue included in the definition; and

(B) the extent to which third-party independent auditors have conducted contractor business system assessments pursuant to section 893(c) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2302 note);

(4) identify any additional information or management practices that could enhance the process for assessing contractor business systems, particularly when covered contractors have multiple covered contracts with the Department of Defense; and

(5) include any other matters the Comptroller General determines to be relevant.

But more than that was required. The House language (quoted above) was modified in Committee and “the Senate recedes with an amendment that would expand the review to *evaluate overall implementation and effectiveness of the contractor business system program* ...” (Emphasis added.)

Again, we note the key word: *evaluate*.

Evaluate the effectiveness.

Thus, the Comptroller General and GAO had a clear mandate and the topics to be covered were clearly stated. Too bad the Comptroller General and GAO ignored their mandate and ignored the topics to be covered, and issued a *nothing burger* of a report.

Let’s be clear that auditors from GAO made token efforts to try to hit the marks established by the NDAA. They met with individual contractors and they met with industry associations. Those people interviewed by GAO were led to believe that their inputs were valued, that they would be considered in the final report. Contractors gave their time and taxpayers paid for that time, just like taxpayers paid for GAO auditors to travel to those contractor sites to obtain the valuable insight from the contractors. And it was going to be used in the report and that report was going

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to pull the curtain away from the utter nonsense that is the Contractor Business System oversight regime.

Yeah, about that. *Not so much.*

Report findings:

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DOD does not have a mechanism to monitor and ensure that these reviews are being conducted in a timely manner.

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DCMA currently lacks a mechanism based on relevant and reliable information, such as the number of reviews that are outstanding and the resources available to conduct such reviews, to ensure reviews are being completed in a timely fashion.

And ... *that's it.*

Does that sound like GAO actually did what Congress demanded—via Public Law—that it do?
No?

We didn't think so either.

What about the table that showed actual versus planned DCAA Contractor Business System audits? You know, the one that showed less than 20 audits per year over the period GFY 2013 through GFY 2018, but then the number of planned audits suddenly increasing from low levels

to more than 100 per year by GFY 2020?

(We mean, we've seen charts like that one before—mostly prepared by Marketing. They're called "hockey stick" charts because they're flat until they suddenly turn upwards at the very end of the year. That way, the Marketing folks get to keep their jobs longer, until it becomes painfully obvious they will not meet their plans.)

What did GAO say about that hockey stick DCAA audit chart? Well, on pages 22 and 23, GAO wrote about DCAA's plans to radically amp-up its CBS audits. GAO wrote—

DCAA officials acknowledged they have not been able to conduct audits of contractor business systems within the timeframes outlined in DCMA instructions. ... Recognizing that it cannot perform all of the required CBS audits in a timely fashion to meet current DCMA policy requirements, DCAA officials told us they focus their audits on business systems they identify as high-risk. ... Our analysis indicates that successfully executing [DCAA's] plan is dependent on several factors, including the ability to shift resources from conducting incurred cost audits to business systems audits, the use of public accounting firms to perform a portion of the incurred cost audits, and the ability of DCAA auditors to use new audit plans and complete the required audits in a timely manner. ... DCAA plans to shift more than 378,000 hours from incurred cost audits to CBS audits between fiscal years 2018 and 2020. DCAA officials noted, however, that although they have made significant progress in addressing incurred cost audits, the fiscal year 2018 NDAA requires DCAA to have all incurred cost audits performed within 12 months. DCAA officials noted that this means it will have to continue to spend significant resources on incurred cost audits in fiscal year 2019 to meet this legislative requirement. ... DCAA officials stated that these estimates include the resources that are expected to become available to perform CBS audits as DCAA starts using public accounting firms to perform incurred cost audits. ...

In summary, Marketing has a plan to hit its sales goals but it's dependent on things happening that almost certainly will not happen. Recognition of failure is thus delayed: the can is kicked into GFY 2020.

About those contractor interviews—

Our review of six selected contractors' business system reviews illustrates the challenges in

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identifying and resolving deficiencies in a timely manner. Overall, our review of these six cases found that it took from 15 months to 5 years or more to resolve deficiencies initially identified by DCAA or DCMA. Factors contributing to the time it took to resolve these issues included contractors submitting inadequate corrective action plans, DCMA or DCAA identifying additional deficiencies in subsequent reviews or audits, and the use of different auditors to conduct the reviews. [But] *DCMA and DCAA officials believe the cases we analyzed were not representative of the length of time needed to complete the CBS review process*, but could not provide data to support their views because DCMA and DCAA do not track data on the length of time it takes to complete the entire CBS review process (i.e., from the start of an audit or review to the resolution of system deficiencies and final determination).

(Emphasis added.)

There you have it. In the time-honored tradition of government bureaucrats, contractor complaints and actual audit findings were arm-waved away as being “not representative” of the situation—*even though they absolutely were representative of the situation*. GAO accepted the bureaucratic rebuttal at face value, even though (as GAO noted) the bureaucrats “could not provide data to support their views.”

So much for contractor and industry association input.

Oh, there was something about the use of independent auditors and how DoD and DDP haven’t yet acted on the GFY 2017 NDAA Public Law requirements. Because there are “concerns.” Moreover—

... the Director of the Defense Acquisition Regulation Council—who is responsible for promulgating proposed and final rule changes to the DFARS—tasked her staff to draft a proposed rule by March 2017. This deadline was subsequently extended to January 23, 2019. In November 2018, Defense Pricing and Contracting (DPC) officials told us that they now expect to issue the proposed rule for public comment in the third or fourth quarter of fiscal year 2019. DPC officials attributed this delay, in part, to a recent executive order that calls for the reduction and control of regulatory costs, as well as the complexity of having public accounting firms perform CBS reviews.

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Again, note that the statements were taken at face value. The nearly three-year delay in even issuing a proposed rule for public comment was explained as being President Trump's fault. If only he hadn't issued that pesky Executive Order, well then, of course the DAR Council would have fulfilled its role and complied with Public Law. To us, that smells very much like GAO auditors not acting with professional skepticism.

And *that's the report*. All of it.

Our understanding is that a representative from GAO will be meeting with contractor industry associations to discuss the findings of this report, just as if it were an important report, with actionable findings. We hope those industry associations ask probing questions about what happened to the Congressional mandate GAO had to *evaluate the effectiveness* of the CBS oversight regime?

Where the heck was the *evaluation of the effectiveness* to be found in the report?

This report was *supposed* to be an important report. Just like that first date was supposed to be an important event. Things were supposed to happen, based on this report. Reforms were possible. Just like that first date was supposed to lead to a beautiful relationship.

Yet, at the end there was nothing.

Nothing of substance. Nothing of consequence.

And now we're wondering when that "emergency" phone call is going to happen, because we want to get out of here.