

Admit it: you thought our December 2010 [blog post](#) about President Obama “aligning” with industry while DOD continued to “attack its industrial base” was full of ranting hyperbole. You thought our rhetoric was over-the-top and possibly defamatory to Secretary of Defense Gates and his military service chiefs, even though (upon receipt of legal advice) we were *ever so careful* to state for the record that—

... we have no evidence the Secretary of Defense Gates and his military service chiefs are engaged in a conspiracy to sabotage President Obama’s attempts to jump-start the economy (and perhaps win reelection) through focusing on manufacturing and exporting durable goods such as defense articles.

Again: to be clear. We have *no evidence*—NONE—that the Republican, uber-conservative, leadership of the Department of Defense would like to see Democratic, liberal-leaning, President Obama be a one-term President, and has concluded that the best way to make that happen would be to sabotage his initiative to create economic lift by focusing on manufacturing jobs, and easing barriers to exporting durable goods such as defense articles by reducing regulatory burdens. We accuse no one of anything.

But we keep wondering why DOD leadership remains missing in action while the President—and other Executive Departments and Agencies—seem to be working to help businesses gain traction in this thin-ice fragile economy. We’re quite sure they have their reasons, even if the rationale is not apparent to us.

And we keep wondering why DOD’s oversight agencies—the DCMA and DCAA—continue to issue and implement guidance that seems designed to hurt the DOD industrial base, rather than trying to “partner” and “align” with the suppliers that support the warfighters. (Think we’re making that part up? Please see any of the numerous articles on this website that support that assertion. For one example, type “*monkey wrench*” into the search field.)

Note that we’re not the only ones claiming DOD oversight agencies are excessively bureaucratic and have adopted a punitive attitude toward defense contractors. The Defense Science Board told Secretary of Defense Gates about those problems back in 2009, as we reported at the time. It’s not clear to us that SecDef Gates took any action in response to the DSB’s report and its recommendations—though we noted that Congress recently [did so](#).

Need more evidence in support of our assertions? We [told you](#) about a recent Deltek survey that addressed relationships between contractors and their government oversight officials. We wrote—

Deltek also reported that ‘Relationships with auditors are worsening. Not only was there a ten-point drop in the percentage of respondents reporting Excellent relationships [with DCAA], but for the first time, nearly 3% of firms characterized their relationships as Poor.’ Looking at trends, Deltek reported that nearly 20 percent of survey respondents assessed their relationships with DCAA as ‘Worsening’.

Oh, but there’s more. This week, in a GovExec.com story entitled, “Survey Shows Growing Distrust Between Industry and Federal Auditors,” Robert Brodsky [reported](#) that the recent annual Grant Thornton Government Contractor Survey showed that—

1. Nearly three out of four federal contractors believe the government is too slow and inefficient in resolving contract disputes ... 56 percent of survey participants blamed DCAA for not addressing procurement disputes promptly and efficiently while only 18 percent faulted the contracting officer. ...

2. [The survey] showed that in the past year, 50 percent of contractors did not make a profit, underwent reductions or experienced profits of between 1 percent and 5 percent. Only 6 percent of respondents said their profits went up by 15 percent or more while 10 percent experienced a loss or had flat profits.

*So it's not just us.* Others are noticing that the business climate within the defense industrial base is getting worse, not better. And they are putting the blame squarely where it belongs: on the DOD oversight agencies. Complaints are pouring in from all fronts, but seemingly to no effect. It seems that nobody in the Pentagon is able or willing to rein-in DCMA and DCAA.

While the DOD leadership sits on the sidelines, while the DOD oversight agencies continue to issue and implement Kafkaesque guidance that impedes efficient production of weapon systems needed by warfighters and threatens the financial viability of the defense industrial base, the President continues to move forward on his Quixotic initiative to help manufacturing companies create jobs.

First, he took the unusual step of submitting [an editorial](#) to the Wall Street Journal under his name. (We like how the WSJ helpfully explained to its readership that “

*Mr. Obama is president of the United States.*

”)

In his editorial, President Obama called for an examination of the regulatory burden placed on American businesses, and for a roll-back of those regulations that “stifle job creation and make our economy less competitive.” He wrote—

... creating a 21st-century regulatory system is about more than which rules to add and which rules to subtract. As the executive order I am signing makes clear, we are seeking more affordable, less intrusive means to achieve the same ends—giving careful consideration to benefits and costs. This means writing rules with more input from experts, businesses and ordinary citizens. It means using disclosure as a tool to inform consumers of their choices, rather than restricting those choices. And it means making sure the government does more of its work online, just like companies are doing.

We're also getting rid of absurd and unnecessary paperwork requirements that waste time and money. We're looking at the system as a whole to make sure we avoid excessive, inconsistent and redundant regulation. And finally, today I am directing federal agencies to do more to account for—and reduce—the burdens regulations may place on small businesses. Small firms drive growth and create most new jobs in this country. We need to make sure nothing stands in their way.

... This is the lesson of our history: Our economy is not a zero-sum game. Regulations do have costs; often, as a country, we have to make tough decisions about whether those costs are necessary. But what is clear is that we can strike the right balance. We can make our economy stronger and more competitive, while meeting our fundamental responsibilities to one another.

Second, President Obama issued a new [Executive Order](#) that requires Executive Agencies to balance the benefits of new regulations with the costs of implementation and compliance. For example, the Executive Order states—

Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

Looking at the paragraph above, do you think he may have been talking about the aerospace and defense industry, one of the most heavily regulated industrial sectors in America, where innovation has long been recognized as the driver that gives our warfighters the technological superiority they currently enjoy?

When President Obama wrote the words in the following paragraphs, do you think SecDef

Gates and his leadership team perceived that they might have some action items? He wrote—

- To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

- Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

Or do you think the Pentagon heard nothing but frequency interference, and immediately went back to conducting business as usual? Remember, this is the Commander-in-Chief issuing an “order.” Only time will tell whether the DOD bureaucrats will follow it, or ignore it in a show of silent insubordination.

Meanwhile, editorials praising President Obama’s new regulatory stance abound on the Internet. For example, Gary Shapiro [wrote](#) on HuffPost—“Obama Gets It Right.” He wrote—

I am thrilled that Tuesday President Obama formally recognized that government regulation can hurt entrepreneurship and innovation by issuing an executive order requiring that regulators balance the impact of rules on job creation, economic growth and innovation. His op-ed in the Wall Street Journal along with this executive order are a major nod to the frustration of jobs creators who feel government is a barrier to their marketplace success.

And while not all stories were positive, even critics seemed to have to search for a negative spin. One headline said, “Obama Finally Discovers That Bad Rules Kill Jobs.”

Though obviously there’s more going on than this very recent initiative to roll-back burdensome regulations, [polls](#) show that the President’s popularity is on the rise.

So we ask you, are we merely tinfoil hat-wearing nutjobs? Is the DOD’s recent attempt to issue

what we consider to be hugely invasive and punitive regulations simply coincidence? Is DCMA's recent implementation of multiple layers of "Board Reviews" that prevents warranted Contracting Officers from exercising discretion just normal organizational evolution? Is DCAA's recent audit guidance that (for example) penalizes contractors for insignificant human error by recommending payment reductions and withholds simply the outcome of an independent audit agency doing its job? When DOD's Industrial Policy Directorate stopped focusing on potential "points of failure" in the defense industrial base and started championing "affordability" initiatives designed to force contractors to cut costs, was that simply a good subordinate enthusiastically executing the orders of his superiors? When Shay Assad [issued direction](#) that DCMA contracting officers were to ignore existing regulatory flexibility, was that only to ensure that there were fewer single-bid contract awards?

Or—*just perhaps*—are we on to something here?

Look, we hope to be proven wrong. It would be *so easy* to do. Here's how to make us look like fools:

First, the DAR Council should withdraw its [proposed rule](#) to revise the administration of contractor "business systems." That rule-making effort was never anything more than a poorly thought-out knee-jerk reaction to unwarranted criticism from the Commission on Wartime Contracting. Second, the FAR Councils should withdraw their proposed rule to speed contract close-outs by [requiring](#) that every contractor (both large and small business) adopt without deviation the DCAA's "Incurred Cost Electronically" (ICE) model (including more than a score of mandatory attachments). Both of these proposed rules are clearly contrary to both the letter and spirit of President Obama's Executive Order. They are burdensome, intrusive, and add very little benefit to the defense industrial base while giving DOD oversight agencies unprecedented power to punish those contractors for minor infractions.

Mr. Gates, tear down your wall of oversight bureaucracy and partner, once again, with your industrial base. You have received a lawful order to do so. We are waiting on your response.