Sorry for the continued ranting about rule-makers who do not timely follow Congressional direction, ranting that is focused (today) on the conflicts created between the 2018 NDAA (which raised certain acquisition thresholds, but only for the agencies covered by that public law, to be effective 18 June 2018), the Defense Federal Acquisition Regulation Supplement (which has not yet implemented the statutory changes, but has less than 90 days left to do so), and the Federal Acquisition Regulations (which if not changed timely will conflict with the statute and any DFARS rule-making that implements it).

We've already written three articles on this topic: **here** and **also here** and then **again here** . You might think we'd have said about everything there was to say on the topic. Yet over at WIFCON, the debate rages on.

Do Contracting Officers need to follow the statute or the regulation? If they follow the statute and not the regulation, do they need an official FAR deviation? What about the sentence at FAR 1.602-1(b), which states *"No contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met.* " How can a Contracting Officer comply with that requirement if a statute and its implementing regulation are in conflict?

The job of the two FAR Councils and the FAR Secretariat is to make sure those conflicts are few and far between. How are they doing?

Well, as we reported in one of those prior articles (links above), the Civilian Agency Acquisition Council issued a Class Deviation, permitting all civilian agencies to implement their own Agency-level Class Deviation to implement, in advance of formal rule-making, the statutory changes to micro-purchase and simplified acquisition thresholds directed by the 2018 NDAA. That's a clear signal that those two changes are going to be implemented FAR-wide, eliminating any potential conflict between FAR thresholds and DFARS thresholds.

The Department of Energy took that CAAC Class Deviation and ran with it. On March 16, 2018, the DOE issued its **Class Deviation** , implementing those NDAA acquisition threshold changes. That's a fairly significant step forward.

But of course, the elephant in the room is the 2018 NDAA change to the threshold for obtaining certified cost or pricing data, which is also the contract-level CAS coverage threshold. Is it going to stay at $750,000 in the regulations and contract clauses, or is it going to increase to $2 million as the statute will read, effective 18 June 2018? That's the burning question that needs to be answered, and answered quickly.

Some changes, it seems, are more favored than others.