

Written by Nick Sanders
Friday, 31 August 2018 00:00

With the passing of Senator McCain it seems appropriate to review the 2019 NDAA, named after him to honor his service to the country, both as Sailor and as Senator.

As always, we are deeply indebted to Bob Antonio's [WIFCON](#) site, and to the work he does piecing together the annual public law in a manner that supports analysis. If you are not visiting WIFCON at least weekly, you are likely missing important information. And as always, we are providing readers only with a high-level summary of statutory changes that impact government contracting and government contract cost accounting. We urge readers not to rely on our synopses, but instead to review the language in detail.

In this legislation, we see some of the seeds planted by the [Section 809 Panel](#) bearing fruit. It's obvious that Congress accepted several of the Panel's recommendations. For example, Sections 812 and 813, which repeal certain outdated statutes and DoD reporting requirements, look very much like Section 809 Panel [recommendations](#).

Perhaps the most important statutory change concerns modifications to the current language regarding commercial items, found in [Section 836](#) of the NDAA, to be effective 01 January 2020. Going forward, there will be separate definitions for "commercial products" and "commercial services." The definitions are a bit complicated, so if you want to review them, please follow the link provided.

There are some more interesting nuggets; for example, paying small businesses in 15 days. And Section 821 foot-stomped the DoD's reluctance to increase the micro-purchase threshold to \$10,000, as Congress intended it to do last year. Further, Section 878 had some stuff to say about measuring PALT (a topic on which we have [opined](#) in the past.) However, not much jumps out as requiring reporting (unlike last year). We were interested in the parts left on the table during conference. For example, a revised definition of "subcontract" was not adopted. In our opinion, that revised definition was needed.

Interestingly, and in contrast to prior NDAA's, we did not see a single provision in the public law related to DCAA. Last year, we devoted an [entire article](#) to DCAA-related changes in the NDAA. This year, *nothing*.

So what happened? Why is this year's NDAA less full of impactful changes than last year's, or

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the NDAA of the year before? Has Congress grown weary of acquisition reform, or were legislators perhaps distracted by other matters?

We don't know. But what we do know is that this is the shortest article we've devoted to an NDAA. Ever.

However, we do have one more related comment to make.

Recently, rule-makers at the DoD published a [notice](#) inviting “early inputs” on how to best implement the acquisition rule changes made by the 2019 NDAA. “The public is invited to submit early inputs on sections of the NDAA for FY 2019 via the [DARS website](#)”

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So if you have thoughts that might help the DAR Council or others implement things such as the new definition of “commercial item,” you should follow the link and submit those thoughts for consideration.