



Legislation And Regulations

Panel Presentation DoD Procurement Conference

Mr. Robert Burton
Acting Administrator, OFPP

Ms. Cathy Garman
Contract Services Association

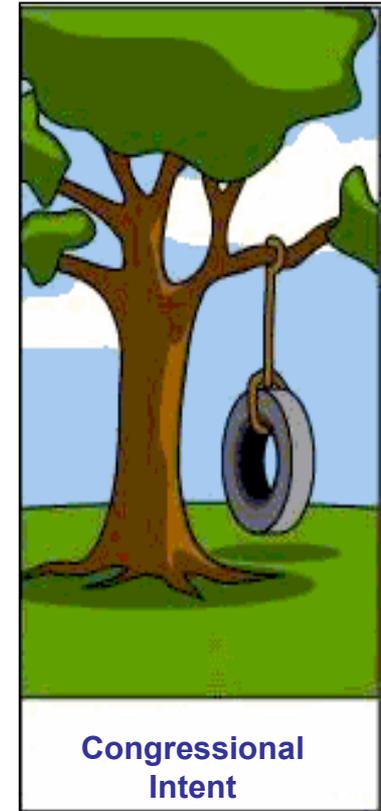
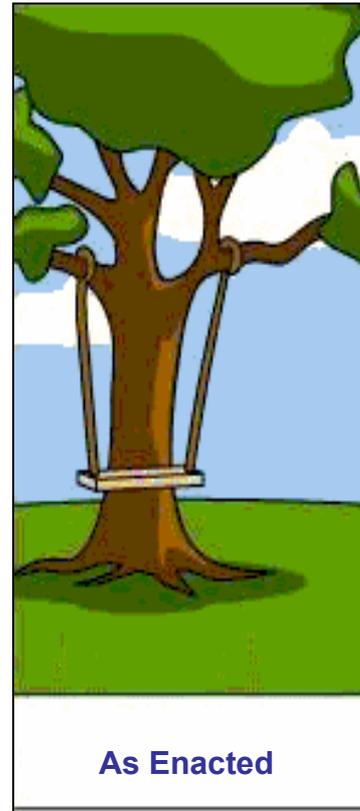
Ron Poussard, Moderator
Deputy Director, DPAP

May 28, 2004



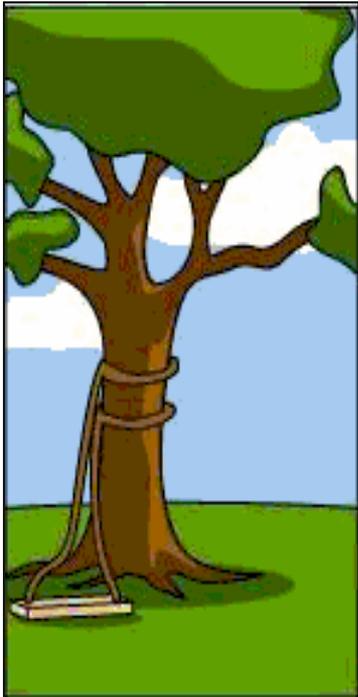


How a Bill becomes a Law

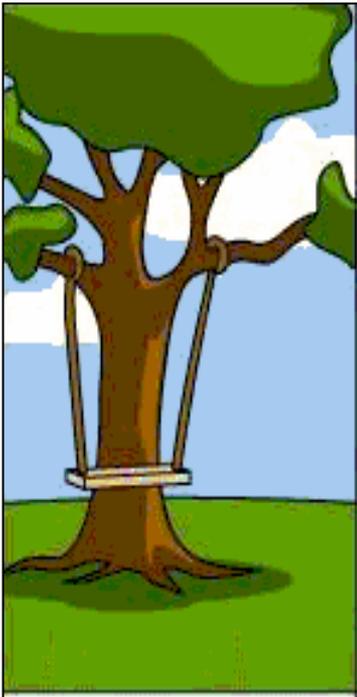




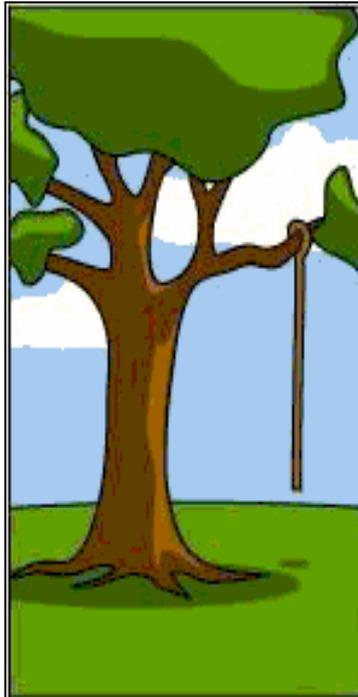
How a Law becomes DFARS



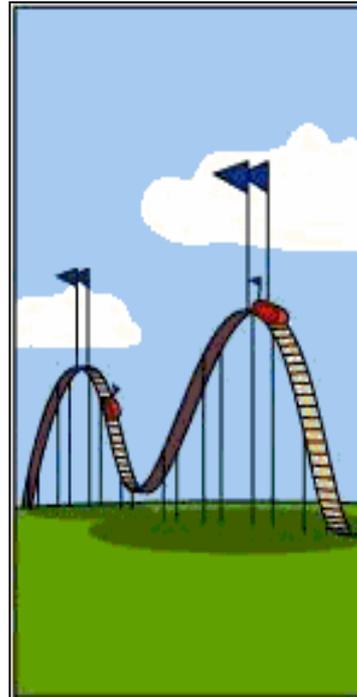
As analyzed by
DoD Policy



As interpreted by
General Counsel



Interim DFARS
Rule



As perceived by
Public



Expected Final
DFARS Rule



State of FY 04 Legislation

- **17 DoD statutes need FAR/DFARS**
 - **9 DFARS 8 FAR**
 - **15 “effective upon enactment” - Nov 24, 2003**
 - **5 published to date**
 - **Special Emergency Procurement Authority**
 - **5 –year limit on Task and Delivery Orders**
 - **Berry Amendment Exceptions for Contingencies**
 - **Service Disabled Veteran-Owned Small Business**
 - **Federal Prison Industry – Market Research**



Soon...

- **Permanent Emergency Procurement Authority**
- **T&M or LH Commercial Services (exception)**
- **Five Year Limit - Task/Delivery Order Contracts**
- **Quality Control in Aviation Critical Safety Items**
- **Consolidation of Contract Requirements**



Questions for The Panel

- How does Industry get involved in the drafting of legislation that impacts the acquisition process?



Questions for The Panel

- What is OFPP's role in the legislative process and in turning the laws into FAR?



Questions for the Panel

- What's the significance of the effective date of a law and when is a law effective for solicitations and contracts?



Questions for The Panel

- Why does it take so long to get legislative changes in the FAR or DFARS? Isn't it just a cut-and-paste effort?



Questions for The Panel

- Last year there was a lot of excitement over proposed domestic preference laws. Very little was enacted. What happened?



05 – The Future?

- House
 - 801 – Rapid Acquisition Authority
 - 803 – Limit on Task and Delivery Orders
 - 807 – Adjust Dollar thresholds for Inflation
 - 811 – Defense Fair Trade
 - 822 – Demonstration Project
 - 824 – Provision of Information to Congress



05 – The Future?

- Senate
 - Competitive Sourcing – Bid Protests
 - 803 – Internal Controls – GSA FTS
 - 812 – Period of Multiyear Task/DO Contracts
 - 811 – J&A Approval Threshold - \$75M for SPE
 - 815 – Limit – Charges Imposed by other Agencies' contracts
 - 851 – Limitation...to Reduction of Workforce



Key FY 04 Legislation



Key FY 04 Legislation

Permanent Emergency Procurement Authority

- Section 1433 of SARA (PL 108-136)
- FAR interim rule issued Feb 23, 2004
- Final rule in coordination

Service-Disabled Veteran-Owned Small Business Procurement Authority

- Section 308 of the Veterans Benefits Act of 2003
- FAR/SBA interim rules issued May 5, 2004
- Public comment period ends Jul 6, 2004



Key FY 04 Legislation

T&M or LH Commercial Services

- Section 1432 of the NDAA (PL 108-136)
- FAR Advance Notice of Proposed Rulemaking in coordination

Five Year Limit on Task and Delivery Order Contracts

- Section 843 of the NDAA
- DFARS interim rule issued Apr 23, 2004; comment period ended May 24, 2004



Key FY 04 Legislation

Quality Control in the Procurement of Aviation Critical Safety Items

- Section 802 of the NDAA (PL 108-136)
- DFARS interim rule in DAR Council coordination

Consolidation of Contract Requirements

- Section 801 of the NDAA
- DFARS interim rule to be published June '04



Back-up Details



Emergency Procurement Authority

- Section 1433 of the Service Acquisition Reform Act (Title XIV of Pub. L. 108-136)
- Makes permanent Government-wide emergency procurement authority
- FAR interim rule issued Feb 23, 2004
- FAR final rule in coordination
- Matrix at:

<http://www.acq.osd.mil/dp/dars/new.html>



SDVOSB

- Section 308 of the Veterans Benefits Act of 2003 – provides that contracting officers may:
 - Restrict competition to SDVOSB or
 - Make sole source awards
 - Unless otherwise FPI or JWOD
- FAR/SBA interim rules issued May 5, 2004
- Public comment period ends Jul 6, 2004



T&M or LH Commercial Services

- Section 1432 of the NDAA (PL 108-136)
- Authorizes use of time & material or labor hour contracts for certain commercial services that are commonly sold to the general public and are competitive
- Requires contracting officer determination that no other contract type is suitable
- FAR Advance Notice of Proposed Rulemaking in coordination



Five Year Limit on Task & Delivery Order Contracts

- Section 843 of the NDAA (PL 108-136)
- Limits to 5 years the total contract period for task and delivery order contracts awarded pursuant to 10 USC 2304a
- DFARS interim rule issued Apr 23, 2004
- Public comment period ended May 24, 2004



Quality Control of Aviation Critical Safety Items

- Section 802 of the NDAA (PL 108-136)
- The Head of the Design Control Activity is responsible for establishing processes to manage aviation critical safety items.
- The Head of the Contracting Activity may enter into such a contract only with a source approved by the design control activity.
- DFARS interim rule in DAR Council coordination



Consolidation of Contract Requirements

- Section 801 of the NDAA (PL 108-136)
- DoD specific - - extends bundling-type requirements to consolidations greater than \$5 million
- Includes multiple award contracts
- DFARS interim rule in DAR Council coordination