

It's Not Called "TINA" Anymore

Written by Nick Sanders
Friday, 02 May 2014 00:00



One of the problems with growing old is that the youngsters keep changing things. Stuff we thought we knew cold is suddenly called something different, confusing us and requiring us to unlearn certain things only to relearn those same things again under a brand new name. It's the Circle of Life, or something.

First GAAP was recodified and renamed, and is now known as the FASB [Auditing Standards Codification](#) (ASC).

Nothing substantive actually changed; but all the names of all the GAAP pronouncements and suchlike changed. Suddenly it was like speaking a new language.

Similarly, the FAR was just revised (via [final rule](#)) to implement the Positive Law Codification of Title 41 and recodification of Title 40 of the United States Code. Nothing substantive actually changed; but all the names of all the "popular names of the Acts" and citations changed. It's like speaking a new language.

The following table, cribbed from the Federal Register notice (link above) will help explain what we mean.

Historical Title of Act

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New Title to be Used

Anti-Kickback Act

Kickbacks

Brooks Architect-Engineer Act

Selection of Architects and Engineers

Buy American Act

Buy American

Contract Disputes Act of 1978

Contract Disputes

Davis-Bacon Act

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Wage Rate Requirements (Construction)

Drug-Free Workplace Act

Drug-Free Workplace

Federal Property and Administrative Services Act of 1949, Title III

Procurement

Javits-Wagner-O'Day Act

Committee for Purchase from People Who Are Blind or Severely Disabled

Miller Act

Bonds

Office of Federal Procurement Policy Act

Office of Federal Procurement Policy

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Procurement Integrity Act

Restrictions on Obtaining and Disclosing Certain Information

Service Contract Act of 1965

Service Contract Labor Standards

Truth in Negotiations Act

Truthful Cost or Pricing Data

Walsh-Healey Public Contracts Act

Contracts for Material, Supplies, Articles, and Equipment Exceeding \$15,000

We are going to have a hard time getting used to the new terminology. For example, the Truth in Negotiations Act has been TINA to us since we started in this crazy business, long ago. Calling TINA "Truthful Cost or Pricing Data" (TCoPD) is not going to be easy.

And we're not the only ones who feel this way. Several commenters providing input to the

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rulemaking expressed their concerns with the changes to nomenclature. The rulemakers responded that they were simply revising the FAR to cite to the current statutory titles. When one commenter opined that making changes to the FAR with respect to the Davis-Bacon Act while the Department of Labor had not made similar changes would result in confusion among practitioners, the rulemakers disagreed and offered the following rationale-

The codifications of Title 40 and Title 41 have removed all references to the popular names of the statutes codified therein. There are also conforming changes to other titles of the United States Code, to likewise remove the use of the popular names throughout the United States Code. When the Councils decided that the change was necessary for conformity to the United States Code, the 2005 case was reviewed and conforming changes to the statutory titles in Title 40 were included in this case. Future changes to these sections of the United States Code will no longer be in terms of the old statutes, but in terms of the new codification. *Therefore, the old popular names will gradually have little meaning to the newer workforce.*

[Emphasis added.]

So apparently it's a new world folks, and old fogies such as Apogee Consulting, Inc. had better get out of the way to make room for the newer folks who aren't weighed-down by the anchors of the "old popular names" of public laws.

The problem with that logic is that there are any number of textbooks and articles and commentary that refer to the statutes by their old popular names and not by the newer, hipper, names used by the younger workforce. Since there were no substantive changes made, we don't really see all those textbooks and articles and commentaries being rewritten simply to change the statutory name from (say) the old fogey name of the Walsh-Healey Public Contracts Act to the newer, hipper, more trendy name of "Contracts for Material, Supplies, Articles, and Equipment Exceeding \$15,000," or changing the gray-haired geezer name of the Truth in Negotiations Act to the young hipster name of "Truthful Cost or Pricing Data".

Until the old fogies die off (or retire) some translations will need to be made.

Live long and prosper, readers.

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