



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-23
February 4, 1999

MISCELLANEOUS REVISIONS TO THE NASA FAR SUPPLEMENT

PURPOSE: To make editorial corrections and miscellaneous changes dealing with NASA internal and administrative matters.

BACKGROUND: A number of administrative changes are made. These changes include: (1) revising the responsibilities for posting data of the Acquisition Forecast on the internet; (2) updating the Department of Energy (DOE) form for acquiring radioisotopes; (3) changing subpart titles, section headings, and section numbers due to changes made by Federal Acquisition Circulars (FAC) 97-09 and 97-10; (5) raising the dollar threshold for consideration of the need for surveillance of subcontracts resulting from contract modifications and change orders to a threshold equal to that for obtaining cost or pricing data; and (6) updating a reference to an internal document on records retention.

REPLACEMENT PAGES: You may use the enclosed pages to replace pages Structure page 3, Structure page 4, 4:7, 4:8, 7:5, 7:6, Part 1808, Part 1812, 13:1, 13:2, 16:1, 16:2, Part 1819, 27:11, 27:12, 32:1, 32:2, 32:7, 33:1, 33:2, 36:1, 36:2, Part 1844, 52:57, 52:58, 52-95, 52-96, and Part 1853 of the NFS.

REGULATORY COMPLIANCE: This PN was published as a final rule in the Federal Register (64 FR 5620-5621, February 4, 1999).

EFFECTIVE DATE: This PN is effective as dated and shall remain in effect until cancelled or superseded.

HEADQUARTERS CONTACT: Tom O'Toole, Code HK, (202) 358-0478, thomas.otoole@hq.nasa.gov.

Scott Thompson, Director

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When a contract is unclassified, classified material relating to that contract shall be maintained in a separate file folder and container, and the unclassified folder shall be marked to indicate the location of the classified material. The front and back of each folder containing classified material shall be marked with the highest classification assigned to any document in the folder.

1804.803 Contents of contract files.

1804.803-70 Checklist.

NASA Form 1098, Checklist for Contract Award File Content, shall be used as the "top page" in contract files.

1804.804 Closeout of contract files.

1804.804-2 Closeout of the contracting office files if another office administers the contract.

(b) Upon receiving the NASA Form 1611 or DD Form 1594, Contract Completion Statement, from the contract administration office and complying with FAR 4.804-2(b), the contracting officer shall complete the form.

1804.804-5 Detailed procedures for closing out contract files.

(a) When the contracting office retains contract administration (excluding acquisitions under the simplified acquisition threshold), the contracting officer shall comply with FAR 4.804-5(a) by completing NASA Form 1612, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record.

(b) To comply with FAR 4.804-5(b), the contracting officer shall complete NASA Form 1611 or DD Form 1594, Contract Completion Statement, except for acquisitions under the simplified acquisition threshold.

1804.805 Storage, handling, and disposal of contract files.

(a) See NPG 1441.1C, Records Retention Schedules.

1804.805-70 Review, separation, and retirement of contract files.

(a) Upon determination of contract completion under the procedures outlined in 1804.804, each office shall remove the official contract files from the active file series, mark each file folder with "Completed (Date)", and place the folder in a completed (inactive) contract file series. Separate series should be established for contracts of \$25,000 or less and for contracts of more than \$25,000, to facilitate later disposal. Any original or official file copies of documents contained in duplicate or "working" contract files shall be removed and placed in the appropriate official file; any remaining material in the duplicate or "working" file shall be destroyed immediately or segregated and marked for early disposal.

(b) Each office shall review contractor "general" files (i.e., a file containing documents relating generally to a contractor rather than a specific contract) at least once annually and remove documents that --

(1) Are obsolete or superseded documents relating generally to the contractor (e.g., documents no longer pertinent to any aspect of a contractor's current or future capability, performance, or programs, and documents relating to a contractor that is no longer a possible source of supplies, services, or technical assistance) and dispose of the documents as authorized in 1804.805; or

(2) Pertain only to completed contracts. Place those files that are not routine in nature in inactive files for later disposal, and immediately dispose of routine documents as authorized in NPG 1441.1C, Records Retention Schedules.

Subpart 1804.9 -- Taxpayer Identification Number Information

1804.904 Reporting payment information to the IRS.

Each NASA installation, that has its own employer identification number, may elect to report to the IRS payments under purchase orders and contracts for merchandise and other exempt bills.

Subpart 1804.70--Transfer of Contracting Office Responsibility

1804.7000 Scope of subpart.

This subpart contains policies and procedures applicable to the transfer of contracts between NASA installations.

1804.7001 Definition.

"Transfer of a contract," as used in this subpart, means that process whereby a contract and all future responsibility for a contract held by one installation are transferred or reassigned in writing to another installation.

1804.7002 Approval of Transfer Requests.

(a) The approval authority for requests to transfer a contract is the official in charge of the cognizant Headquarters program office or designee. Requests for approval shall be submitted by the director of the transferring installation after receiving the concurrence of the director of the receiving installation. Concurrence of the Associate Deputy Administrator (Code AI) is also required for a transfer where an installation's roles and missions may be affected.

(b) Approval of a program transfer by the cognizant Headquarters official constitutes approval to transfer program-related contracts.

1804.7003 Responsibilities of the contracting officer of the transferring installation.

1804.7003-1 Coordinations.

The contracting officer of the transferring installation shall take the following steps before transferring the contract:

(a) Agree on a plan and schedule with the contracting officer of the receiving installation for transferring contract responsibility and contract files.

(b) Coordinate with the following offices:

(1) Financial Management Office, to determine the contract financial records to be transferred and the method, timing, and dollar amount of such transfers.

(2) Technical (Engineering and Project) Office, to determine the status of any outstanding engineering changes.

(c) When timely submittal is not possible, the installation shall provide with the amendment a narrative explaining the circumstances leading to the late submittal. A Master Buy Plan submission for a contract change order expected to meet the criteria in 1807.7101 shall be submitted to Headquarters immediately upon issuance of the change order.

1807.7102-3 Selection and notification procedures.

(a) The Headquarters Office of Procurement (Code HS) shall select acquisition documents from the Master Buy Plan and amendments to Master Buy Plans to receive Headquarters review and approval and shall designate source selection officials.

(b) When, subsequent to document selection or delegation, an acquisition is changed (for example, increase or decrease in dollar amount, change in requirement), canceled, superseded, deferred, or becomes no longer subject to the Master Buy Plan procedures in accordance with the criteria in 1807.7101, the installation shall immediately notify Code HS, giving the reasons. Code HS shall notify the installation's procurement office in writing of any further action that may be required.

(c) Acquisition documents not selected for Headquarters review will be subject to after-the-fact reviews by Headquarters during normal procurement management surveys or other special reviews. Acquisition delegations may subsequently be rescinded if a Headquarters review is deemed appropriate.

1807.7103 Format of Master Buy Plan.

In accordance with the requirements of 1807.7102-1 and 1807.7102-2, Master Buy Plans and amendments to Master Buy Plans shall be prepared in accordance with the format illustrated in Table 1807-1.

Subpart 1807.72--Acquisition Forecasting

1807.7200 Scope of subpart.

This subpart prescribes the acquisition forecasting procedure required to comply with the Business Opportunity Development Reform Act of 1988.

1807.7201 Definitions.

"Class of contracts" means a grouping of acquisitions, either by dollar value or by the nature of supplies and services to be acquired.

"Contract opportunity" means planned new contract awards exceeding \$25,000.

1807.7202 Policy.

As required by statute, it is NASA policy to (a) prepare an annual forecast and semiannual update of expected contract opportunities or classes of contract opportunities for each fiscal year; (b) include in the forecast contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, may be capable of performing; and (c) make available such forecasts to the public.

1807.7203 Responsibilities.

(a) NASA Procurement Officers shall post the data required by 1807.7204 directly to the NASA Acquisition Internet Service not later than October 1 for the annual forecast and April 15 for the semiannual update.

(b) Code HS will manage policy and monitor compliance with the NASA Acquisition Forecast process.

1807.7204 Forecast data.

(a) The annual forecast shall contain--

(1) Summary historical data (based on information provided by the Headquarters Office of Procurement (Codes HC and HS)) on the class of contract opportunities below the simplified acquisition threshold;

(2) Identification of all known contract opportunities in excess of the simplified acquisition threshold. Each such action should be identified as one of the three broad categories of acquisition -- Research and Development, Services, or Supplies and Equipment and shall include the following information:

(i) A brief description not to exceed ten typed lines;

(ii) Approximate dollar value within the following dollar ranges: \$100,000 to \$1,000,000; \$1,000,000 to \$5,000,000; and over \$5,000,000;

(iii) Anticipated time (by fiscal year quarter) for the issuance of the solicitation;

(iv) Identification if it is reserved for performance by small business concerns including those owned and controlled by socially and economically disadvantaged individuals;

(v) Identification as competitive or noncompetitive; and

(vi) Identification and telephone number of a center point of contact.

(b) The semiannual report shall be an update of the data provided by the annual forecast. This update should provide information on new requirements not previously reported and on changes in data related to actions previously identified.

1807.7205 Public availability.

The annual forecast and semiannual update are available on the NASA Acquisition Internet Service (<http://www.hq.nasa.gov/office/procurement/>).

PART 1808

REQUIRED SOURCES OF SUPPLIES AND SERVICES

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PART 1808

REQUIRED SOURCES OF SUPPLIES AND SERVICES

1808.002 Use of other Government supply sources.

1808.002-70 Acquisition of radioisotopes.

(a) U.S. Department of Energy Isotope and Technical Service Order Form CA-10-90.COM, and U.S. Nuclear Regulatory Commission Application for Material License, NRC Form 313, shall be used to acquire radioisotopes.

(b) NRC Form 313 shall be filed with the Chief, Radioisotopes Licensing Branch, Division of Fuel Cycle and Material Safety, United States Nuclear Regulatory Commission, Washington, DC 20555. If the application meets all regulatory requirements and applicable standards, the Radioisotopes Licensing Branch, Nuclear Regulatory Commission, will issue a license to the applicant. After receipt of the license, a completed DOE Form CA-10-90.COM (in duplicate, if the contracting office wants an accepted copy of the form back from the supplier), the license, and a Government bill of lading shall be sent to the appropriate DOE laboratory. If a bill of lading is not furnished, shipment shall be made collect on a commercial bill of lading, to be converted at destination.

(c) NRC Form 313 and DOE Form CA-10-90.COM may be requisitioned directly from the United States Nuclear Regulatory Commission, Attn: Radioisotopes Licensing Branch, Division of Fuel Cycle and Material Safety, Washington, DC 20555.

(d) Guidance is available from NRC at URL <http://www.nrc.gov/NRC/contents/#top> and from DOE at URL <http://www.ornl.gov/isotopes/catalog.htm>.

1808.002-71 Acquisition of liquid hydrogen.

Requests for liquid hydrogen shall be submitted to the John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899, Attn: Director of Logistics Operations.

1808.002-72 Acquisition of propellants.

(a) **General.** NASA (and its contractors when authorized in accordance with 1851.1) may acquire the items listed in paragraph (j) of this section (except for liquid hydrogen; see 1808.002-71) on a reimbursable basis from the San Antonio Air Logistics Center (SA-ALC), Kelly Air Force Base, Texas, under the Air Force Missile Procurement Fund (MPF). The Air Force MPF shall be used as a supply source for propellants whenever there are economic or other advantages to the Government. Field installations and offices obtaining supplies from the MPF shall comply with the reporting requirements of paragraph (f) of this section.

(b) **Requests for acquisition.** To obtain the materials listed in paragraph (j) of this section from the Air Force MPF, NASA contracting offices will execute a NASA-Defense Purchase Request (NASA Form 523) (see 1853.303-523) and forward it to Headquarters, SA-ALC, Kelly Air Force Base, TX 78241, Attention: SFS. The following additional information should be provided on the form:

(1) Contract number (when material is required for use by a NASA contractor).

(2) Delivery address.

(3) Mode of transportation (rail, trailer, barge, etc.). When the procurement request covers requirements for materials not previously forecasted or covers significant changes to previously reported requirements, SA-ALC should be notified immediately of such requirements.

(c) **Delivery requests.**

(1) A delivery request is a call on the Air Force, made against a NASA-Defense Purchase Request (NASA Form 523), specifying the time and place of delivery. On the basis of the estimated requirements, the Air Force will notify NASA field installations and contractors of the name and address of the Air Force office or producing contractor's plant to which requests for delivery of materials shall be made. Delivery requests may be placed by any means of communication that time justifies; however, all verbal requests for delivery must be confirmed in writing within 24 hours. The delivery request, whether oral or written, must cite the NASA-Defense Purchase Request number under which the material is being ordered and contain the following information:

(i) Nomenclature and National Stock Number.

(ii) Quantity.

(iii) Program, project, and task.

(iv) Contract number (when material is required for use by a NASA contractor).

(v) Delivery address.

(vi) Dates of delivery.

(vii) Mode of transportation.

(viii) Location of weighing stations and scales (if weighing of the products before delivery is required).

(2) Each delivery request shall be numbered as follows to simplify identification and control: the last two digits of the calendar year; a dash; and a consecutive number beginning with 1 to run throughout the year (e.g., 89-5, for the fifth request made in 1989). Changes to a request are identified by adding an alphabetical designator beginning with (A) to the number.

(d) Receiving procedures.

(1) **Receiving documents.** Receipt of materials shall be evidenced on the receiving document received with the shipment by the signature of an individual authorized by NASA to receive materials from the Air Force. Every effort should be made to ensure that the NASA-Defense Purchase Request number is recorded on the receiving document before signing.

(2) **Weighing facilities.** Local weighing facilities (NASA-owned, contractor-owned, commercial, or State-operated) may be used to determine quantities of product received. If a discrepancy exists between the quantities shown on receiving documents and the quantities actually received--

(i) A certified weighing ticket evidencing actual weight at destination shall be obtained; and

(ii) A copy of the receiving document (AF Form 857 or DD Form 250) and the original weighing ticket shall be forwarded to Headquarters, SA-ALC, Kelly Air Force Base, TX 78241, Attention: ACFOM, identifying the discrepancy.

(3) **Distribution of receipts.** Copies of all receiving documents except the AF Form 857 shall be transmitted to the Headquarters, SA-ALC, Kelly Air Force Base, TX 78241, Attention: SACAOM. Receiving documents may be accumulated and submitted on the 10th, 20th, and last day of each month.

(e) **Billing.** The costs of materials obtained through the MPF are reimbursable. After delivery, a Standard Form 1080 (Voucher for Transfers Between Appropriations and/or Funds (Disbursement)), supported by documentary evidence of delivery, will be submitted by Headquarters, SA-ALC to the NASA installation designated in the NASA Form 523.

(f) Reporting requirements.

(1) Field installations shall submit periodic estimates of requirements for materials listed in paragraph (j) of this section for all programs under their cognizance, including in-house contractor requirements. Reports shall be submitted in duplicate on AF Form 858, Forecast of Propellant Requirements.

(2) The reports shall be forwarded no later than June 1 and December 1 to reach Headquarters, SA-ALC, Kelly AFB, TX 78241, Attn: SFS. Supplemental reports advising of additions to or significant changes in previous reports may be submitted at any time. The reports, covering all materials listed in paragraph (j) of this section, due in June and December, shall begin with requirements as of the following July 1 and January 1, respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining 2-1/2-year period.

(3) Estimated requirements and other pertinent data required from contractors shall be obtained on Air Force Form 858.

(g) Report content. Reports shall be made using a separate report form for each material and shall provide, for each item of material, the--

(1) Contract number;

(2) Program and/or project;

(3) Specific task within the project;

(4) End use when not associated with the named program or project;

(5) Contractor's name;

(6) Specific location of use (shipping destination); and

(7) Planned source of supply.

(h) Basis for developing materials requirements. In computing requirements, consideration shall be given to such elements as lead time, waste factors, transfer, and storage losses so that phased requirements reflect the total gross quantities required to be delivered to the use or storage site. Since the requirements estimates are being used by other Government agencies acting as supply sources to contract for materials, estimates must be as accurate as possible.

(i) NASA coordination. The Kennedy Space Center shall coordinate the review of all data and establish NASA policy and procedures. The data shall be used as the basis

for NASA requirements reports to various Government agencies for planning and supply support.

(j) Table of reportable materials.

Ammonia, Technical (Anhydrous) (Low Oil Content) 99.97 percent purity, Spec 0-A-445

Argon Gas, 6000 PSI, AFPID 6830-5

Propellant, Ammonia, Liquid, Anhydrous 99.5 percent purity, Spec MIL-P-27406

Propellant, Chlorine Trifluoride, Spec MIL-P-81399

Propellant, Deuterium, Gaseous, AFPID 9135-20

Propellant, Fluorine, Gaseous, Spec MIL-P-27405

Propellant, Fluorine, Liquid, Spec MIL-P-27405

Helium, Technical Grade A, Spec BB-H-1168

Propellant, Isopropyl Alcohol, AFPID 9135-18

Propellant, Hydrazine, Standard Grade, Spec MIL-P-26536

Propellant, Hydrazine, Monopropellant Grade, Spec MIL-P-26536

Propellant, Hydrazine/Unsymmetrical Dimethylhydrazine, Spec MIL-P-27402

Propellant, Hydrogen, Gaseous, Type I, Spec MIL-P-27201

Propellant, Hydrogen, Liquid, Type II, Spec MIL-P-27201

Propellant, Hydrogen Peroxide, Spec MIL-P-16005

Propellant, Hydrogen Peroxide, Electrolytic Process, Spec MIL-P-16005

Propellant, Jet Fuel, Grade RJ-1, Spec MIL-F-25558

Propellant, JPX, 50% UDMH-50% JP-4, Spec MIL-P-26694

Propellant, JPX, 17% UDMH-83% JP-4, Spec MIL-P-26694

Propellant, Kerosene, Grade RP-1, Spec MIL-P-25576

Propellant, Monomethyl Hydrazine, Spec MIL-P-27404

Propellant, Neon, Liquid, AFPID 9135-16

Propellant, Nitric Acid, Type IIIB, Spec MIL-P-7254

Propellant, Nitric Acid, Type III LS, Spec MIL-P-7254

Propellant, Nitric Acid, Type IV (High Density Acid), Spec MIL-P-7254

Propellant, Nitrogen Tetroxide (NTO) (MON-1) (MON-3), Spec MIL-P-26539

Propellant, Nitrogen Tetroxide (NTO), MIL-P-26539

Propellant, Nitrogen Tetroxide (MON-1), Spec MIL-P-26539

Propellant, Nitrogen Tetroxide (MON-3), Spec MIL-P-26539

Propellant, Oxygen, Grade B, Spec MIL-P-25508

Propellant, Oxygen, Grade A, Spec MIL-P-25508

Propellant, Oxygen, Grade F, Spec MIL-P-25508

Propellant Pressurizing Agent, Helium, Spec MIL-P-27407, 99.995 pct min assay

Propellant Pressurizing Agent, Nitrogen, Type II, Liquid Grade C, Spec MIL-P-27401

Propellant Pressurizing Agent, Nitrogen, Type I, Gaseous Grade A, Spec MIL-P-27401

Propellant Pressurizing Agent, Nitrogen, Type I, Grade B, Spec MIL-P-27401

Propellant Pressurizing Agent, Nitrogen, Type II, Grade A, Spec MIL-P-27401

Propellant Pressurizing Agent, Nitrogen, Type II, Grade B, Spec MIL-P-27401

Propellant, Unsymmetrical Dimethyl-hydrazine, Spec MIL-P-25604

Propellant, Nitrogen Trifluoride Spec MIL-P-87896

Propellant Pressurizing Agent, Argon, Liquid, AFPID 9135-19

1808.002-75 Acquisition of mercury.

(a) Requests for mercury by NASA installations for their use or for use by their cost-reimbursement type contractors shall be made to the Mercury Contract Specialist, Directorate of Stockpile Contracts, DLA, Defense National Stockpile Center, 8725 John J. Kingman Rd., #3339, Ft. Belvoir, VA 22060-6223. DLA will furnish the current fair market value to NASA. The unit of issue is a 76-pound flask.

(b) Requests for clearance to purchase quantities of 76 pounds or more from sources other than DLA shall be submitted to the office in paragraph (a) of this section and must be accompanied by a statement of reasons why the available excess mercury is unsuitable for use by the requesting field installation.

Subpart 1808.1--Excess Personal Property

1808.103 Information on available excess personal property.

In addition to the sources identified in FAR 8.103, information on availability of NASA excess property is maintained by the Installation Property Disposal Officer and the NASA Equipment Management System (NEMS) Coordinator.

Subpart 1808.4--Federal Supply Schedules

1808.404 Using schedules.

1808.404-3 Requests for waivers.

(a) The head of the NASA office initiating the procurement request or a designated representative shall furnish the NASA contracting office a signed statement identifying the supplies or services to be purchased and explaining why similar items listed in the applicable schedule will not meet the requirement.

(b) If a waiver is not granted, the case shall be referred to the Associate Administrator for Procurement (Code HS) for a final decision as to whether the non-schedule item will be purchased. The Associate Administrator for Procurement shall promptly notify the Commissioner, Federal Supply Service, GSA, and the contracting office of the decision.

Subpart 1808.6--Acquisition from Federal Prison Industries, Inc.

1808.605 Clearances.

(a) NASA purchase orders or contracts written pursuant to a general or blanket clearance need not be supported by a copy of the clearance, but the clearance number must be cited on the purchase order or contract as well as on the initial voucher. A copy of the clearance certificate must be attached to the initial voucher.

(c) When disputes occur, the contracting officer shall refer the matter to the Associate Administrator for Procurement (Code HS) for review and any further action. Such referrals shall include a complete statement of the attempts made to resolve the matter.

Subpart 1808.7--Acquisition from Nonprofit Agencies Employing People Who are Blind or Severely Disabled

1808.705 Procedures.

1808.705-1 General.

The Federal Standard Requisitioning and Issue Procedure (Federal Property Management Regulation, Subpart 101-26.2) shall be used to obtain nonprofit agency-produced supplies from GSA supply distribution facilities.

Subpart 1808.8--Acquisition of Printing and Related Supplies

1808.802 Policy.

(b)(i) The Headquarters Information Resources Management Division (Code JT) is the NASA central printing authority.

(ii) Requests for approval to contract for printing supplies or services shall be addressed to Code JT. Approval to contract for such supplies or services is restricted to those requirements meeting the following conditions:

(A) an individual order is under \$1,000;

(B) the order is not of a continuing or repetitive nature; and,

(C) the Public Printer certifies it cannot be provided more economically through the GPO.

1808.870 Contract clause.

The contracting officer shall insert the clause at 1852.208-81, Restrictions on Printing and Duplicating, in solicitations and contracts where there is a requirement for any printing, and/or any duplicating/copying in excess of that described in paragraph (c) of the clause.

Subpart 1808.11--Leasing of Motor Vehicles

1808.1100 Scope of subpart.

NASA procedures for leasing motor vehicles from GSA or commercial sources are contained in NMI 6000.5, Transportation Management.

PART 1812
ACQUISITION OF COMMERCIAL ITEMS

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1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

1812.302 Tailoring of provisions and clauses for the acquisition of commercial items.

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1812.7000 Prohibition on guaranteed customer bases for new commercial space hardware or services.

PART 1812
ACQUISITION OF COMMERCIAL ITEMS

Subpart 1812.1--Acquisition of Commercial Items--General

1812.102 Applicability.

(c) For the acquisition of commercial items of any value, the MidRange procedures described in NFS part 1871 may be used to the extent they are consistent and compliant with FAR part 12 and NFS part 1812. Unless specifically stated, in any conflict between these parts the descending order of precedence is FAR part 12, part 1812, and part 1871.

**Subpart 1812.3--Solicitation Provisions and Contract Clauses
for the Acquisition of Commercial Items**

1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) The following clauses may be used in acquisitions of commercial items:

(A) 1852.214-71, Grouping for Aggregate Award.

(B) 1852.214-72, Full Quantities.

(C) 1852.215-84, Ombudsman.

(D) 1852.219-75, Small Business and Small Disadvantaged Business Subcontracting Reporting.

(E) 1852.219-76, NASA Small Disadvantaged Business Goal.

(F) 1852.228-72, Cross-Waiver of Liability for Space Shuttle Services.

(G) 1852.228-76, Cross-Waiver of Liability for Space Station Activities.

(H) 1852.228-78, Cross-Waiver of Liability for NASA Expendable Launch Vehicles.

(I) 1852.232-70, NASA Progress Payment Rates.

(J) 1852.246-72, Material Inspection and Receiving Report.

(ii) No other provisions and clauses prescribed in the NFS or center documents shall be used in acquisitions of commercial items, except as permitted by FAR 12.302.

1812.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) The Associate Administrator for Procurement (Code HS) is the approval authority for waivers. Requests shall be prepared and submitted in accordance with 1801.471.

Subpart 1812.4--Unique Requirements Regarding Terms and Conditions for Commercial Items

1812.404 Warranties.

(b) In acquisitions under the Simplified Acquisition Threshold specified in FAR Part 13, no express warranty should be required other than the offeror's commercial warranty.

Subpart 1812.70 -- Commercial Space Hardware or Services

1812.7000 Prohibition on guaranteed customer bases for new commercial space hardware or services.

Public Law 102-139, title III, Section 2459d, prohibits NASA from awarding a contract with an expected duration of more than one year if the primary effect of the contract is to provide a guaranteed customer base for, or establish an anchor tenancy in, new commercial space hardware or services. Exception to this prohibition may be authorized only by an appropriations Act specifically providing otherwise.

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PART 1813

SIMPLIFIED ACQUISITION PROCEDURES

1813.000 Scope of part.

FAR Part 13 and 1813 do not apply to NASA Research Announcements and Announcements of Opportunity. These acquisitions shall be conducted in accordance with the procedures in 1835.016-70 and 1872, respectively, and, if awards are to be made as procurement instruments, they shall be made as bilateral contracts rather than purchase orders.

1813.003 Policy.

(g) Acquisitions under these simplified acquisition procedures shall be fixed-price, except as provided under the unpriced purchase order method in FAR 13.302-2.

Subpart 1813.1--Procedures

1813.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

1813.106-3 Award and documentation.

(b)(3)(ii) For purchases up to \$50,000, documentation shall be limited to a brief notation in the file indicating the rationale for selecting other than the lowest priced offer.

Subpart 1813.3--Simplified Acquisition Methods

1813.301 Governmentwide commercial purchase card.

(a) The procurement officer shall designate individual cardholders in accordance with center procedures, subject to the following limitations:

(i) Personnel other than contracting officers may be designated as cardholders for micro-purchases and for individual orders under BPAs up to \$5,000 (see 1813.303-3(a)(4)), provided they complete training adequate to ensure appropriate use of the purchase card. Training materials are available from the NASA Procurement Library on the Internet at <http://ec.msfc.nasa.gov/hq/library/library.html>.

(ii) The procurement officer's designation shall be in writing and shall specify the scope of the cardholder's authority.

(iii) The center shall establish and maintain administrative procedures and management controls required by the General Services Administration (GSA). Purchases made with the Governmentwide commercial purchase card shall comply with the instructions and procedures issued by GSA as well as applicable parts of the FAR and NFS.

(b) The Governmentwide commercial purchase card may be used to order and pay for purchases under contracts established under FAR Part 8 procedures, up to the simplified acquisition threshold (except see paragraph (a)(i) of this section for dollar limitations for personnel other than contracting officers).

(c) The Governmentwide commercial purchase card may be used to order and pay for purchases in the circumstances described in FAR 13.301(c) up to the simplified acquisition threshold (except see paragraph (a)(i) of this section for limitations for personnel other than contracting officers). Except as authorized in paragraphs (b) and (c) of this section, the Governmentwide commercial purchase card may not be used for purchases in excess of \$25,000. Purchases above the micro-purchase threshold shall comply with all applicable statutory and regulatory requirements, including the following:

(i) Small business set-aside (see FAR 13.003(b)).

(ii) Representations and certifications. The applicable items from the provision at FAR 52.212-3, Offeror Representations and Certifications--Commercial Items, shall be obtained for commercial or noncommercial purchases. This information may be obtained orally from vendors.

(iii) Maximum practicable competition (see FAR 13.106-1).

(iv) Implementation of the applicable contract clauses. This requirement may be satisfied by forwarding a completed SF 1449, appropriately modified to reflect purchase card terms, to the awardee after placing the order via the card, provided that the awardee must be notified of, and agree to, the applicability of the SF 1449 clauses when the order is placed.

1813.301-70 Purchase card documentation.

Documentation of purchases shall be minimized. For transactions below the micro-purchase threshold, the card holder shall maintain a brief log of purchases and a file of monthly purchase

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PART 1816

TYPES OF CONTRACTS

Subpart 1816.1 -- Selecting Contract Types

1816.104 Factors in selecting contract types.

1816.104-70 Contract type for performance-based contracting (PBC).

(a) PBC is defined in FAR 37.101 and discussed in FAR 37.6. Although FAR Part 37 primarily addresses services contracts, PBC is not limited to these contracts. PBC is the preferred way of contracting for all supplies and services at NASA. Generally, when contract performance risk under a PBC specification can be fairly shifted to the contractor to allow for the operation of objective incentives, a contract type with objectively measurable incentives (e.g., FFP, FPIF, or CPIF) is appropriate. However, when contractor performance (e.g., cost control, schedule, or quality/technical) is best evaluated subjectively using quantitative measures, a CPAF contract may be used.

(b) A level-of-effort contract is not PBC.

Subpart 1816.2--Fixed-Price Contracts

1816.202 Firm-fixed-price contracts.

1816.202-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.216-78, Firm-Fixed-Price, in firm-fixed-price solicitations and contracts. Insert the appropriate amount in the resulting contract.

1816.203 Fixed-price contracts with economic price adjustment.

1816.203-4 Contract clauses.

(a) In addition to the approval requirements in the prescriptions at FAR 52.216-2 through 52.216-4, the contracting officer shall coordinate with the installation's Deputy Chief Financial Officer (Finance) before exceeding the ten-percent limit in paragraph (c)(1) of the clauses at FAR 52.216-2 through 52.216-4.

(d)(2) Contracting officers shall contact the Office of Procurement, Code HK, for specific guidance on preparing clauses using cost indexes. Such clauses require advance approval by the Associate Administrator for Procurement. Requests for approval shall be submitted to the Headquarters Office of Procurement (Code HS).

Subpart 1816.3--Cost-Reimbursement Contracts

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PART 1819

SMALL BUSINESS PROGRAMS

1819.001 Definitions.

"High-Tech" as used in this part means research and/or development efforts that are within or advance the state-of-the-art in a technology discipline and are performed primarily by professional engineers, scientists, and highly skilled and trained technicians or specialists.

Subpart 1819.2 --Policies

1819.201 General policy.

(a)(i) NASA is committed to providing to small, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is particularly emphasized in high-technology areas where they have not traditionally dominated.

(ii) Congress established an 8 percent goal for NASA as described in 1819.7000. The Federal Acquisition Streamlining Act of 1994 has made NASA subject to a 5 percent goal for prime and subcontract awards to small disadvantaged business concerns, Historically Black Colleges and Universities, and minority institutions. Unlike the NASA 8 percent goal, the 5 percent goal does not include prime and subcontract awards to women-owned small businesses. NASA also annually negotiates small, small disadvantaged, and women-owned small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). These goals are Agencywide goals.

(c) The Associate Administrator for Small and Disadvantaged Business Utilization (Code K) is the Agency official responsible for carrying out the duties in FAR 19.201(c).

(d)(i) The center director shall designate a qualified individual in the contracting office as a small business specialist to provide a central point of contact to which small business concerns may direct inquiries concerning small business matters and participation in NASA acquisitions. The small business specialist shall also perform other functions specifically set forth in this section 1819.201 or that the procurement officer may prescribe, with the concurrence of the Associate Administrator for Small and Disadvantaged Business Utilization, for implementing the Small Business Program. When the center director considers that the volume of acquisitions or the functions relating to acquisitions at the center do not warrant a full-time small business specialist, these duties may be assigned to procurement personnel on a part-time basis.

(ii) Small business specialists appointed under paragraph (d)(i) of this section shall perform the following duties, as the procurement officer determines appropriate to the installation:

(A) Maintain a program designed to locate capable small business sources, including those located in labor surplus areas, for current and future acquisitions.

(B) Coordinate inquiries and requests for advice from small business concerns on acquisition matters.

(C) Before issuance of solicitations or contract modifications for additional supplies or services, determine that small business concerns will receive adequate consideration, including making recommendations for initiation of set-asides (see FAR 19.5 and 19.8) and for taking action in accordance with FAR 19.506(b) and 1819.502-70. Participate and provide input early in the acquisition planning phase of proposed acquisitions, including acquisition strategy meetings.

(D) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, work with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for current or future acquisitions will be available.

(E) Review acquisitions for possible breakout of items suitable for acquisition from small business concerns.

(F) Advise small business concerns regarding financial assistance available under laws and regulations, assist such concerns in applying for such assistance, and ensure that small business concerns' requests for financial assistance are not treated as a handicap in securing the award of contracts.

(G) Participate in responsibility determinations (see FAR 9.103) when small business concerns are involved.

(H) Participate in the evaluation of prime contractors' small business subcontracting programs (see FAR 19.705-4).

(I) Review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the Small Business Program.

(J) Ensure that participation of small business concerns is accurately reported.

(K) Make available to SBA copies of solicitations when requested.

(L) Act as liaison between contracting officers and SBA area offices and representatives in connection with set-asides, certificates of competency, and any other matters in which the Small Business Program may be involved.

(M) In cooperation with contracting officers and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information regarding small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(N) When a small business concern's offer has been rejected for nonresponsiveness or nonresponsibility, assist that concern, upon its request, in understanding such requirements for future awards.

(O) Advise center personnel, as necessary, on new Governmentwide and Agency-approved small business programs and initiatives.

1819.202 Specific policies.

1819.202-1 Encouraging small business participation in acquisitions.

1819.202-170 Contract consolidations.

Prior to effecting a contract consolidation valued at \$5 million or more, including options, which will not be exclusively reserved for small or 8(a) firms, the contracting officer, with assistance from the small business specialist and the cognizant technical office, shall prepare an impact assessment of the effects of the consolidation on present and future contracting and subcontracting opportunities for small, small disadvantaged, and women-owned small business. The impact assessment shall address the reasons for the proposed consolidation (especially where apparently unrelated efforts are being combined), the expected benefits, and any actions planned to mitigate or eliminate the impact on small business entities. The impact assessment shall be forwarded to the Associate Administrator for Procurement (Code HS) for concurrence by cognizant Headquarters offices and approval by the Associate Deputy Administrator (Technical).

Subpart 1819.3--Determination of Status as a Small Business, HUBZone Small Business, or Small Disadvantaged Business Concern

1819.302 Protesting a small business representation.

(d)(1) The contracting officer shall not make awards of small business set-aside acquisitions before the expiration of the period for receipt of a size standard protest.

Subpart 1819.5--Set-Asides for Small Business

1819.502 Setting aside acquisitions.

1819.502-70 Non-initiation of set-asides.

(a) All cases involving the non-initiation of a set-aside, whether resulting from a joint decision of the small business specialist and the contracting officer or a decision by the contracting officer alone, require referral to the SBA representative (if one is assigned and available) for review.

(b) If the small business specialist recommends that an individual acquisition or a class of acquisitions, or a portion thereof, be set aside, the contracting officer shall promptly either concur in or disapprove the recommendation, stating in writing the reasons for disapproval.

(c) When an SBA representative is assigned and available and the contracting officer disapproves the small business specialist's recommendation, the contracting officer shall promptly refer the case to the SBA representative for review. The small business specialist shall take no further appeal action. The SBA representative must either concur with the decision or appeal the case to the procurement officer under FAR 19.505. If the procurement officer approves the contracting officer's decision and the SBA appeals under FAR 19.505(c), the procurement officer shall forward the required written justification, including a history of discussions between the center and the SBA and rationale for the decision, to the Headquarters Office of Procurement (HS).

(d) When an SBA representative is not assigned or available and the contracting officer disapproves the small business specialist's recommendation, the small business specialist may appeal in writing to the procurement officer. The procurement officer's decision shall be final. The contracting officer shall place a memorandum of the procurement officer's decision in the contract file. If the procurement officer's decision approves the contracting officer's action, the small business specialist shall forward complete documentation of the case to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

(e) The contracting officer shall prepare, sign, and retain in the contract file a memorandum of nonconcurrence in a recommended set-aside action.

1819.502-3 Partial set-asides.

1819.502-370 NASA Reporting Requirements.

The contracting officer shall separately report, in accordance with Subpart 1804.6, awards of the non-set-aside portions of small business set-aside acquisitions.

1819.505 Rejecting Small Business Administration recommendations.

See 1819.502-70.

1819.506 Withdrawing or modifying small business set-asides.

(b) If an SBA representative is not assigned or available, and the small business specialist disagrees with the contracting officer's written decision of withdrawal or modification of a set-aside determination, the small business specialist may appeal to the procurement officer in accordance with the procedures in 1819.502-70(d).

Subpart 1819.6--Certificates of Competency and Determinations of Responsibility

1819.602 Procedures.

1819.602-1 Referral.

(a) On proposed awards exceeding the simplified acquisition threshold, the contracting officer should consider requesting a preaward survey (see FAR 9.106) before determining that a responsive small business firm is not responsible. The scope of the preaward survey request should be limited to those elements of responsibility that are questioned.

(2) The contracting officer shall forward a copy of the referral to SBA through the procurement officer to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

1819.602-3 Resolving differences between the agency and the Small Business Administration.

1819.602-370 NASA Procedures.

(a) When agreement cannot be reached between the contracting officer and the SBA Area Office, the contracting officer shall forward to the Headquarters Office of Procurement (Code HS) on an expedited basis, a complete case file with a request that the case be considered for appeal to SBA Headquarters. The contracting officer shall include the data already furnished to SBA, SBA's rationale for proposing to issue a COC, and the contracting officer's comments. The contracting officer shall suspend acquisition action until informed by Code HS of the final decision in the case.

(b) If the Office of Procurement concludes that the referral to SBA should be withdrawn and a contract awarded without benefit of a COC, Code HS shall inform the contracting officer.

(c) If the Office of Procurement agrees with the contracting officer's recommended appeal action, the Associate Administrator for Procurement shall forward the appeal through the Office of Small and Disadvantaged Business Utilization (Code K) to SBA Headquarters.

Subpart 1819.7--The Small Business Subcontracting Program

1819.705-2 Determining the need for a subcontracting plan.

(d) Solicitations for competitive negotiated acquisitions shall require proposed subcontracting plans with initial proposals (see 1819.708(b)(1)). For sole source negotiated acquisitions, the contractor shall be required to submit a proposed subcontracting plan with the proposal.

1819.705-4 Reviewing the subcontracting plan.

1819.705-470 Acquisition-specific subcontracting goals.

Section 1819.201 addresses Agencywide goals at the combined prime and subcontract levels. Appropriate subcontracting goals for an individual acquisition, however, are to be independently determined on the basis of the specific circumstances of the acquisition, consistent with FAR 19.705-4 and 1819.7002(b), and not on the basis of an Agencywide or center goal. Acquisition-specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with efficient performance. The methods outlined in NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, may also be useful in establishing reasonable subcontracting goals for small and women-owned small business concerns.

1819.708 Contract clauses.

(b)(1) The contracting officer shall use the clause at FAR 52.219-9 with its Alternate II when contracting by negotiation.

1819.708-70 NASA solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1852.219-73, Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.219-75, Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Reporting, in

solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial plan.

Subpart 1819.8--Contracting with the Small Business Administration (The 8(a) Program)

1819.804 Evaluation, offering, and acceptance.

1819.804-1 Agency evaluation.

The small business specialist shall review and evaluate all acquisition requirements to determine their suitability for offering to SBA for 8(a) acceptance and make a recommendation to the contracting officer concerning award to SBA.

Subpart 1819.10--Small Business Competitiveness Demonstration Program

1819.1005 Applicability.

(b) The targeted industry categories for NASA and their Standard Industrial Classification (SIC) codes are:

SIC Code	Industry Category
3571	Electronic Computers
3577	Computer Peripheral Equipment, not elsewhere classified
3663	Radio & TV Broadcasting and Communications Equipment
3764	Guided Missile/and Space Vehicle Propulsion Units and Propulsion Unit Parts
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, not elsewhere classified
3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments
3827	Optical Instruments and Lenses
7371	Computer Programming Services
7373	Computer Integrated Systems Design
7379	Computer Related Services, not elsewhere classified.

Subpart 1819.70--NASA 8 Percent Goal

1819.7000 General.

Public Laws 101-144, 101-507, and 102-389 require the NASA Administrator to ensure, to the fullest extent possible, that at least 8 percent of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns.

1819.7001 Definitions.

(a) "**Small Disadvantaged Business (SDB) concern**" and "**Women-Owned Small Business (WOSB) concern**" are defined in FAR 19.001.

(b) "**Historically Black College or University (HBCU)**" and "**Minority Institution (MI)**" are defined in FAR 26.301.

1819.7002 Contracting officer responsibility.

(a) Contracting officers must seek out as potential sources entities identified in 1819.7001 and give full consideration to these entities to satisfy NASA requirements. The participation of NASA prime contractors is also essential to meeting the Agency's 8 percent goal.

(b) NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, contains guidance on developing realistic goals. It is applicable to acquisitions expected to exceed \$50 million, including options. The methodology may be used for lesser value acquisitions.

1819.7003 Contract clause.

The contracting officer shall insert the clause at 1852.219-76, NASA 8 Percent Goal, in all solicitations and contracts other than those below the simplified acquisition threshold or when the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.71--NASA Rural Area Small Business Plan

1819.7101 Definition.

"**Rural area**" means a county with a population of fewer than twenty thousand individuals.

1819.7102 General.

Pursuant to Public Law 100-590, NASA established a Rural Area Business Enterprise Development Plan, including methods for encouraging prime and subcontractors to use small business concerns located in rural areas as subcontractors and suppliers. One method is to encourage the contractor to use its best efforts to comply with the intent of the statute.

1819.7103 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.219-74, Use of Rural Area Small Businesses, in solicitations and contracts that offer subcontracting possibilities or that are expected to exceed \$500,000 (\$1,000,000 for construction of public facility) unless the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.72--NASA Mentor-Protégé Program

1819.7201 Scope of subpart.

The NASA Mentor-Protégé Program is designed to incentivize NASA prime contractors to assist small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns, in enhancing their capabilities to perform NASA contracts and subcontracts, foster the establishment of long-term business relationships between these entities and NASA prime contractors, and increase the overall number of these entities that receive NASA contract and subcontract awards.

1819.7202 Definition.

"**High-Tech**" is defined in 1819.001.

1819.7203 Non-affiliation.

For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in 1819.7214 from such mentor firm under the Program. In addition, NASA shall not consider partial ownership, up to 10 percent, of a Department of Defense (DOD)-sanctioned protégé firm by its DOD mentor to constitute affiliation.

1819.7204 Transportability of features from the Department of Defense (DOD) Mentor-Protégé Program to NASA contractors.

(a) In accordance with the benefits authorized by the DOD Mentor-Protégé Program (Public Law 101-510, Section 831, as amended by Public Law 102-190, Section 814), a NASA contractor who is also an approved DOD mentor can transfer credit features to their NASA contracts.

(b) NASA prime contractors, who are approved DOD mentors, can award subcontracts noncompetitively under their NASA contracts to the protégés which they are assisting under the DOD Program (Public Law 101-510, Section 831(f)(2)).

(c) NASA prime contractors may count the costs of developmental assistance provided to protégés being assisted under the DOD Program toward meeting the goals in their subcontracting plans under their NASA prime contracts (Public Law 102-190, Section 814). Limitations which may reduce the value of this benefit include:

(1) Credit toward attaining subcontracting goals is available only to the extent that the developmental assistance costs have not been reimbursed to the contractor by DOD as direct or indirect costs; or

(2) The credit is available to meet the goals of a NASA subcontracting plan only to the extent that it has not been applied to a DOD subcontracting plan. The same unreimbursed developmental assistance costs cannot be counted toward meeting the subcontracting goals of more than one prime contract. These costs would accrue from credit for the multiples attributed to assistance provided by Small Business Development Centers, Historically Black Colleges and Universities and minority institutions.

(d) The features identified in paragraphs (a), (b) and (c) of this section point out the portability of features from the DOD Mentor-Protégé Program to NASA prime contractors. NASA mentors will be held to show "good faith" by providing actual developmental assistance beyond transferring credit from activity in the DOD Program to NASA subcontracting plans.

1819.7205 General policy.

(a) Eligible large business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", who have at least one active subcontracting plan, and who are approved as mentor firms may enter into agreements with eligible entities (as defined in 1819.7209) as protégés to provide appropriate developmental assistance to enhance the capabilities of protégés to perform as subcontractors and suppliers. Eligible small business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", and that are capable of providing developmental assistance to protégés, may also be approved as mentors. An active mentor-protégé arrangement requires the protégé to be a subcontractor under the mentor's prime contract with NASA.

(b) The pilot Program has a duration of four years commencing from March 24, 1995. During this period, eligible mentor firms, which have received approval by NASA to participate in the Program pursuant to 1819.7212, may enter into agreements with protégé firms.

(c) For the pilot phase of the Program, mentor-protégé activity will be limited to cost-plus-award-fee contracts.

(d) Costs incurred by a mentor to provide developmental assistance, technical or managerial assistance described in 1819.7214, are allowable.

1819.7206 Incentives for prime contractor participation.

(a) During source selection, Mentor-Protégé will be evaluated as part of SDB utilization under the Mission Suitability factor. Under Mission Suitability, SDB utilization will be either a subfactor or an element under a subfactor.

(b) Under cost-plus-award fee contracts, approved mentor firms shall be eligible to earn award fee associated with their performance as a mentor by performance evaluation period. For purposes of earning award fee, the mentor firm's performance shall be evaluated against the criteria described in the clause at 1852.219-79, Mentor Requirements and Evaluation.

1819.7207 Measurement of Program success.

The overall success of the NASA Mentor-Protégé Program encompassing all participating mentors and protégés will be measured by the extent to which it results in:

(a) An increase in the number, dollar value and percentage of subcontracts awarded to protégés by mentor firms under NASA contracts since the date of entry into the Program;

(b) An increase in the number and dollar value of contract and subcontract awards to protégé firms since the time of their entry into the Program (under NASA contracts, contracts awarded by other Federal agencies and under commercial contracts);

(c) An increase in the number and dollar value of subcontracts awarded to a protégé firm by its mentor firm; and

(d) An increase in subcontracting with protégé firms in industry categories where they have not traditionally participated within the mentor firm's activity.

1819.7208 Mentor firms.

(a) *Eligibility:*

- (1) Contractors eligible for receipt of government contracts;
- (2) Large prime contractors performing under contracts with at least one negotiated subcontracting plan as required by FAR 19.7; and
- (3) Small business prime contractors that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors and suppliers.

(b) Mentors will be encouraged to identify and select as protégés:

- (1) A broad base of firms including those defined as emerging firms (e.g., a protégé whose size is no greater than 50 percent of the size standard applicable to the SIC code assigned to a contracting opportunity);
- (2) Firms in addition to those with whom they have established business relationships; and
- (3) High-tech firms.

1819.7209 Protégé firms.

(a) For selection as a protégé, a firm must be:

- (1) An SDB, HBCU, MI, or WOSB;
- (2) Certified as small in the SIC code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and
- (3) Eligible for receipt of government contracts.

(b) A protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (a) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements.

(c) Protégés may have multiple mentors. Protégés participating in mentor-protégé programs in addition to the NASA Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

1819.7210 Selection of protégé firms.

(a) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1819.7208(b).

(b) Mentor firms may have more than one protégé.

(c) The selection of protégé firms by mentor firms may not be protested, except as in paragraph (d) of this section.

(d) A protest regarding the size or eligibility status of an entity selected by a mentor to be a protégé shall be handled in accordance with FAR 19.703(b). The contracting officer shall notify the Headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) (Code K) of the protest.

1819.7211 Application process for mentor firms to participate in the Program.

(a) Prime contractors interested in becoming a mentor firm must submit a request to the NASA OSDBU to be approved under the Program. The application will be evaluated on the extent to which the company plans to provide developmental assistance. The information required in paragraph (b) of this section must be submitted to be considered for approval as a mentor firm.

(b) A proposed mentor must submit the following information to the NASA OSDBU:

(1) A statement that the mentor firm is currently performing under at least one active approved subcontracting plan (small business exempted) and that they are eligible, as of the date of application, for the award of Federal contracts;

(2) The cognizant NASA contract number(s), type of contract, period of performance (including options), title of technical program effort, name of NASA Program Manager (including contact information) and name of the NASA field center where support is provided;

(3) The number of proposed mentor-protégé arrangements;

(4) Data on all current NASA contracts and subcontracts to include the contract/subcontract number(s), period of performance, awarding NASA installation or contractor and contract/subcontract value(s) including options;

(5) Data on total number and dollar value of subcontracts awarded under NASA prime contracts within the past 2 years and the number and dollar value of such subcontracts awarded to entities defined as protégés;

(6) Information on the proposed types of developmental assistance. For each proposed mentor-protégé relationship include information on the company's ability to provide developmental assistance to the identified protégé firm and how that assistance will potentially increase subcontracting opportunities for the protégé firm, including subcontracting opportunities in industry categories where these entities are not dominant in the company's current subcontractor base; and

(7) A Letter of Intent signed by both parties. At a minimum, the Letter of Intent must include the stated commitment that the parties intend to enter into a mentor-protégé agreement under the NASA Program, that they intend to cooperate in the establishment of a suitable developmental assistance program to meet their respective needs, and that they agree to comply with the obligations in 1819.7215 and all other provisions governing the Program.

1819.7212 OSDBU review and approval process of agreement.

(a) The information specified in 1819.7211(b) is reviewed by the NASA OSDBU. This review will be completed no later than 30 days after receipt by the OSDBU. The OSDBU will provide a copy of the submitted information to the cognizant NASA technical program manager and contracting officer for a parallel review and concurrence.

(b) If OSDBU approves the application, then the mentor:

(1) Negotiates an agreement with the protégé; and

(2) Submits an original and two (2) copies of the agreement to the OSDBU for approval by the NASA Mentor-Protégé program manager, the NASA technical program manager, and the contracting officer.

(c) Upon agreement approval, the mentor may implement a developmental assistance program.

(d) An approved agreement will be incorporated into the mentor's contract with NASA. It should be added to the subcontracting plan in contracts which contain such a plan.

(e) If OSDBU disapproves the application, then the mentor may provide additional information for reconsideration. The review of any supplemental material will be completed within 30 days after receipt by the OSDBU. Upon finding deficiencies that NASA considers correctable, the OSDBU will notify the mentor and request information to be provided within 30 days that may correct the deficiencies.

1819.7213 Agreement contents.

The contents of the agreement must contain:

(a) Names and addresses of mentor and protégé firms and a point of contact within both firms who will oversee the agreement;

- (b) Procedures for the mentor firm to notify the protégé firm, OSDBU, and the contracting officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Program;
- (c) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement. The mentor shall notify the OSDBU and the contracting officer immediately upon receipt of such notice from the protégé;
- (d) A description of the type of developmental program that will be provided by the mentor firm to the protégé firm, to include a description of the subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégé's developmental success;
- (e) A listing of the number and types of subcontracts to be awarded to the protégé firm;
- (f) Program participation term;
- (g) Termination procedures;
- (h) Plan for accomplishing work should the agreement be terminated; and
- (i) Other terms and conditions, as appropriate.

1819.7214 Developmental assistance.

The forms of developmental assistance a mentor can provide to a protégé include:

- a. Management guidance relating to --
 - (1) Financial management,
 - (2) Organizational management,
 - (3) Overall business management/planning, and
 - (4) Business development;
 - (b) Engineering and other technical assistance;
 - (c) Noncompetitive award of subcontracts under NASA contracts;

(d) Progress payments based on costs. The customary progress payment rate for all NASA contracts with small disadvantaged businesses is 95 percent. This customary progress payment rate for small disadvantaged businesses may be used by prime contractors;

(e) Advance payments. While a mentor can make advance payments to its protégés who are performing as subcontractors, the mentor will only be reimbursed by NASA for these costs if advance payments have been authorized in accordance with statute and regulation;

(f) Loans;

(g) Rent-free use of facilities and/or equipment;

(h) Property; and

(i) Temporary assignment of personnel to the protégé for purpose of training.

1819.7215 Obligation.

(a) The mentor or protégé may voluntarily withdraw from the Program as mutually agreed by both mentor and protégé.

(b) Mentor and protégé firms will submit a "lessons learned" evaluation to the NASA OSDBU at the conclusion of the pilot program period or the conclusion of their effort, whichever comes first.

1819.7216 Internal controls.

(a) The NASA OSDBU will manage the Program. Internal controls will be established by the OSDBU to achieve the stated program objectives (by serving as checks and balances against undesired actions or consequences) such as:

(1) Reviewing and evaluating mentor applications for realism, validity and accuracy of provided information;

(2) Reviewing semi-annual progress reports submitted by mentors and protégés, if any, on protégé development to measure protégé progress against the master plan contained in the approved agreement.

(3) Site visits to NASA installation where mentor-protégé activity is on-going.

(b) NASA may terminate mentor-protégé agreements if NASA determines that such actions are in NASA's interest. These actions shall be approved by the NASA OSDBU. NASA will terminate an agreement or exclude a particular entity by sending

a written notice to the affected party specifying the action being taken and the effective date of that action. Termination of an agreement does not constitute a termination of the subcontract between the mentor and the protégé. A plan for accomplishing the subcontract effort should the agreement be terminated shall be submitted with the agreement, as required in 1819.7213(h).

1819.7217 Reports.

(a) Semi-annual reports shall be submitted by the mentor to the NASA Mentor-Protégé program manager, the NASA OSDBU, to include information as outlined in 1852.219-79(b).

(b) Protégés are encouraged to submit semi-annual reports to the OSDBU on Program progress pertaining to their mentor-protégé agreement. However, costs associated with the preparation of these reports are unallowable costs under Government contracts and will not be reimbursed by the Government.

(c) The NASA technical program manager shall include an assessment of the prime contractor's (mentor's) performance in the Mentor-Protégé Program in his quarterly 'Strengths and Weaknesses' evaluation report. A copy of these comments, as pertains to the technical effort and protégé development, will be provided to the OSDBU and the contracting officer.

(d) The NASA Mentor-Protégé program manager will submit semi-annual reports to the cognizant contracting officer regarding the participating prime contractor's performance in the Program for use in the award fee determination process.

1819.7218 Program review.

At the conclusion of each year in the Mentor-Protégé Program, the prime contractor and protégé, as appropriate, will formally brief the NASA OSDBU, the technical program manager, and the contracting officer regarding Program accomplishments pertaining to the approved agreement. This review will be incorporated into the normal program review, where applicable. A separate review will be scheduled for other contracts to be held at the NASA work site location.

1819.7219 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.219-77, NASA Mentor-Protégé Program, in all cost-plus-award-fee solicitations and contracts with subcontracting plans or in the case of small business set-asides exceeding \$500,000 (\$1,000,000 for construction) that offer subcontracting opportunities.

(b) The contracting officer shall insert the clause at 1852.219-79, Mentor Requirements and Evaluation, in contracts where the prime contractor is a participant in the NASA Mentor-Protégé Program.

particular requirements of the contract, in the section of the contract specifying data delivery requirements:

(1) *Monthly progress reports.* Reports should be in narrative form, brief, and informal. They should include a quantitative description of progress, an indication of any current problems that may impede performance, proposed corrective action, and a discussion of the work to be performed during the next monthly reporting period. (Normally, this requirement should not be used in contracts with nonprofit organizations.)

(2) *Quarterly progress reports.* In addition to factual data, these reports should include a separate analysis section interpreting the results obtained, recommending further action, and relating occurrences to the ultimate objectives of the contract. Sufficient diagrams, sketches, curves, photographs, and drawings should be included to convey the intended meaning.

(3) *Final report.* This report should summarize the results of the entire contract, including recommendations and conclusions based on the experience and results obtained. The final report should include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to explain comprehensively the results achieved under the contract.

(4) *Report Documentation Page.* The contractor should include a completed Report Documentation Page (SF 298) as the final page of each report submitted.

(b) The contracting officer shall consider the desirability of providing reports on the completion of significant units or phases of work, in addition to periodic reports and reports on the completion of the contract.

(c) A reproducible copy and a printed or reproduced copy of the reports shall be sent to the NASA Center for AeroSpace Information (CASI) in accordance with the clause at 1852.235-70, Center for AeroSpace Information (see 1835.070(a)).

1827.408 Cosponsored research and development activities.

The contracting officer shall consult with the installation patent or intellectual property counsel before limiting the acquisition of or acquiring less than unlimited rights to any data developed under contracts involving cosponsored research and development activities.

1827.409 Solicitation provisions and contract clauses.

(a) The contracting officer shall add subparagraph (3) set forth in 1852.227-14 to paragraph (d) of the clause at FAR 52.227-14, Rights in Data-- General, except in solicitations and contracts for basic or applied research with universities or colleges.

(b) The contracting officer, with the concurrence of the installation intellectual property counsel, is the approval authority for use of Alternate I. An example of its use is where the principal purpose of the contract (such as a contract for basic or applied research) does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or under any anticipated follow-on contracts relating to the same subject matter).

(c) The contracting officer shall normally add the disclosure purposes listed in FAR 27.404(d)(1)(i)-(v) to subparagraph (g)(2). However, the contracting officer may, upon consultation with the installation patent or intellectual property counsel, make deletions from the specific purposes listed. If all are deleted, the word "None" must be inserted. Additions to those specific purposes listed may be made only with the approval of the procurement officer and concurrence of the installation patent or intellectual property counsel.

(d) The contracting officer shall consult with the installation patent or intellectual property counsel regarding the acquisition of restricted computer software with greater or lesser rights than those set forth in Alternate III. Where it is impractical to actually modify the notice of Alternate III, this may be done by express reference in a separate clause in the contract or by a collateral agreement that addresses the change in the restricted rights.

(e) The contracting officer, with the concurrence of the installation intellectual property counsel, is the approval authority for the use of Alternate IV in any contract other than a contract for basic or applied research to be performed solely by a college or university on campus (but not for the management or operation of Government facilities).

(i) The contract officer shall modify the clause at FAR 52.227-17, Rights in Data-- Special Works by adding paragraph (f) as set forth in 1852.227-17.

(k)(i) The contracting officer shall add paragraph (e) as set forth in 1852.227-19(a) to the clause at FAR 52.227-19, Commercial Computer Software--Restricted Rights, when it is contemplated that updates, correction notices, consultation information, and other similar items of information relating to commercial computer software delivered under a purchase order or contract are available and their receipt can be facilitated by

signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.

(ii) The contracting officer shall add paragraph (f) as set forth at 1852.227-19(b) to the clause at FAR 52.227-19, Commercial Computer Software--Restricted Rights, when portions of a contractor's standard commercial license or lease agreement consistent with the clause, Federal laws, standard industry practices, and the FAR are to be incorporated into the purchase order or contract.

(iii) See 1827.409-70.

1827.409-70 NASA contract clause.

The contracting officer shall use the clause at 1852.227-86, Commercial Computer Software--Licensing, in lieu of FAR 52.227-19, Commercial Computer Software---Restricted Rights, when it is considered appropriate for the acquisition of existing computer software in accordance with FAR 27.405(b)(2).

Subpart 1827.6--Foreign License and Technical Assistance Agreements

1827.670 Space Station technical data and goods.

1827.670-1 Policy.

NASA and its contractors shall comply with all applicable export control laws, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120-130, and the Export Administration Regulations (EAR), 15 CFR Parts 730-799, with respect to the transfer of technical data and goods to any International Space Station program multilateral partner or contractor. When authorized, certain technical data in support of the International Space Station program may be exported to a foreign recipient specified in writing by the contracting officer. Contracting officers,

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PART 1832

CONTRACT FINANCING

1832.006-2 Definitions.

The Associate Administrator for Procurement is the Agency remedy coordination official.

Subpart 1832.1--Non-Commercial Item Purchase Financing

1832.111 Contract clauses for non-commercial purchases.

1832.111-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.232-79, Payment for On-Site Preparatory Costs, in solicitations and contracts for construction on a fixed-price basis when progress payments are contemplated and pro rata payment of on-site preparatory costs to the contractor is appropriate.

Subpart 1832.2--Commercial Item Purchase Financing

1832.202-1 Policy.

(b)(6) Advance payment limitations do not apply to expendable launch vehicle (ELV) service contracts. (see 1832.402).

1832.206 Solicitation provisions and contract clauses.

(g)(2) The installment payment rate shall be that which is common in the commercial marketplace for the purchased item. If there is no commonly used rate, the contracting officer shall determine the appropriate rate. In no case shall the rate exceed that established in the clause at FAR 52.232-30.

Subpart 1832.4--Advance Payments for Non-Commercial Items

(ii) The contracting officer approves the payment date change, with the concurrence of the installation Financial Management Officer; and

(iii) The contract file includes documentation regarding the value of the consideration and the analysis determining that value.

1832.908 Contract clauses.

(c)(3) When the clause at FAR 52.232-25, Prompt Payment, is used in such contracts with the Canadian Commercial Corporation (CCC), insert "17th" in lieu of "30th" in paragraphs (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii).

1832.970 Payments to Canadian Commercial Corporation.

Pursuant to the authority of FAR 32.904(a)(3), invoice and contractor financing payments for contracts (other than Fixed-Price Architect-Engineer Contracts, Construction Contracts, and contracts for meats, perishables and dairy products) with the Canadian Commercial Corporation (CCC) shall be made earlier than the standard

contract payment due dates. Accordingly, the phrase "the 17th day" shall be used in lieu of the "the 30th day" at FAR 32.905(a)(1) and 32.906(a).

Subpart 1832.10--Performance-Based Payments

1832.1004 Procedure.

(b)(2) In determining the amount of performance-based payments, contracting officers shall ensure that the payments will not result in an unreasonably low or negative level of contractor investment. To make this assessment, contracting officers shall request the contractor to submit with its proposal a numeric and graphic funding profile showing the cash flow and contractor investment in the contract.

1832.1005 Contract clauses.

(a) If the contract is for launch services, the contracting officer shall delete paragraph (f) of the clause at FAR 52.232-32 in accordance with 1832.1009.

1832.1006 Agency approvals.

Performance-based payments shall be approved in accordance with field installation procedures.

1832.1009 Title.

In accordance with 42 U.S.C. 2465d, NASA shall not take title to launch vehicles under contracts for launch services unless one of the exceptions in the law applies. However, the law does not eliminate NASA's right to take title to other property acquired or produced by the contractor under a contract containing a title provision.

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PART 1833

PROTESTS, DISPUTES, AND APPEALS

Subpart 1833.1--Protests

1833.103 Protests to the agency.

(b) Protests received at NASA offices or locations other than that of the cognizant contracting officer shall be immediately referred to the contracting officer for disposition (see 1833.106(a)). The contracting officer shall advise the Headquarters Office of the General Counsel (Code GK) of the receipt of the protest and the planned and actual disposition. This paragraph does not apply when the protester has requested an independent review under the provision at 1852.233-70.

1833.104 Protests to GAO.

The Associate Administrator for Procurement is the sole authority for deciding whether to defend a protest to GAO or to direct remedial action. NASA personnel shall take no action to respond to or resolve any protest filed with GAO other than in accordance with this part and other guidance provided by NASA Headquarters.

(a)(2) The Headquarters Office of Procurement (Code HS) shall notify the contracting officer of protest receipt, and the contracting officer shall immediately give notice of the protest to all interested parties. Oral contracting officer notices shall be subsequently confirmed in writing, and the contracting officer shall also send a copy of the written confirmation to Code HS, the Headquarters Office of the General Counsel (Code GK), and the installation Chief Counsel.

(3)(i) The contracting officer shall send four copies of the protest report, consisting of the protest file, the contracting officer's statement of facts, and a draft memorandum

of law to Code GK within 20 days after GAO notification of protest receipt. Also include a copy of the file index in electronic format. The contracting officer shall retain a minimum of two copies of the protest file.

(ii) When an actual or prospective offeror requests access to a protest file, the contracting officer shall take the following actions, except (a) and (b) are not required if already accomplished:

(a) Send a copy of the protest file index to Code GK within 10 days of receipt of the request.

(b) Send a copy of the protest file to Code GK within 15 days of receipt of the request.

(c) With Code GK concurrence, send the protest file and index to the requesting party to ensure delivery within 20 days after receipt of the request.

(iv) Code GK shall submit the protest file to GAO.

(4)(i) Code GK shall provide copies of the report to the protestor(s), any intervenors, and the installation Chief Counsel.

(b)(1) The Associate Administrator for Procurement (Code HS) is the approval authority for contract award.

(c)(1) The contracting officer shall consult Code HS before terminating a protested contract.

(2) The Associate Administrator for Procurement (Code HS) is the approval authority for authorizing contract performance.

(f) The Agency may request GAO reconsideration of its decision within 10 days of issuance. If reconsideration is appropriate, the installation Chief Counsel shall forward a draft request for reconsideration, with any additional supporting documentation, to Code GK within 6 days of issuance of the GAO decision.

1833.106 Solicitation provision and contract clause.

(a) The contracting officer shall be the designated recipient of Agency protests in paragraph (a) of the provision at FAR 52.233-2.

1833.106-70 Solicitation provision.

Contracting officers shall insert the provision at 1852.233-70 in all solicitations.

Subpart 1833.2--Disputes and Appeals

1833.209 Suspected fraudulent claims.

The contracting officer shall report suspected fraudulent claims to the Headquarters Offices of Inspector General (Code W) and the General Counsel (Code G).

1833.210 Contracting officer's authority.

See NASA Policy Directive 2010.2 on use of Alternative Dispute Resolution.

1833.211 Contracting officer's decision.

(a)(4)(v) The Armed Services Board of Contract Appeals is the NASA Administrator's authorized representative for hearing appeals of contracting officer final decisions. Accordingly, contracting officers shall cite that fact in the final decision letter, provide the Board's mailing address (Armed Services Board of Contract Appeals, Skyline Six, 5109 Leesburg Pike, Falls Church, VA 22041-3208), and include a notification that the Board's operating procedures appear in Part 48, Code of Federal Regulations, Chapter 2, Appendix A.

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PART 1836

CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1836.2--Special Aspects of Contracting for Construction

1836.203 Government estimate of construction costs.

(c)(i) If the acquisition is by sealed bidding, the contracting officer shall file a sealed copy of the detailed Government estimate with the bids until bid opening. After the bids are read and recorded, the contracting officer shall read the estimate, and record it in the same detail as the bids.

(ii) If the acquisition is by negotiation, the contracting officer may disclose the overall amount of the Government estimate after award upon request of offerors.

1836.209 Construction contracts with architect-engineer firms.

(1) Except as indicated in paragraph (2) of this section, the Associate Administrator for Procurement (Code HS) is the approval authority.

(2) A construction contract may be awarded to the firm that designed the project (or its subsidiaries or affiliates) if the contract is awarded on the basis of performance specifications for the construction of a facility, and it requires the contractor to furnish construction drawings, specifications, or site adaptation drawings of the facility.

(3) In no case shall the firm that prepared the drawings and specifications supervise and inspect, on behalf of the Government, the construction of the facility involved.

1836.213 Special procedures for sealed bidding in construction contracting.

1836.213-3 Invitations for bids.

1836.213-370 Additive and deductive items.

When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for bids for a first or base bid item covering the work generally as specified and one or more additive or deductive bid items progressively adding or omitting specified features of the work in a stated order of priority. In such case, the contracting officer, before the opening of bids, shall record in the contract file the amount of funds available for the project and determine the low bidder and the items to be awarded in accordance with the provision at 1852.236-71, Additive or Deductive Items.

1836.213-4 Notice of Award.

(e) Contract delivery or performance schedules, commencement of work, or notices to proceed shall not be expressed in terms of a notice of award. (See 1814.408-1).

Subpart 1836.5-- Contract Clauses

1836.570 NASA solicitation provisions and contract clause.

PART 1844

SUBCONTRACTING POLICIES AND PROCEDURES

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PART 1844

SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1844.2--Consent to Subcontracts

1844.201 Consent and advance notification requirements.

1844.201-1 Consent requirements.

(a)(i) In determining special surveillance consent requirements, the contracting officer should consider specific subcontract awards, as well as any individual systems, subsystems, components, technologies, and services that should have contracting officer consent prior to being subcontracted.

(ii) For each planned contract award expected to exceed \$1 million in total estimated value (inclusive of options), the contracting officer should consider such factors as the following to determine whether certain subcontracts require special surveillance:

(A) The degree of subcontract pricing uncertainties at the time of contract award;

(B) The overall quality of the contractor's approach to pricing subcontracts;

(C) The extent of competition achieved, or to be achieved, by the contractor in the award of subcontracts;

(D) Technical complexity and the criticality of specific supplies, services, and technologies on the successful performance of the contract; and

(E) The potential impact of planned subcontracts on source selection or incentive arrangements.

(iii) The contracting officer shall document results of the review in the contract file. For contract modifications and change orders, the contracting officer shall make the determination required by paragraph (a)(ii) of this section whenever the value of any subcontract resulting from the change order or modification is proposed to exceed the dollar threshold for obtaining cost or pricing data (see FAR15.403-4(a)(1)) or is one of a number of subcontracts with a single subcontractor for the same or related supplies or services that are expected cumulatively to exceed the dollar threshold for obtaining cost or pricing data.

(iv) In addition, any subcontract under a cost type prime contract shall be identified for special surveillance if consent was not provided at the time of contract award and cost or pricing data would be required in accordance with FAR 15.404-3(c).

1844.202 Contracting officer's evaluation.

1844.202-1 Responsibilities.

(a) NASA contracting officers shall retain consent to subcontract authority unless delegation is approved in writing by the procurement officer.

1844.204 Contract clauses.

1844.204-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.244-70, Geographic Participation in the Aerospace Program, in all research and development solicitations and contracts of \$500,000 or over that will be performed within the United States.

Subpart 1844.3--Contractors' Purchasing Systems Reviews

1844.302 Requirements.

1844.302-70 DCMC-conducted contractor purchasing system reviews.

For contracts within their cognizance, NASA contracting officers shall be aware of purchasing system approval status and should become actively involved with the Defense Contract Management Command (DCMC) in the Contractor Purchasing System Review (CPSR) process. Involvement should include the following:

- (a) Verifying that CPSRs are being conducted in accordance with FAR 44.302.
- (b) Ensuring that purchasing system review specifically includes the business unit performing the NASA contract.
- (c) Actively participating as a team member, or arranging NASA representation, on DCMC CPSRs to review areas of NASA-specific interest. At a minimum, such participation or representation shall be arranged when the DCMC CPSR review involves--
 - (1) Contractors with major NASA programs;
 - (2) Contractors' business units where the total dollar value of NASA contracts is substantial; or
 - (3) Any contractor system where the contracting officer has special concerns.
- (d) Ensuring that the selected CPSR sample to be reviewed reflects the level of NASA business in the contractor's purchasing organization.
- (e) Providing to the cognizant DCMC CPSR team leader any areas of special emphasis regarding the contractor's purchasing system to ensure that the review is tailored to address any NASA concerns.

1844.302-71 NASA-conducted contractor purchasing system reviews.

If a NASA activity is the cognizant contract administration office, or after coordination with the cognizant DCMC CPSR office it is determined that a CPSR is required but cannot be accomplished by DCMC, then a CPSR should be conducted by NASA personnel. The NASA CPSR team leader:

(a) May use the DOD FAR Supplement, Contractor Purchasing System Review (CPSR) guidance, as a general guide to conducting the CPSR.

(b) May vary the scope of review depending on the contractor and contracts involved.

(c) Shall maintain close coordination with the cognizant ACO during CPSRs at contractors under DOD cognizance.

1844.304 Surveillance.

1844.304-70 Contracting officer surveillance.

(a) In the period between complete CPSRs, NASA contracting officers shall maintain a sufficient level of surveillance to ensure contractor purchasing efforts in support of NASA contracts are accomplished in an appropriate manner and protect the interests of the Agency.

(b) Surveillance shall be accomplished primarily through performance of subcontract consent reviews. Other methods of surveillance, including periodic reviews of contractor purchasing records, may also be conducted. Contracting officers shall document the results of subcontract consent reviews and periodic reviews, maintaining a record of contractor subcontract or purchase order award performance on NASA contracts. Contractor performance shall be summarized on an annual basis and provided to the ACO cognizant of the contractor's purchasing system. Annual reports should summarize the number of consent reviews and other reviews conducted during the year by NASA representatives, and summarize the types and quantity of deficiencies identified during reviews, the need for special reviews, and recommended areas of emphasis during future CPSRs.

1844.305 Granting, withholding, or withdrawing approval.

1844.305-70 Review of CPSR reports.

ACO actions related to purchasing system approval have a potential impact on NASA contracting officer consent requirements. Accordingly, NASA contracting officers shall review system deficiencies documented in CPSR reports and when results of consent reviews and other sources conflict with CPSR or DOD surveillance conclusions, formally communicate such concerns to the ACO having cognizance of purchasing system approval. Significant issues or significant conflicts with DOD CPSR results should be formally referred to the Office of Procurement (Code HS).

1852.232-81 Contract Funding.

As prescribed in 1832.705-270(b), insert the following clause:

CONTRACT FUNDING

(JUNE 1990)

(a) For purposes of payment of cost, exclusive of fee, in accordance with the Limitation of Funds clause, the total amount allotted by the Government to this contract is \$ _____. This allotment is for [Insert applicable item number(s), task(s), or work description] _____ and covers the following estimated period of performance: _____.

(b) An additional amount of \$ _____ is obligated under this contract for payment of fee.

(End of clause)

1852.232-82 Submission of Requests for Progress Payments.

As prescribed in 1832.502-470, insert the following clause:

SUBMISSION OF REQUESTS FOR PROGRESS PAYMENTS

(MARCH 1989)

The Contractor shall request progress payments in accordance with the Progress Payments clause by submitting to the Contracting Officer an original and two copies of Standard Form (SF) 1443, Contractor's Request for Progress Payment, and the contractor's invoice (if applicable). The Contracting Officer's office is the designated billing office for progress payments for purposes of the Prompt Payment clause.

(End of clause)

1852.233-70 Protests to NASA.

As prescribed in 1833.106-70, insert the following provision:

PROTESTS TO NASA

(MARCH 1997)

Potential bidders or offerors may submit a protest under 48 CFR part 33 (FAR Part 33) directly to the Contracting Officer. As an alternative to the Contracting Officer's consideration of a protest, a potential bidder or offeror may submit the protest to the Deputy Associate Administrator for Procurement, who will serve as or designate the official responsible for conducting an independent review. Protests requesting an independent review shall be addressed to Deputy Associate Administrator for Procurement, NASA Code H, Washington, DC 20546-0001.

(End of provision)

1852.235-70 Center for AeroSpace Information.

As prescribed in 1835.070(a), insert the following clause:

CENTER FOR AEROSPACE INFORMATION

(JUNE 1998)

(a) The Contractor should register with and avail itself of the services provided by the NASA Center for AeroSpace Information (CASI) for the conduct of research or research and development required under this contract. CASI provides a variety of services and products as a central NASA repository of research information which may enhance contract performance. The address is set out in paragraph (d) of this clause.

(b) Should the CASI information or service requested by the Contractor be unavailable or not in the exact form necessary by the Contractor, neither CASI nor NASA is obligated to search for or change the format of the information. A failure to furnish information shall not entitle the Contractor to an equitable adjustment under the terms and conditions of this contract.

(c) When the contract otherwise requires the submission of monthly progress, quarterly progress, or final reports, as defined at 1827.406(b), the last page of such reports shall be a completed Standard Form (SF) 298, Report Documentation Page.

(d) When the contract requires the delivery of reports or data to CASI, a reproducible copy and a printed or reproduced copy of such reports or data shall be concurrently submitted to:

Center for AeroSpace Information (CASI)

Attn: Accessioning Department

Parkway Center

7121 Standard Drive

Hanover, Maryland 21076-1320

(End of clause)

PART 1853

FORMS

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PART 1853

FORMS

Subpart 1853.1--General

1853.100 Scope of subpart.

This subpart contains information regarding the forms prescribed in this Regulation. Unless specified otherwise, the policies in FAR Part 53 apply to NASA-prescribed forms.

1853.101 Requirements for use of forms.

The requirements for use of the forms in this part are contained in Parts 1801 through 1852 where the subject matter applicable to each form is addressed. The specific location of each form's prescription is identified in subpart 1853.2.

1853.103 Exceptions.

- (1) Requests for exceptions to standard or optional forms shall be forwarded through the center forms manager to the Headquarters Office of Procurement (Code HK).
- (2) Alteration of any form in this part is prohibited unless prior approval has been obtained from the Headquarters Office of Management Systems and Facilities, Information Resources Management Division (Code JT). Requests for alteration shall be coordinated with the center forms manager before transmittal to Code JT.
- (3) Use for the same purpose of any form other than one prescribed by this Regulation requires prior approval of Code HK.

1853.105 Computer generation.

Forms prescribed by this Regulation may be adapted for computer preparation providing there is no change to the name, content, or sequence of the data elements, and the form carries the form number and edition date.

1853.107 Obtaining forms.

- (c)(i) NASA centers and offices may obtain forms prescribed in the FAR or in this Regulation from Goddard Space Flight Center, Code 239. Orders should be placed on a NASA Form 2, Request for Blank Forms, Publications and Issuances.
- (ii) Contracting officers, at the time of contract award, shall ensure that contractors are notified of the procedures for obtaining NASA forms required for performance under the contract.

1853.108 Recommendations concerning forms.

Code HK is the office responsible for submitting form recommendations.

Subpart 1853.2--Prescription of Forms

1853.200 Scope of subpart.

This subpart summarizes the prescriptions of NASA forms and other forms adopted by NASA for use in acquisition.

1853.204 Administrative matters.

1853.204-70 General (NASA Forms 507, 507A, 507B, 507G, 507M, 531, 533M, 533Q, 1098, 1356, 1611, 1612; and Department of Defense Form 1593).

(a) The following forms are prescribed in 1804.670-3:

- (1) NASA Form 507, Individual Procurement Action Report (New Awards).
- (2) NASA Form 507A, Individual Procurement Action Report (New Awards) Supplement A.
- (3) NASA Form 507B, Individual Procurement Action Report Supplement B.
- (4) NASA Form 507G, Individual Procurement Action Report (Grants/Orders).
- (5) NASA Form 507M, Individual Procurement Action Report (Modifications).

(b) *NASA Form 531, Name Check Request.* Prescribed in 1852.204-76.

(c) The following forms are prescribed in 1842.72:

- (1) NASA Form 533M, Monthly Contractor Financial Management Report.
- (2) NASA Form 533Q, Quarterly Contractor Financial Management Report.

(d) *NASA Form 1098, Checklist for Contract Award File Content.* Prescribed in 1804.803-70.

(e) *NASA Form 1356, C.A.S.E. Report on College and University Projects.* Prescribed in 1804.671.

(f) *NASA Form 1611, Contract Completion Statement.* Prescribed in 1804.804-2 and 1804.804-5.

(g) The following forms are prescribed in 1804.804-5:

- (1) NASA Form 1612, Contract Closeout Checklist.
- (2) DD Form 1593, Contract Administration Completion Record.

1853.208 Required sources of supplies and services.

1853.208-70 Other Government sources (Standard Form 1080, Air Force Form 858, Department of Energy Form CA-10-90.COM, Nuclear Regulatory Commission Form 313).

(a) *SF 1080, Voucher for Transfers Between Appropriations and/or Funds (Disbursement)*. Prescribed in 1808.002-72(e).

(b) *Air Force Form 858, Forecast of Requirements (Missile Propellants and Pressurants)*. Prescribed in 1808.002-72(f).

(c) *U.S. Department of Energy Isotope and Technical Service Order Form CA-10-90.COM*. Prescribed in 1808.002-70(a).

(d) *Nuclear Regulatory Commission Form 313, Application for Material License*. Prescribed in 1808.002-70(a).

1853.215 Contracting by negotiation.

1853.215-70 Price negotiation (NASA Form 634 and Department of Defense Form 1861).

(a) *NASA Form 634, Structured Approach--Profit/Fee Objective*. Prescribed in 1815.404-470.

(b) *DD Form 1861, Contract Facilities Capital Cost of Money*. Prescribed in 1830.70, and instructions for completion are in 1830.7001-2.

1853.216 Types of contracts.

1853.216-70 Assignees under cost-reimbursement contracts (NASA Forms 778, 779, 780, and 781).

The following forms are prescribed in 1852.216-89:

(a) NASA Form 778, Contractor's Release.

(b) NASA Form 779, Assignee's Release.

(c) NASA Form 780, Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts.

(d) NASA Form 781, Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts.

1853.217 Special contracting methods (NASA Form 523).

NASA Form 523, NASA-Defense Purchase Request. Prescribed in 1808.002-72(b) and 1817.7002.

1853.232-70 Contract financing (Standard Forms 272, 272A).

The following forms are prescribed in 1832.412(a)(ii):

- (a) SF 272, Federal Cash Transactions Report.
- (b) SF 272A, Federal Cash Transactions Report Continuation.

1853.242 Contract administration.

1853.242-70 Delegation (NASA Forms 1430, 1430A,1431,1432,1433, and 1634) and service request (NASA Form 1434).

- (a) *NASA Form 1430, Letter of Contract Administration Delegation, General.* Prescribed in 1842.202(d)(ii).
- (b) *NASA Form 1430A, Letter of Contract Administration Delegation, Special Instructions.* Prescribed in 1842.202(d)(ii).
- (c) *NASA Form 1431, Letter of Acceptance of Contract Administration Delegation.* Prescribed in 1842.202(d)(iii).
- (d) *NASA Form 1432, Letter of Contract Administration Delegation, Termination.* Prescribed in 1842.202(b)(1)(G).
- (e) *NASA Form 1433, Letter of Audit Delegation.* Prescribed in 1842.202(d)(iv).
- (f) *NASA Form 1634, Contracting Officer Technical Representative (COTR) Delegation.* Prescribed in 1842.270(b).
- (g) *NASA Form 1434, Letter of Request for Pricing-Audit-Technical Evaluation Services.* Prescribed in 1815.404-2(a)(1)(D).

1853.242-71 Notifications (NASA Form 456).

NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved. Prescribed in 1842.803(b)(2).

1853.242-72 Evaluation of Performance (NASA Form 1680).

NASA Form 1680, Evaluation of Performance. Prescribed in 1842.1503.

1853.245-70 Property (NASA Form 1018, Department of Defense Form 1419).

(a) *NASA Form 1018, NASA Property in the Custody of Contractors.* Prescribed in 1845.505-14. Instructions for form completion are in 1845.7101.

(b) *DD Form 1419, DOD Industrial Plant Equipment Requisition.* Prescribed in 1852.245-70. Instructions for form completion are in 1845.7102.

1853.246 Quality Assurance (Department of Defense Forms 250 and 250c).

The following forms are prescribed in 1846.670. Instructions for form completion are in 1846.670:

(a) DD Form 250, Material Inspection and Receiving Report

(b) DD Form 250c, Material Inspection and Receiving Report- Continuation Sheet.

1853.249-70 Termination of contracts (NASA Forms 1412, 1413).

(a) *NASA Form 1412, Termination Authority.* Prescribed in 1849.101-71.

(b) *NASA Form 1413, Termination Docket Checklist.* Prescribed in 1849.105-70.

Subpart 1853.3--Illustrations of Forms

1853.300 Scope of subpart.

This subpart contains illustrations of NASA forms and other forms used by NASA in acquisitions and not prescribed in the FAR.

1853.301 Standard forms.

This section illustrates standard forms (SFs) specified for use in acquisitions.

1853.303 Agency forms.

This section illustrates NASA and other agency forms specified for use in acquisitions. The other agency forms are arranged numerically by agency following the NASA forms.