



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-3
February 27, 1998

NASA FAR SUPPLEMENT (NFS) PART 1815 REWRITE

PURPOSE: To conform to the regulatory changes effected by FAC 97-02, FAR Part 15 Rewrite; reflect the expiration of the waiver to the requirement to publish synopses in the Commerce Business Daily for certain acquisitions under NASA's MidRange procedures; and specify that the NASA Acquisition Internet Service (NAIS) is the Agency Internet site for posting solicitations and other acquisition information.

BACKGROUND: FAC 97-02, published in the Federal Register (61 FR 51224) on September 30, 1997, completely revised FAR Part 15, Contracting by Negotiation. The final rule allowed agencies to delay implementation until January 1, 1998. The NFS is in substantive compliance with the revised FAR, but extensive redesignation of NFS subparts and sections is required for structural conformance. Accordingly, NFS Part 1815, Contracting by Negotiation, is revised in its entirety, and Parts 1852, Solicitation Provisions and Contract Clauses, and 1853, Forms, are amended. Regulatory references in other parts are also amended to reflect revised FAR numbering. In addition, MidRange procedures in Part 1871 are revised to reflect the expiration of the waiver to the requirement to publish synopses in the Commerce Business Daily. Previously, these synopses had been posted only on the Internet. Finally, changes are made to indicate that the NAIS is the single Agency Internet site for posting solicitations and other acquisition information.

REGULATION: Parts 1801, 1802, 1803, 1804, 1805, 1814, 1815, 1816, 1817, 1832, 1834, 1835, 1842, 1844, 1852, 1853, 1871, and 1872 are amended as set forth in the enclosed replacement pages to the NFS.

REPLACEMENT PAGES: You may use the enclosed pages to replace Structure page 1, Structure page 2, Structure page 3, Structure page 4, Structure page 7, Structure page 8, 1:1, 1:2, 2:1, Part 4, Part 5, Part 15, 16:3, 16:4, 34:1, 34:2, 52:1, 52:2, 52:3, 52:4, 52:5, 52:6, 52:7, 52:8, 52:9, 52:10, 52:11, 52:12, 52:13, 52:14, 52:15, 52:16, 52:17, 52:18, 52:19, 52:20, 52:21, 52:73, 52:74, 52-91, 52-92, 52-93, 52-94,

52-95, 52-96, 52-97, 52-98, Part 1853, Part 1871, 72:5, 72:6, 72:9, and 79:10 to the NFS. Remove pages Toc: 52:1, TOC 52:2, TOC 52:3 and TOC 52:4 of the NFS.

REGULATORY COMPLIANCE: This PN was published as a interim rule in the Federal Register (63, FR 9953-9967, dated February 27, 1998).

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

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

R. Scott Thompson

Director, Contract Management Division

Enclosures

STRUCTURE OF THE NASA FAR SUPPLEMENT

TO THE SUBPART LEVEL

SUBCHAPTER A--GENERAL

PART 1801 FEDERAL ACQUISITION REGULATIONS SYSTEM

1801.1 Purpose, Authority, Issuance

1801.2 Administration

1801.3 Agency Acquisition Regulations

1801.4 Deviations from the FAR

1801.6 Career Development, Contracting Authority, and Responsibilities

1801.7 Determinations and Findings

PART 1802 DEFINITIONS OF WORDS AND TERMS

1802.1 Definitions

PART 1803 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1803.1 Safeguards

1803.2 Contractor Gratuities to Government Personnel

1803.3 Reports of Suspected Antitrust Violations

1803.5 Other Improper Business Practices

1803.6 Contracts with Government Employees or Organizations Owned or Controlled by Them

1803.7 Voiding and Rescinding Contracts

1803.8 Limitation on the Payment of Funds to Influence Federal Transactions

PART 1804 ADMINISTRATIVE MATTERS

1804.1 Contract Execution

1804.2 Contract Distribution

1804.4 Safeguarding Classified Information Within Industry

1804.5 Electronic Commerce in Contracting

1804.6 Contract Reporting

1804.8 Government Contract Files

1804.70 Transfer of Contracting Office Responsibility

1804.71 Uniform Acquisition Instrument Identification

1804.72 Review and Approval of Contractual Instruments

1804.73 Procurement Requests

SUBCHAPTER B--COMPETITION AND ACQUISITION PLANNING

PART 1805 PUBLICIZING CONTRACT ACTIONS

1805.1 Dissemination of Information

1805.2 Synopses of Proposed Contracts

1805.3 Synopses of Contract Awards

1805.4 Release of Information

1805.5 Paid Advertisements

PART 1806 COMPETITION REQUIREMENTS

1806.2 Full and Open Competition After Exclusion of Sources

1806.3 Other Than Full and Open Competition

1806.5 Competition Advocates

PART 1807 ACQUISITION PLANNING

1807.1 Acquisition Plans

1807.2 Planning for the Purchase of Supplies in Economic Quantities

1807.3 Contractor Versus Government Performance

1807.5 Inherently Governmental Functions

1807.70 Consolidated Contracting

1807.71 Master Buy Plan

1807.72 Acquisition Forecasting

PART 1808 REQUIRED SOURCES OF SUPPLIES AND SERVICES

1808.1 Excess Personal Property

1808.4 Federal Supply Schedules

1808.6 Acquisition from Federal Prison Industries, Inc.

1808.7 Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

1808.8 Acquisition of Printing and Related Supplies

1808.11 Leasing of Motor Vehicles

PART 1809 CONTRACTOR QUALIFICATIONS

1809.1 Responsible Prospective Contractors

1809.2 Qualifications Requirements

1809.4 Debarment, Suspension, and Ineligibility

1809.5 Organizational and Consultant Conflicts of Interest

1809.6 Contractor Team Arrangements

PART 1810 MARKET RESEARCH

PART 1811 DESCRIBING AGENCY NEEDS

1811.1 Selecting and Developing Requirements Documents

1811.4 Delivery of Performance Schedules

1811.5 Liquidated Damages

1811.6 Priorities and Allocations

PART 1812 ACQUISITION OF COMMERCIAL ITEMS

1812.1 Acquisition of Commercial Items-General

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

1812.4 Unique Requirements Regarding Terms and Conditions for Commercial Items

SUBCHAPTER C--CONTRACTING METHODS AND CONTRACT TYPES

PART 1813 SIMPLIFIED ACQUISITION PROCEDURES

1813.1 General

1813.2 Blanket Purchase Agreements

1813.5 Purchase Orders

1813.70 Governmentwide Commercial Purchase Card

PART 1814 SEALED BIDDING

1814.2 Solicitation of Bids

1814.3 Submission of Bids

1814.4 Opening of Bids and Award of Contract

PART 1815 CONTRACTING BY NEGOTIATION

1815.2 Solicitation and Receipt of Proposals and Information

1815.3 Source Selection

1815.4 Contract Pricing

1815.5 Preaward, Award, and Postaward Notifications, Protests, and Mistakes

1815.6 Unsolicited Proposals

1815.70 Ombudsman

PART 1816 TYPES OF CONTRACTS

1816.2 Fixed-Price Contracts

1816.3 Cost-Reimbursement Contracts

1816.4 Incentive Contracts

1816.5 Indefinite-Delivery Contracts

1816.6 Time-and-Materials, Labor-Hour, and Letter Contracts

PART 1817 SPECIAL CONTRACTING METHODS

1817.1 Multiyear Contracting

1817.2 Options

1817.4 Leader Company Contracting

1817.5 Interagency Acquisitions Under the Economy Act

1817.70 Acquisitions with Military Departments

1817.71 Exchange or Sale of Personal Property

PART 1818 RESERVED

SUBCHAPTER D--SOCIOECONOMIC PROGRAMS

PART 1819 SMALL BUSINESS PROGRAMS

1819.2 Policies

1819.3 Determination of Status as a Small Business Concern

1819.5 Set-Asides for Small Business

1819.6 Certificates of Competency

1819.7 Subcontracting with Small Business, Small Disadvantaged

Business and Women-Owned Business Concerns

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

1819.10 Small Business Competitiveness Demonstration Program

1819.70 NASA 8 Percent Goal

1819.71 NASA Rural Area Small Business Plan

1819.72 NASA Mentor-Protege Program

PART 1820 RESERVED

PART 1821 RESERVED

**PART 1822 APPLICATION OF LABOR LAWS TO
GOVERNMENTACQUISITIONS**

1822.1 Basic Labor Policies

1822.3 Contract Work Hours and Safety Standards Act

1822.4 Labor Standards for Contracts Involving Construction

1822.6 Walsh-Healey Public Contracts Act

1822.8 Equal Employment Opportunity

1822.10 Service Contract Act of 1965

1822.13 Special Disabled and Vietnam Era Veterans

1822.14 Employment of the Handicapped

PART 1823 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

1823.1 Pollution Control and Clean Air and Water

1823.3 Hazardous Material Identification and Material Safety Data

1823.5 Drug-Free Workplace

1823.70 Safety and Health

1823.71 Frequency Authorization

PART 1824 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

1824.1 Protection of Individual Privacy

1824.2 Freedom of Information Act

PART 1825 FOREIGN ACQUISITION

1825.1 Buy American Act-Supplies

1825.2 Buy American Act--Construction Materials

1842.14 Traffic and Transportation Management

1842.70 Additional NASA Contract Clauses

1842.71 Submission of Vouchers

1842.72 NASA Contractor Financial Management Reporting

1842.73 Audit Tracking and Resolution

PART 1843 CONTRACT MODIFICATIONS

1843.2 Change Orders

1843.70 Undefined Contract Actions

1843.71 Shared Savings

PART 1844 SUBCONTRACTING POLICIES AND PROCEDURES

1844.2 Consent to Subcontracts

1844.3 Contractors' Purchasing Systems Reviews

PART 1845 GOVERNMENT PROPERTY

1845.1 General

1845.3 Providing Government Property to Contractors

1845.4 Contractor Use and Rental of Government Property

1845.5 Management of Government Property in the Possession of Contractors

1845.6 Reporting, Redistribution, and Disposal of Contractor Inventory

1845.70 Reserved

1845.71 Forms Preparation

1845.72 Contract Property Management

PART 1846 QUALITY ASSURANCE

1846.3 Contract Clauses

1846.4 Government Contract Quality Assurance

1846.6 Material Inspection and Receiving Reports

1846.7 Warranties

PART 1847 TRANSPORTATION

1847.2 Contracts for Transportation or for Transportation-Related Services

1847.3 Transportation in Supply Contracts

1847.5 Ocean Transportation by U.S.-Flag Vessels

1847.70 Protection of the Florida Manatee

PART 1848 VALUE ENGINEERING

1848.1 Policies and Procedures

1848.2 Contract Clauses

PART 1849 TERMINATION OF CONTRACTS

1849.1 General Principles

1849.5 Contract Termination Clauses

PART 1850 EXTRAORDINARY CONTRACTUAL ACTIONS

1850.2 Delegation of and Limitations on Exercise of Authority

1850.3 Contract Adjustments

1850.4 Residual Powers

PART 1851 USE OF GOVERNMENT SOURCES BY CONTRACTORS

1851.1 Contractor Use of Government Supply Sources

SUBCHAPTER H--CLAUSES AND FORMS

PART 1852 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.1 Instructions for Using Provisions and Clauses

1852.2 Texts of Provisions and Clauses

1852.3 Provision and Clause Matrix

PART 1853 FORMS

1853.1 General

1853.2 Prescription of Forms

1853.3 Illustrations of Forms

SUBCHAPTER I--AGENCY SUPPLEMENTARY REGULATIONS

PART 1870 RESERVED

PART 1871 MIDRANGE PROCUREMENT PROCEDURES

1871.1 General

1871.2 Planning and Requirements Process

1871.4 Request for Offer (RFO)

1871.5 Award

1871.6 "Best Value Selection"

PART 1872 ACQUISITIONS OF INVESTIGATIONS

1872.1 The Investigation Acquisition System

1872.2 Applicability of the Process

1872.3 The Announcement of Opportunity

1872.4 Evaluation of Proposals

1872.5 The Selection Process

1872.6 Payload Formulation

1872.7 Acquisition and Other Considerations

PART 1801

FEDERAL ACQUISITION REGULATIONS SYSTEM

1801.000 Scope of part.

This part sets forth general information about the National Aeronautics and Space Administration (NASA) Federal Acquisition Regulation (FAR) Supplement, also referred to as the NFS.

Subpart 1801.1--Purpose, Authority, Issuance

1801.103 Authority.

(a) Under the following authorities, the Administrator has delegated to the Associate Administrator for Procurement authority to prepare, issue, and maintain the NFS:

(i) The National Aeronautics and Space Act of 1958 (Pub. L. 85-568; 42 U.S.C. 2451 et seq.).

(ii) 10 U.S.C. chapter 137.

(iii) Other statutory authority.

(iv) FAR subpart 1.3.

1801.104 Applicability.

The NFS applies to all acquisitions as defined in FAR Part 2 except those expressly excluded by the FAR or this regulation.

1801.105 Issuance.

1801.105-1 Publication and code arrangement.

(a)(i) The NFS is published in the same publications and formats as the FAR.

(ii) The NFS is published in "editions" and "versions." An "edition" is a loose-leaf publication of the entire regulation and is denoted by the calendar year of publication. A "version" is the basic loose-leaf edition NFS with all NFS Directive (NFSD) change pages filed up to and including the NFSD number that corresponds to the "version" number. For example, for the 1989 edition of the NFS, Version 89.3 consists of pages from NFSD 89-0 (basic NFS), with change pages filed from NFSDs 89-1, 89-2, and 89-3.

(b) The NFS is issued as chapter 18 of title 48, CFR.

1801.105-2 Arrangement of regulations.

(b)(1)(A) Numbering of NFS text implementing the FAR shall be the same as that of the related FAR text, except when the NFS coverage exceeds one paragraph. In such case the NFS text is numbered by skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence. For example, two paragraphs implementing FAR 1.105-2(b)(1) are numbered 1801.105-2(b)(1)(A) and (B), rather than (1)(i) and (ii). Further subdivision of the NFS implementing paragraphs would follow the prescribed sequence in FAR 1.105(b)(2).

(B) NFS text that supplements the FAR part is numbered the same as its FAR counterpart with the addition of a number 70 and up. For example, NFS supplement of

FAR subsection 1.105-3 is numbered 1801.105-370. Supplemental text exceeding one paragraph is numbered using the FAR 1.105-2(b)(2) prescribed numbering sequence without skipping a unit.

(2) Subdivision numbering below the fourth level repeats the numbering sequence using italicized letters and numbers.

1801.105-3 Copies.

(1) Subscriptions to the NFS may be obtained by writing to Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402, or by calling (202) 512-1800. All requests should cite the NFS GPO Subscription Stock No. 933-003-00000-1. A subscription consists of the basic edition, plus all changes issued for an indefinite period. The prices and periods of subscriptions are set by GPO.

(2) The NFS is also available on the Internet (address: <http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>).

(3) Copies of NASA Handbooks (NHBs), NASA Management Instructions (NMIs), NASA Policy Directives (NPDs), and NASA Procedures and Guidelines (NPGs) may be obtained from NASA Headquarters, Office of Management Systems and Facilities (Code JM).

1801.105-370 Internal dissemination.

The Headquarters Office of Procurement (Code HK), (202-358-1248), distributes the FAR, Federal Acquisition Circulars (FACs), the NFS, NFSDs, Procurement Notices (PNs), and Procurement Information Circulars (PICs) directly to NASA Headquarters offices and installation distribution points. NASA center personnel may be placed on the distribution list or may obtain extra copies by contacting the designated distribution point for their installation.

1801.106 OMB approval under the Paperwork Reduction Act.

(1) *NFS requirements.* The following OMB control numbers apply:

NFS Segment	OMB Control Number
1819	2700-0073
1819.72	2700-0078
1827	2700-0052
1843	2700-0054
NF 533	2700-0003
NF 667	2700-0004

(2) *Solicitations and contracts.* Various requirements in a solicitation or contract, generally in the statement of work, are not tied to specific paragraphs cleared in paragraph (1) of this section, yet require information collection or recordkeeping. The following OMB control numbers apply to these requirements: 2700-0086 (acquisitions up to \$25,000), 2700-0087 (solicitations that may result in bids or proposals not exceeding \$500,000), 2700-0085 (solicitations that may result in bids or proposals exceeding \$500,000), 2700-0088 (contracts not exceeding \$500,000), and 2700-0089 (contracts exceeding \$500,000).

Subpart 1801.2-Administration

PART 1802

DEFINITIONS OF WORDS AND TERMS

1802.000 Scope of part.

Commonly used words and terms are defined in FAR Subpart 2.1. This Part 1802 gives NASA-specific meanings for some of these words and terms and defines other words and terms commonly used in the NASA acquisition process.

Subpart 1802.1--Definitions

1802.101 Definitions.

"Administrator" means the Administrator or Deputy Administrator of NASA.

"Senior Procurement Executive" means the Associate Administrator or Deputy Associate Administrator for Procurement, Office of Procurement, NASA Headquarters (Code H).

"Contracting activity" in NASA includes the NASA Headquarters installation and the following field installations: Ames Research Center, Dryden Flight Research Center, Goddard Space Flight Center, Johnson Space Center, Kennedy Space Center, Langley Research Center, Lewis Research Center, Marshall Space Flight Center and Stennis Space Center.

"Head of the agency" or **"agency head"** means the Administrator or Deputy Administrator of NASA.

"Head of the contracting activity" means, for field installations, the Director or other head and, for NASA Headquarters, the Associate Administrator for Headquarters Operations.

"Procurement officer" means the chief of the contracting office, as defined in FAR 2.101.

"NASA Acquisition Internet Service (NAIS)" means the Internet service (URL: <http://procurement.nasa.gov>) NASA uses to broadcast its business opportunities, procurement regulations, and associated information.

PART 1804

ADMINISTRATIVE MATTERS

TABLE OF CONTENTS

SUBPART 1804.1 CONTRACT EXECUTION

1804.103 Contract clause.

1804.170 Contract effective date.

SUBPART 1804.2 CONTRACT DISTRIBUTION

1804.202 Agency distribution requirements.

SUBPART 1804.4 SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

1804.402 General.

1804.404-70 Contract clause.

1804.470 Security requirements for unclassified automated information resources.

1804.470-1 Scope.

1804.470-2 Policy.

1804.470-3 Security plan for unclassified Federal Information Technology systems.

1804.470-4 Contract clauses.

SUBPART 1804.5 ELECTRONIC COMMERCE IN CONTRACTING

1804.570 NASA Acquisition Internet Service (NAIS).

1804.570-1 General.

1804.570-2 Electronic Posting System.

SUBPART 1804.6 CONTRACT REPORTING

1804.601 Record requirements.

1804.602 Federal Procurement Data System.

1804.670 Individual Procurement Action Report (NASA Form 507 series).

1804.670-1 Applicability and coverage.

1804.670-2 Submission due date.

1804.670-3 Preparing Individual Procurement Action Reports (NASA Forms 507, 507A, 507B, 507G, and 507M).

1804.671 Committee on Academic Science and Engineering (C.A.S.E.) Report.

SUBPART 1804.8 GOVERNMENT CONTRACT FILES

1804.802-70 Handling of classified material.

1804.803 Contents of contract files.

1804.803-70 Checklist.

1804.804 Closeout of contract files.

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

1804.804-5 Detailed procedures for closing out contract files.

1804.805 Storage, handling, and disposal of contract files.

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

SUBPART 1804.70 TRANSFER OF CONTRACTING OFFICE

RESPONSIBILITY

1804.7000 Scope of subpart.

1804.7001 Definition.

1804.7002 Approval of Transfer Requests.

1804.7003 Responsibilities of the contracting officer of the transferring installation.

1804.7003-1 Coordinations.

1804.7003-2 File inventory.

1804.7003-3 Notifications.

1804.7003-4 Transfer.

1804.7003-5 Retention documentation.

1804.7004 Responsibilities of the contracting officer of the receiving installation.

1804.7004-1 Pre-transfer file review.

1804.7004-2 Post-transfer actions.

SUBPART 1804.71 UNIFORM ACQUISITION INSTRUMENT

IDENTIFICATION

1804.7100 Scope of subpart.

1804.7101 Policy.

1804.7102 Prefixes.

1804.7103 Serial numbers.

1804.7104 Modifications of contracts or agreements.

SUBPART 1804.72 REVIEW AND APPROVAL OF CONTRACTUAL INSTRUMENTS

1804.7200 Contract review by Headquarters.

SUBPART 1804.73 PROCUREMENT REQUESTS

PART 1804

ADMINISTRATIVE MATTERS

Subpart 1804.1--Contract Execution

1804.103 Contract clause.

The contracting officer shall include the clause at FAR 52.204-1, Approval of Contract, in solicitations, contracts, and supplemental agreements that require higher level approval. For actions requiring Headquarters approval, insert "NASA Associate Administrator for Procurement" in the clause's blank space.

1804.170 Contract effective date.

(a) "**Contract effective date**" means the date agreed upon by the parties for beginning the period of performance under the contract. In no case shall the effective date precede the date on which the contracting officer or designated higher approval authority signs the document.

(b) Costs incurred before the contract effective date are unallowable unless they qualify as precontract costs (see FAR 31.205-32) and the clause prescribed at 1831.205-70 is used.

Subpart 1804.2--Contract Distribution

1804.202 Agency distribution requirements.

In addition to the requirements in FAR 4.201, the contracting officer shall distribute one copy of each R&D contract, including the Statement of Work, to the NASA Center for AeroSpace Information (CASI), Attention: Document Processing Section, 800 Elkridge Landing Road, Linthicum Heights, MD 21090-2934.

Subpart 1804.4--Safeguarding Classified Information

Within Industry

1804.402 General.

(b) NASA industrial security policies and procedures are prescribed in NMI 1600.2, NASA Security Program. (See also 1842.202-72).

1804.404-70 Contract clause.

The contracting officer shall insert the clause at 1852.204-75, Security Classification Requirements, in solicitations and contracts if work to be performed will require security clearances. This clause may be modified to add instructions for obtaining security clearances and access to security areas that are applicable to the particular acquisition and installation.

1804.470 Security requirements for unclassified automated information resources.

1804.470-1 Scope.

This section implements the acquisition-related aspects of Federal policies for assuring the security of unclassified automated information resources.

1804.470-2 Policy.

NASA policies and procedures on automated information security are prescribed in NMI 2410.7, Assuring the Security and Integrity of NASA Automated Information Resources, and in NHB 2410.9, NASA Automated Information Security Handbook, Chapters 3 and 4. Security requirements for safeguarding sensitive information in unclassified Federal computer systems are required in: (a) contracts for automatic data processing equipment, software, the management or operation of Data Processing Installations (DPIs) or related services; and (b) contracts under which contractor personnel must have physical or electronic access to sensitive automated information, or automated information that supports mission-critical functions.

1804.470-3 Security plan for unclassified Federal Information Technology systems.

When considered appropriate for contract performance, the contracting officer, with the concurrence of the requiring activity and the center automated information security (AIS) manager, may require the contractor to submit for post-award Government approval a detailed Security Plan for Unclassified Federal Information Technology Systems. The plan shall be required as a contract data deliverable that will be subsequently incorporated into the contract as a compliance document after Government approval. The plan shall demonstrate thorough understanding of NMI 2410.7 and NHB 2410.9, and shall include, as a minimum, the security measures and program safeguards to ensure that the information technology resources acquired and used by contractor and subcontractor personnel:

- (a) Operate effectively and accurately:
- (b) Are protected from unauthorized alteration, disclosure, or misuse of information processed, stored, or transmitted;

- (c) Can maintain the continuity of automated information support for Government missions, programs, and functions;
- (d) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the system's integrity and accuracy; and
- (e) Have appropriate technical, personnel, administrative, environmental, and access safeguards.

1804.470-4 Contract clauses.

The contracting officer shall insert the clause substantially as stated at 1852.20476, Security Requirements for Unclassified Automated Information Resources, in solicitations and contracts involving unclassified automated information resources. Paragraph (a) of the clause shall be completed with information supplied by the cognizant requiring activity.

Subpart 1804.5--Electronic Commerce in Contracting

1804.570 NASA Acquisition Internet Service (NAIS).

1804.570-1 General.

The NASA Acquisition Internet Service (NAIS) provides an electronic means for posting procurement synopses, solicitations, procurement regulations, and associated information on the Internet.

1804.570-2 Electronic Posting System.

(a) The NAIS Electronic Posting System (EPS) enables the NASA procurement staff to:

(1) Electronically create and post synopses on the Internet and in the Commerce Business Daily (CBD); and

(2) Post solicitation documents and other procurement information on the Internet.

(b) The EPS maintains an on-line index linking the posted synopses and solicitations for viewing and downloading.

(c) The EPS shall be used to:

(1) Create and post all synopses in accordance with FAR Part 5 and NFS 1805; and

(2) Post all competitive solicitation files, excluding large construction and other drawings, for acquisitions exceeding \$25,000.

(d) The NAIS is the official site for solicitation postings. In the event supporting materials, such as program libraries, cannot be reasonably accommodated by the NAIS, Internet sites external to NAIS may be established after coordination with the Contracting Officer. Such sites must be linked from the NAIS business opportunities index where the solicitations reside. External sites should not duplicate any of the files residing on the NAIS.

Subpart 1804.6--Contract Reporting

1804.601 Record requirements.

The Headquarters Office of Procurement (Code HC) is responsible for meeting the requirements of FAR 4.601, based on installation submission of Individual Procurement Action Reports (NASA Form 507 series) data.

1804.602 Federal Procurement Data System.

(d) Code HC is responsible for requesting, obtaining, and reporting Contractor Establishment Codes to the FPDS.

1804.670 Individual Procurement Action Report (NASA Form 507 series).

The Individual Procurement Action Report and Supplements (NASA Form 507 series) provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to Congress, Federal Procurement Data Center, and other Federal agencies. The preparation and utilization of the NASA Form 507 series are integral parts of the agencywide Financial and Contractual Status (FACS) system.

1804.670-1 Applicability and coverage.

The following procurement actions are individually reportable and require the completion of one or more of the forms in the 507 series.

(a) *Initial basic procurements.*

(1) All contracts, regardless of dollar obligation amount.

(2) All grants, cooperative agreements, and funded Space Act agreements.

(3) Intragovernmental procurements and purchase orders when the initial value is more than \$25,000.

(4) All purchase orders for advisory and assistance services.

(5) Purchase orders of \$25,000 or less for services within the four designated industry groups identified at FAR 19.1005(a) under the Small Business Competitiveness Demonstration Program. (These actions are not FACS reportable, but are required for FPDS reports.)

(b) *Modifications.* Modifications that (1) obligate or deobligate funds, regardless of dollar amount, (2) change the estimated cost and/or fee, (3) extend the completion date, or (4) add or change procurement statistics previously reported.

1804.670-2 Submission due date.

The FACS report shall have information as of the last day of the month and shall arrive in NASA Headquarters not later than the close of business on the fifth work day following each month being reported. The installation procurement officer should establish an agreement with the installation financial officer on a cut-off date for processing contractual documents to ensure that the FACS procurement submission and the FACS financial submission for the month include the same contracts.

1804.670-3 Preparing Individual Procurement Action Reports (NASA Forms 507, 507A, 507B, 507G, and 507M).

(a) The information required by the following forms shall be provided when submitting individual Procurement Action Reports:

(1) New contract awards - NASA Forms 507, 507A, and 507B.

(2) New grants, cooperative agreements, funded Space Act agreements, intragovernmental agreements, and orders against federal supply schedules - NASA Forms 507G and 507B.

(3) Modifications to any procurement action - NASA Forms 507M and, if necessary, 507B.

(b) The NASA Forms 507 series shall be prepared in accordance with instructions issued by Code HC. These instructions will be issued and updated through Procurement Information Circulars (PICs).

1804.671 Committee on Academic Science and Engineering (C.A.S.E.) Report.

NASA Form 1356, C.A.S.E. Report on College and University Projects, shall be prepared for awards to nonprofit institutions of higher education or to nonprofit institutions that are operationally affiliated or integrated with an educational institution. Information on this form is used to produce reports required by the National Science Foundation and to respond to inquiries. Submission is required regardless of instrument type (contract, grant, cooperative agreement, or funded Space

Act agreement) and type of proposal (solicited or unsolicited). Instructions appear on the form itself and constitute the detailed guidance for preparation and submission. The form, which is either included with the acquisition package or initiated by the contracting office, shall be completed, reviewed, and promptly forwarded upon award to the Headquarters Office of Human Resources and Education (Code FET).

Subpart 1804.8--Government Contract Files

1804.802-70 Handling of classified material.

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 NHB 1441.1, NASA Records Disposition Handbook.

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 NHB 1441.1, NASA Records Disposition Handbook.

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.

(3) Reliability and Quality Assurance Office, to determine status and method of transferring the reliability and quality assurance functions.

(4) Industrial Property and Facilities Office, to determine the method of transferring the Government property records.

(5) Transportation Office, to determine the status of bills of lading furnished the contractor.

(6) Security Office, to determine whether any classified material is outstanding and whether special precautions are necessary during the transfer process.

(7) Other organizational elements, to determine the status of any other actions such as new technology, materials reports, PERT, and safety.

1804.7003-2 File inventory.

The contracting officer of the transferring installation shall prepare an inventory of the contract file. This inventory shall also include a separate listing of all outstanding requests for contract administration assistance issued to other Government agencies, indicating the name and address of the agency office, functions requested to be performed, estimated cost of the services, and estimated reimbursement due the administration agency for the services yet to be performed for each requested function. Copies of this inventory shall be provided to the contracting officer of the receiving installation.

1804.7003-3 Notifications.

The contracting officer of the transferring installation shall provide written notification of the planned transfer to the contractor and all agencies performing or requested to perform administration services.

1804.7003-4 Transfer.

(a) Upon completion of the actions described in 1804.7003-1 through 1804.7003-3, the contracting officer of the transferring installation shall issue a letter to the contractor, agencies performing contract administration functions, contracting officer representatives, and the contracting officer of the receiving installation. This letter shall provide notification of the transfer date, termination of appointment of the contracting officer's representatives, and the name, mailing address, and telephone number of the contracting officer of the receiving installation.

(b) After issuing the letters described in 1804.7003-4(a), the contracting officer of the transferring installation shall send the contract file to the contracting officer of the receiving installation with a letter transferring contract responsibility. This letter shall contain a provision for acceptance of the responsibility for the contract and its related files by the contracting officer of the receiving installation.

1804.7003-5 Retention documentation.

The contracting officer of the transferring installation shall retain for permanent file a copy of the approvals and concurrences required by 1804.7002, the transfer acceptance letter of the contracting officer of the receiving installation, and any additional documents necessary for a complete summary of the transfer action.

1804.7004 Responsibilities of the contracting officer of the receiving installation.

1804.7004-1 Pre-transfer file review.

The contracting officer of the receiving installation shall review the contract, letters of request, actions in process, and other related files and to request corrective action, if

necessary, before the official transfer of the contract. This review may be waived by written notification to the contracting officer of the transferring installation.

1804.7004-2 Post-transfer actions.

The contracting officer of the receiving installation shall--

- (a) Provide the contracting officer of the transferring installation written acceptance of contract responsibility and receipt of the contract files;
- (b) Inform all offices affected within the installation of the receipt of the contract;
- (c) Appoint new contracting officer's technical representatives, as necessary;
- (d) Issue a contract modification to provide for the administrative changes resulting from the transfer action (e.g., identifying offices responsible for performing contract administration and making payment and the office to which vouchers, reports, and data are to be submitted);
- (e) Provide copies of the contract documents to affected installation offices; and
- (f) If appropriate, supplement the letter of request to the Government agency providing contract administration services to reflect the changes resulting from the transfer action. The supplement may terminate or amend an existing contract administration support arrangement or may request support in additional areas.

Subpart 1804.71--Uniform Acquisition Instrument Identification

1804.7100 Scope of subpart.

This subpart contains the procedures for uniform numbering of NASA solicitations, contracts (including letter contracts), purchase orders (including requests to other Government agencies), basic ordering agreements, other agreements between the parties involving the payment of appropriated funds or collection of funds for credit to the Treasury of the United States, and modifications or supplements to these instruments.

1804.7101 Policy.

- (a) Contractual documents shall be numbered with approved prefixes and serial numbers as prescribed in this subpart. If other identification is required for center purposes, it shall be placed on the document in such a location as to clearly separate it from the identification number.

(b) The identification number shall consist of not more than 11 alpha-numeric characters positioned as prescribed in this subpart and shall be retained unchanged for the life of the particular instrument.

1804.7102 Prefixes.

(a) Approved prefixes are as follows:

INSTALLATION CONTRACT PURCHASE	CONTRACT PREFIX	PURCHASE ORDER PREFIX
Ames Research Center	NAS 2	A
Dryden Flight Research Center	NAS 4	E
Goddard Space Flight Center	NAS 5	S
Headquarters	NASW	W
Lyndon B. Johnson Space Center	NAS 9	T
John F. Kennedy Space Center	NAS10	CC
Langley Research Center NAS 1 L	NAS 1	L
Lewis Research Center NAS 3 C	NAS 3	C
George C. Marshall Space Flight Center	NAS 8	H
NASA Management Office-JPL	NAS 7	WO
John C. Stennis Space Center	NAS 12	NS

(b) The contract prefix shall be used for the following documents:

(1) Contracts, including letter contracts, indefinite-delivery contracts, utilities contracts, leases of real property and renewals.

(2) Easements.

(3) Basic ordering agreements.

(4) Other written agreements involving payment or receipt of funds not covered by 1804.7102(e).

(c) Contracts totally funded under reimbursable arrangements with the Department of Energy shall use a DEN prefix instead of the NAS prefix (e.g., DEN 8 for Marshall).

(d) Space Act agreements awarded under the authority of Section 203(c)(5) or 203(c)(6) of the Space Act shall use an NCA prefix instead of the NAS prefix (e.g., NCA 8 for Marshall).

(e) The purchase order prefix shall be used for purchase orders (including blanket purchase agreements) and requests to other Government agencies to furnish supplies or services.

(f) Solicitations shall be numbered in accordance with installation procedures, except that in all cases the identifying number shall begin with the portion of the installation's contract prefix following "NAS."

(g) If a prefix is required for an installation or office not listed in this subsection, a request for a prefix assignment shall be submitted to the Headquarters Office of Procurement (Code HC).

1804.7103 Serial numbers.

(a) Installations shall number contracts and agreements identified in 1804.7102(b) serially by fiscal year. The serial number shall be five digits beginning with a two-digit fiscal year identifier followed by a three digits commencing with "001" and continuing in succession. For example, the first contracts awarded by Ames Research Center in fiscal year 1997 shall be numbered NAS 2 97001 and NAS 2 97002. Fiscal year identification is optional for Space Act agreements.

(b) Serial number for purchase orders shall be assigned serially without fiscal year identification. When the series of numbers exceeds five digits (over 99,999), a new series shall be used, beginning the series with number "1" and followed by the capital letter "A." Should additional series become necessary, they will be distinguished by the capital letters "B," "C," and so forth, as may be required, except that the letters "I" and "O" shall not be used.

1804.7104 Modifications of contracts or agreements.

(a) Modifications of definitive or letter contracts or agreements shall (1) bear the same identification as the contract or agreement being modified and (2) be numbered consecutively for each contract or agreement, beginning with Modification Number 1, regardless of whether the modification is accomplished by unilateral or bilateral action. Except for termination notices, modifications shall be effected by the use of Standard Form 30, Amendment of Solicitation/Modification of Contract.

(b) Definitive contracts superseding letter contracts shall retain the same contract number as that originally assigned to the letter contract. Actions definitizing letter contracts are considered modifications and shall be assigned modification numbers in accordance with paragraph (a) of this subsection.

Subpart 1804.72--Review and Approval of Contractual

Instruments

1804.7200 Contract review by Headquarters.

(a) Requests for approval of contracts and supplemental agreements by the Associate Administrator for Procurement shall be submitted to the Headquarters Office of Procurement (Code HS) in sufficient time to allow a minimum of 15 days for review.

(b) Each request for approval shall be accompanied by (1) five copies of the contractual document, one of which has been executed by the contractor and contracting officer, and (2) the official contract file containing the appropriate documentation as set forth in FAR 4.803(a). However, for the items specified in FAR 4.803(a)10, (11), and (12), the contracting officer shall provide documentation pertaining only to the successful offeror; and, in lieu of the items specified in FAR 4.803(a)(26)(ii) and (iii), the contracting officer shall provide an index briefly describing the content of all previous modifications.

(c) The approval required under this section shall be made by signature of the Associate Administrator for Procurement on the contract/supplemental agreement.

Subpart 1804.73--Procurement Requests

1804.7301 General.

Except in unusual circumstances, the contracting office shall not issue solicitations until an approved procurement request, containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions up to the point of contract obligation before receipt of the approved procurement request certifying that funds are available when --

(a) Such action is necessary to meet critical program schedules;

(b) Program authority has been issued and funds to cover the procurement will be available prior to the date set for contract award or contract modification; and

(c) The procurement officer authorizes such action in writing before solicitation issuance.

(d) The solicitation includes the clause at FAR 52.232-18, Availability of Funds. The clause shall be deleted from the resultant contract.

PART 1805 PUBLICIZING CONTRACT ACTIONS

TABLE OF CONTENTS

SUBPART 1805.1 DISSEMINATION OF INFORMATION

1805.101 Methods of disseminating information.

SUBPART 1805.2 SYNOPSES OF PROPOSED CONTRACTS

1805.205 Special situations.

1805.207 Preparation and transmittal of synopses.

1805.207-70 Synopses of Architect-Engineer Services and Federal Information Processing Resources.

SUBPART 1805.3 SYNOPSES OF CONTRACT AWARDS

1805.303 Announcement of contract awards.

1805.303-70 NASA Headquarters public announcement.

1805.303-71 Administrator's notice of significant contract actions (ANOSCA's).

SUBPART 1805.4 RELEASE OF INFORMATION

1805.402 General public.

1805.403 Requests from Members of Congress.

SUBPART 1805.5 PAID ADVERTISEMENTS

1805.502 Authority.

PART 1805

PUBLICIZING CONTRACT ACTIONS

Subpart 1805.1--Dissemination of Information

1805.101 Methods of disseminating information.

(b)(4) For NASA policy regarding paid advertisements, see 1805.502.

Subpart 1805.2--Synopses of Proposed Contracts

1805.205 Special situations.

(a) Potential sources responding to R&D advance notices shall be added to the appropriate solicitation mailing list for the subsequent solicitation and, if they do not

appear on the solicitation mailing lists established in accordance with FAR 14.205-1, shall be requested to submit Standard Form 129, Solicitation Mailing List Application. Responding sources on established lists may be requested to submit amended applications in order to reflect their current capabilities.

1805.207 Preparation and transmittal of synopses.

(a) Synopses shall be transmitted in accordance with 1804.570.

1805.207-70 Synopses of Architect-Engineer Services and Federal Information Processing Resources.

(a) Architect-Engineer Services.

(1) Each notice publicizing the acquisition of architect-engineer services shall be headed "*C. Architect-Engineer Services.*"

(2) In addition to meeting the requirements of FAR 5.207(c), the project description shall--

(i) State the relative importance the Government attaches to the significant evaluation criteria and the date by which responses to the notice must be received, including submission of Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, if required;

(ii) Describe any specialized qualifications, security classifications, and limitations on eligibility for consideration;

(iii) Describe qualifications or performance data required from architect-engineer firms; and

(iv) If the acquisition is to be set aside for small business, state this fact, indicating the specific size standard to be used and requiring that eligible responding firms submit a small business representation.

(3) Contracting officers shall add at the end of the synopsis:

See Note 24. Provisions of Note 24 apply to this notice except that (a) in the sentence beginning "Selection of firms for negotiations," the fourth additional consideration listed is changed to read: "(4) past experience, if any, of the firm with respect to performance on contracts with NASA, other Government agencies, and private industry;" and (b) in the last sentence, "National Aeronautics and Space Administration" is substituted for "Department of Defense."

(b) Federal Information Processing (FIP) Resources.

(1) When total requirement quantities are expected to satisfy the needs of only a single field installation, each notice publicizing the acquisition of FIP resources under an indefinite delivery/indefinite quantity contract or under a contract that includes options for additional quantities of such resources shall include the following:

The _____ (identify contracting activity) is the primary delivery point for the items described in this synopsis. However, NASA may order delivery to the following alternate locations: _____ (List other NASA installations and their locations).

(2) When the contemplated contract will authorize orders from locations other than the awarding installation, the notice shall fully describe the ordering scope.

Subpart 1805.3--Synopsis of Contract Awards

1805.303 Announcement of contract awards.

(a)(i) In lieu of the \$3 million threshold cited in FAR 5.303(a), NASA Headquarters public announcement is required for award of contract actions that have a total anticipated value, excluding unexercised options, of \$25 million or greater. This threshold applies to new awards, contract modifications, and option exercises, but not to incremental funding or cost overrun modifications.

(A) For undefinitized contract actions, the not-to-exceed (NTE) or ceiling price value is the face value.

(B) For indefinite delivery, time and material, labor hour, and similar contracts, the estimated amount of the basic contract is the face value. Individual orders up to the face value shall not be announced regardless of value. However, after the face value is reached, any subsequent modifications or orders of \$25 million or greater must be announced.

(ii) NASA Headquarters public announcement is also required for award of a contract action with a value of less than \$25 million if the contracting officer believes it to have Agency public information implications.

(iii) Contractual instruments requiring Headquarters public announcement shall not be distributed nor shall any source outside NASA be notified of their status until the public announcement procedures in 1805.303-70 have been completed.

1805.303-70 NASA Headquarters public announcement.

(a) For those contract actions requiring Headquarters public announcement in accordance with 1805.303, the contracting officer shall furnish a draft news release including the following information, through the installation Public Affairs Office, via

facsimile transmission to the Headquarters Office of Public Affairs, News and Imaging Branch (Code PM):

- (1) A brief description of the work, including identification of the program and project;
 - (2) Identification of the contract action as either a new contract or additional work or services under an existing contract;
 - (3) Contract type. For undefinitized contract actions, identify the planned contract type of the definitized instrument;
 - (4) The dollar amount authorized for the instant action and the estimated total cost of the contract if this is different. For undefinitized contract actions, indicate the NTE or ceiling price amount;
 - (5) Name and address (including zip code) of the contractor;
 - (6) Principal work performance locations;
 - (7) Names and addresses of any unsuccessful offerors.
- (b) The information in paragraph (a) of this section shall be provided to Code PM before transmitting a letter contract to a contractor for signature. For actions other than letter contracts, the information should be transmitted to Code PM after contractor signature, if applicable, no later than 48 hours before the planned award.
- (c) For contract actions requiring Headquarters approval in accordance with 1804.72, the draft news release required by paragraph (a) of this section shall be provided to the Headquarters Office of Procurement (Code HS) with the request for approval. Code HS will forward the information to Code PM after approval.
- (d) Code PM will advise the installation Public Affairs Office of the date public announcement of the contract action will be made. Installations may proceed with award and local release of the information no earlier than 4:00 P.M. ET of the date Code PM makes public announcement. If earlier award is considered appropriate, installations must request authorization from the Associate Administrator for Procurement (Code HS).

1805.303-71 Administrator's notice of significant contract actions (ANOSCA's).

- (a) In addition to the public announcement requirements described in 1805.303-70, contracting officers shall notify the Administrator of the following significant actions at least five (5) workdays prior to planned public announcement of the actions:

(1) Planned contract award for competitive acquisitions of \$25 million or more, including all priced options.

(2) Planned contract award of non-competitive awards and new work modifications of \$100 million or more, including all priced options.

(3) Planned award of other actions, to include cooperative agreements resulting from a Cooperative Agreement Notice (CAN), at any dollar value thought to be of significant interest to Headquarters.

(b) To provide notification to the Administrator, the contracting officer shall send the information listed in paragraphs (b)(1)-(10) of this section to the Headquarters Office of Procurement (Code HS) via facsimile transmission (202-358-4065). Immediately prior to transmission, the contracting officer shall notify Code HS by telephone (202-358-2080) of the impending transmission. In accordance with FAR 3.104-5(c), the contracting officer shall mark all pages that include source selection information with the legend "SOURCE SELECTION INFORMATION - SEE FAR 3.104." The following information shall be sent:

(1) Title and a brief nontechnical description of the work, including identification of the program or project;

(2) Identification of the contract action as either a new contract or additional supplies or services under an existing contract;

(3) Contract type (including whether a cost contract is completion or level-of-effort). For undefinitized contract actions, identify the planned contract type of the definitized instrument;

(4) The total contract value for the instant action including all priced options. Also include the Government's most probable cost. For undefinitized contract actions, indicate the NTE or ceiling price amount;

(5) The name, address, and business size status of the prime contractor and each major (over \$1M) subcontractor;

(6) Small business and small disadvantaged business subcontracting goals both in dollars and percentage of the value of the action including all options;

(7) Principal work performance locations;

(8) Brief description of any unusual circumstances;

(9) The names and telephone numbers of the contracting officer and project manager; and

(10) For competitive selections only, provide on a separate attachment the names and addresses of all unsuccessful offerors and a brief explanation of the general basis for the selection.

(c) The field installation shall not proceed with any awards or announcements until Code HS has advised that the Administrator has been notified of the proposed action and the supporting information. Once this advice is received from Code HS, the field installation shall proceed with the public announcement procedures described in 1805.303-70.

Subpart 1805.4--Release of Information

1805.402 General public.

(1) Unless the head of the contracting activity determines that disclosure would be prejudicial to the interests of NASA, the following information on NASA acquisitions may be released:

(i) The names of firms invited to submit offers, and

(ii) The names of firms that attended any pre-bid or pre-proposal conferences.

(2) Other requests for information under the Freedom of Information Act shall be processed in accordance with FAR 24.2 and 1824.2.

1805.403 Requests from Members of Congress.

(a) All proposed replies to congressional inquiries shall be prepared and forwarded, with full documentation, to the Headquarters Office of Legislative Affairs (Code L) for approval and release.

Subpart 1805.5--Paid Advertisements

1805.502 Authority.

Use of paid advertisements for procurement purposes (except CBD announcements) is not authorized in NASA.

PART 1815 CONTRACTING BY NEGOTIATION

TABLE OF CONTENTS

SUPART 1815.2 SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

1815.201 Exchanges with industry before receipt of proposals.

1815.203 Requests for proposals.

1815.203-70 Installation reviews.

1815.203-71 Headquarters reviews.

1815.204 Contract format.

1815.204-2 Part I-The Schedule.

1815.204-5 Part IV-Representations and instructions.

1815.204-70 Page limitations.

1815.207 Handling proposals and information.

1815.207-70 Release of proposal information.

1815.207-71 Appointing non-Government evaluators as special Government employees.

1815.208 Submission, modification, revision, and withdrawal of proposals.

1815.209 Solicitation provisions and contract clauses.

1815.209-70 NASA solicitation provisions.

SUBPART 1815.3 SOURCE SELECTION

1815.300 Scope of subpart.

1815.300-70 Applicability of subpart.

1815.303 Responsibilities.

1815.304 Evaluation factors and significant subfactors.

1815.304-70 NASA evaluation factors.

1815.305 Proposal evaluation.

1815.305-70 Identification of unacceptable proposals.

1815.305-71 Evaluation of a single proposal.

1815.306 Exchanges with offerors after receipt of proposals.

1815.307 Proposal revisions.

1815.308 Source selection decision.

1815.370 NASA source evaluation boards.

SUBPART 1815.4 CONTRACT PRICING

1815.403 Obtaining cost or pricing data.

1815.403-1 Prohibition on obtaining cost or pricing data.

1815.403-170 Acquisitions with the Canadian Commercial Corporation (CCC).

1815.403-3 Requiring information other than cost or pricing data.

1815.403-4 Requiring cost or pricing data.

1815.404 Proposal analysis.

1815.404-2 Information to support proposal analysis.

1815.404-4 Profit.

1815.404-470 NASA structured approach for profit or fee objective.

1815.404-471 Payment of profit or fee under letter contracts.

1815.406 Documentation.

1815.406-1 Prenegotiation objectives.

1815.406-170 Content of the prenegotiation position memorandum.

1815.406-171 Installation reviews.

1815.406-172 Headquarters reviews.

1815.406-3 Documenting the negotiation.

1815.407 Special cost or pricing areas.

1815.407-2 Make-or-buy programs.

1815.408 Solicitation provisions and contract clauses.

1815.408-70 NASA solicitation provisions and contract clauses.

**SUBPART 1815.5 PREAWARD, AWARD, AND POSTAWARD
NOTIFICATIONS, PROTESTS, AND MISTAKES**

1815.504 Award to successful offeror.

1815.506 Postaward debriefing of offerors.

1815.506-70 Debriefing of offerors - Major System acquisitions.

SUBPART 1815.6 UNSOLICITED PROPOSALS

1815.602 Policy.

1815.604 Agency points of contact.

1815.606 Agency procedures.

1815.606-70 Relationship of unsolicited proposals to NRAs.

1815.609 Limited use of data.

1815.609-70 Limited use of proposals.

1815.670 Foreign proposals.

SUBPART 1815.70 OMBUDSMAN

1815.7001 NASA Ombudsman Program.

1815.7002 Synopses of solicitations and contracts.

1815.7003 Contract clause.

**PART 1815
CONTRACTING BY NEGOTIATION
Subpart 1815. 2--Solicitation and Receipt of Proposals and Information**

1815.201 Exchanges with industry before receipt of proposals.

(c)(6)(A) Except for acquisitions described in 1815.300-70(b) contracting officers shall issue draft requests for proposals (DRFPs) for all competitive negotiated acquisitions expected to exceed \$1,000,000 (including all options or later phases of the same project). DRFPs shall invite comments from potential offerors on all aspects of the draft solicitation, including the requirements, schedules, proposal instructions, and evaluation approaches. Potential offerors should be specifically requested to identify unnecessary or inefficient requirements. When considered appropriate, the statement of work or the specifications may be issued in advance of other solicitation sections.

(B) Contracting officers shall plan the acquisition schedule to include adequate time for issuance of the DRFP, potential offeror review and comment, and NASA evaluation and disposition of the comments.

(C) When issuing DRFPs, potential offerors should be advised that the DRFP is not a solicitation and NASA is not requesting proposals.

(D) Whenever feasible, contracting officers should include a summary of the disposition of significant DRFP comments with the final RFP.

(E) The procurement officer may waive the requirement for a DRFP upon written determination that the expected benefits will not be realized given the nature of the supply or service being acquired. The DRFP shall not be waived because of poor or inadequate planning.

(f)(i) Upon release of the formal RFP, the contracting officer shall direct all personnel associated with the acquisition to refrain from communicating with prospective offerors and to refer all inquiries to the contracting officer or other authorized representative. This procedure is commonly known as a "blackout notice" and shall not be imposed before release of the RFP. The notice may be issued in any format (e.g., letter or electronic) appropriate to the complexity of the acquisition.

(ii) Blackout notices are not intended to terminate all communication with offerors. Contracting officers should continue to provide information as long as it does not create an unfair competitive advantage or reveal proprietary data.

1815.203 Requests for proposals.

1815.203-70 Installation reviews.

(a) Installations shall establish procedures to review all RFPs before release. When appropriate given the complexity of the acquisition or the number of offices involved in solicitation review, centers should consider use of a single review meeting called a

Solicitation Review Board (SRB) as a streamlined alternative to the serial or sequential coordination of the solicitation with reviewing offices. The SRB is a meeting in which all offices having review and approval responsibilities discuss the solicitation and their concerns. Actions assigned and changes required by the SRB shall be documented.

(b) When source evaluation board (SEB) procedures are used in accordance with 1815.370, the SEB shall review and approve the RFP prior to issuance.

1815.203-71 Headquarters reviews.

For RFPs requiring Headquarters review and approval, the procurement officer shall submit ten copies of the RFP to the Associate Administrator for Procurement (Code HS). Any significant information relating to the RFP or the planned evaluation methodology omitted from the RFP itself should also be provided.

1815.204 Contract format.

1815.204-2 Part I-The Schedule.

(c) To the maximum extent practicable, requirements should be defined as performance based specifications/statements of work that focus on required outcomes or results, not methods of performance or processes.

1815.204-5 Part IV-Representations and instructions.

(b) The information required in proposals should be kept to the minimum necessary for the source selection decision.

1815.204-70 Page limitations.

(a) Technical and contracting personnel will agree on page limitations for their respective portions of an RFP. Unless approved in writing by the procurement officer, the page limitation for the contracting portion of an RFP (all sections except Section C, Description/ specifications/work statement) shall not exceed 150 pages, and the page limitation for the technical portion (Section C) shall not exceed 200 pages. Attachments to the RFP count as part of the section to which they relate. In determining page counts, a page is defined as one side of a sheet, 8 1/2" x 11", with at least one inch margins on all sides, using not smaller than 12-point type. Foldouts count as an equivalent number of 8 1/2" x 11" pages. The metric standard format most closely approximating the described standard 8 1/2" x 11" size may also be used.

(b) Page limitations shall also be established for proposals submitted in competitive acquisitions. Accordingly, technical and contracting personnel will agree on page limitations for each portion of the proposal. Unless a different limitation is approved

in writing by the procurement officer, the total initial proposal, excluding title pages, tables of content, and cost/price information, shall not exceed 500 pages using the page definition of 1815.204-70(a). Firm page limitations shall also be established for final proposal revisions, if requested. The appropriate page limitations for final proposal revisions should be determined by considering the complexity of the acquisition and the extent of any discussions. The same page limitations shall apply to all offerors. Pages submitted in excess of specified limitations will not be evaluated by the Government and will be returned to the offeror.

1815.207 Handling proposals and information.

1815.207-70 Release of proposal information.

(a) NASA personnel participating in any way in the evaluation may not reveal any information concerning the evaluation to anyone not also participating, and then only to the extent that the information is required in connection with the evaluation. When non-NASA personnel participate, they shall be instructed to observe these restrictions.

(b)(1) Except as provided in paragraph (b)(2) of this section, the procurement officer is the approval authority to disclose proposal information outside the Government. This authorization may be granted only after compliance with FAR 37.2 and 1837.204, except that the determination of unavailability of Government personnel required by FAR 37.2 is not required for disclosure of proposal information to JPL employees.

(2) Proposal information in the following classes of proposals may be disclosed with the prior written approval of a NASA official one level above the NASA program official responsible for overall conduct of the evaluation. The determination of unavailability of Government personnel required by FAR 37.2 is not required for disclosure in these instances.

(i) NASA Announcements of Opportunity proposals;

(ii) Unsolicited proposals;

(iii) NASA Research Announcement proposals;

(iv) SBIR and STTR proposals.

(3) If JPL personnel, in evaluating proposal information released to them by NASA, require assistance from non-JPL, non-Government evaluators, JPL must obtain written approval to release the information in accordance with paragraphs (b)(1) and (b)(2) of this section.

1815.207-71 Appointing non-Government evaluators as special Government employees.

(a) Except as provided in paragraph (c) of this section, non-Government evaluators, except employees of JPL, shall be appointed as special Government employees.

(b) Appointment as a special Government employee is a separate action from the approval required by paragraph 1815.207-70(b) and may be processed concurrently. Appointment as a special Government employee shall be made by:

(1) the NASA Headquarters personnel office when the release of proposal information is to be made by a NASA Headquarters office; or

(2) the installation personnel office when the release of proposal information is to be made by the installation.

(c) Non-Government evaluators need not be appointed as special Government employees when they evaluate:

(1) NASA Announcements of Opportunity proposals;

(2) unsolicited proposals;

(3) NASA Research Announcement proposals; and

(4) SBIR and STTR proposals

1815.208 Submission, modification, revision, and withdrawal of proposals.

(b) The FAR late proposal criteria do not apply to Announcements of Opportunity (see 1872.705-1 paragraph VII), NASA Research Announcements (see 1852.235-72), and Small Business Innovative Research (SBIR) Phase I and Phase II solicitations, and Small Business Technology Transfer (STTR) solicitations. For these solicitations, proposals or proposal modifications received from qualified firms after the latest date specified for receipt may be considered if a significant reduction in cost to the Government is probable or if there are significant technical advantages, as compared with proposals previously received. In such cases, the project office shall investigate the circumstances surrounding the late submission, evaluate its content, and submit written recommendations and findings to the selection official or a designee as to whether there is an advantage to the Government in considering it. The selection official or a designee shall determine whether to consider the late submission.

1815.209 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert FAR 52.215-1 in all competitive negotiated solicitations.

1815.209-70 NASA solicitation provisions.

(a) The contracting officer shall insert the provision at 1852.215-77, Preproposal/Pre-bid Conference, in competitive requests for proposals and invitations for bids where the Government intends to conduct a preproposal or pre-bid conference. Insert the appropriate specific information relating to the conference.

(b) The contracting officer shall insert the clause at 1852.214-71, Grouping for Aggregate Award, in solicitations when it is in the Government's best interest not to make award for less than specified quantities solicited for certain items or groupings of items. Insert the item numbers and/or descriptions applicable for the particular acquisition.

(c) The contracting officer shall insert the clause at 1852.214-72, Full Quantities, in solicitations when award will be made only on the full quantities solicited.

(d) The contracting officer shall insert the provision at 1852.215-81, Proposal Page Limitations, in all competitive requests for proposals.

Subpart 1815. 3--Source Selection

1815.300 Scope of subpart.

1815.300-70 Applicability of subpart.

(a)(1) Except as indicated in paragraph (b) of this section, NASA competitive negotiated acquisitions shall be conducted as follows:

(i) Acquisitions of \$50 million or more -- in accordance with FAR 15. 3 and this subpart.

(ii) Other acquisitions -- in accordance with FAR 15. 3 and this subpart except section 1815.370.

(2) Estimated dollar values of acquisitions shall include the values of multiple awards, options, and later phases of the same project.

(b) FAR 15. 3 and this subpart are not applicable to acquisitions conducted under the following procedures:

(1) MidRange (see Part 1871).

(2) Announcements of Opportunity (see Part 1872).

(3) NASA Research Announcements (see 1835.016-70).

(4) The Small Business Innovative Research (SBIR) program and the Small Business Technology Transfer (STTR) pilot program under the authority of the Small Business Act (15 U.S.C. 638).

(5) Architect and Engineering (A&E) services (see FAR 36.6 and 1836.6).

1815.303 Responsibilities.

(a) The SSA shall be established at the lowest reasonable level for each acquisition. Notwithstanding the FAR designation of the contracting officer as SSA, the SSA for center acquisitions shall be established in accordance with center procedures. For acquisitions designated as Headquarters selections, the SSA will be identified as part of the Master Buy Plan process (see 1807.71).

(b)(i) The source selection authority (SSA) is the Agency official responsible for proper and efficient conduct of the source selection process and for making the final source selection decision. The SSA has the following responsibilities in addition to those listed in the FAR:

(A) Approve the evaluation factors, subfactors, and elements, the weight of the evaluation factors and subfactors, and any special standards of responsibility (see FAR 9.104-2) before release of the RFP, or delegate this authority to appropriate management personnel;

(B) Appoint the source selection team. However, when the Administrator will serve as the SSA, the Official-in-Charge of the cognizant Headquarters Program Office will appoint the team; and

(C) Provide the source selection team with appropriate guidance and special instructions to conduct the evaluation and selection procedures.

(b)(2) Approval authorities for Acquisition Plans and Acquisition Strategy Meetings are in accordance with 1807.103.

1815.304 Evaluation factors and significant subfactors.

1815.304-70 NASA evaluation factors.

(a) Typically, NASA establishes three evaluation factors: Mission Suitability, Cost/Price, and Past Performance. Evaluation factors may be further defined by subfactors. Although discouraged, subfactors may be further defined by elements.

Evaluation subfactors and any elements should be structured to identify significant discriminators, or "key swingers" - the essential information required to support a source selection decision. Too many subfactors and elements undermine effective proposal evaluation. All evaluation subfactors and elements should be clearly defined to avoid overlap and redundancy.

(b) Mission Suitability factor.

(1) This factor indicates the merit or excellence of the work to be performed or product to be delivered. It includes, as appropriate, both technical and management subfactors. Mission Suitability shall be numerically weighted and scored on a 1000-point scale.

(2) The Mission Suitability factor may identify evaluation subfactors to further define the content of the factor. Each Mission Suitability subfactor shall be weighted and scored. The adjectival rating percentages in 1815.305(a)(3)(A) shall be applied to the subfactor weight to determine the point score. The number of Mission Suitability subfactors is limited to four. The Mission Suitability evaluation subfactors and their weights shall be identified in the RFP.

(3) Although discouraged, elements that further define the content of each subfactor may be identified. Elements, if used, shall not be numerically weighted and scored. The total number of elements is limited to eight. Any Mission Suitability elements shall be identified in the RFP.

(4) For cost reimbursement acquisitions, the Mission Suitability evaluation shall also include the results of any cost realism analysis. The RFP shall notify offerors that the realism of proposed costs may significantly affect their Mission Suitability scores.

(c) Cost/Price factor. This factor evaluates the reasonableness and, if necessary, the cost realism, of proposed costs/prices. The Cost/Price factor is not numerically weighted or scored.

(d) Past Performance factor.

(1) This factor indicates the relevant quantitative and qualitative aspects of each offeror's record of performing services or delivering products similar in size, content, and complexity to the requirements of the instant acquisition.

(2) The RFP shall instruct offerors to submit data (including data from relevant Federal, State, and local governments and private contracts) that can be used to evaluate their past performance. Typically, the RFP will require:

(i) A list of contracts similar in size, content, and complexity to the instant acquisition, showing each contract number, the type of contract, a brief description of the work,

and a point of contact from the organization placing the contract. Normally, the requested contracts are limited to those received in the last three years. However, in acquisitions that require longer periods to demonstrate performance quality, such as hardware development, the time period should be tailored accordingly.

(ii) The identification and explanation of any cost overruns or underruns, completion delays, performance problems, and terminations.

(3) The contracting officer may start collecting past performance data before proposal receipt. One method for early evaluation of past performance is to request offerors to submit their past performance information in advance of the proposal due date. The RFP could also include a past performance questionnaire for offerors to send their previous customers with instructions to return the completed questionnaire to the Government. Failure of the offeror to submit its past performance information early or of the customers to submit the completed questionnaires shall not be a cause for rejection of the proposal nor shall it be reflected in the Government's evaluation of the offeror's past performance.

1815.305 Proposal evaluation.

(a) Each proposal shall be evaluated to identify and document:

(i) Any deficiencies;

(ii) All strengths and weaknesses, classified as significant or insignificant;

(iii) The numerical score and/or adjectival rating of each Mission Suitability subfactor and for the Mission Suitability factor in total;

(iv) Cost realism, if appropriate;

(v) The Past Performance evaluation factor; and

(vi) Any technical, schedule, and cost risk. Risks may result from the offeror's technical approach, manufacturing plan, selection of materials, processes, equipment, etc., or as a result of the cost, schedule, and performance impacts associated with their approaches. Risk evaluations must consider the probability of success, the impact of failure, and the alternatives available to meet the requirements. Risk assessments shall be considered in determining Mission Suitability strengths, weaknesses, deficiencies, and numerical/adjectival ratings. Identified risk areas and the potential for cost impact shall be considered in the cost or price evaluation.

(a)(1) Cost or price evaluation.

(A) Cost or pricing data shall not be requested in competitive acquisitions. See 1815.403-1(b)(1) and 1815.403-3(b).

(B) When contracting on a basis other than firm-fixed-price, the contracting officer shall perform price and cost realism analyses to assess the reasonableness and realism of the proposed costs. A cost realism analysis will determine if the costs in an offeror's proposal are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the various elements of the offeror's technical proposal. The analysis should include:

(a) The probable cost to the Government of each proposal, including any recommended additions or reductions in materials, equipment, labor hours, direct rates, and indirect rates. The probable cost should reflect the best estimate of the cost of any contract which might result from that offeror's proposal.

(b) The differences in business methods, operating procedures, and practices as they affect cost.

(c) A level of confidence in the probable cost assessment for each proposal.

(C) The cost realism analysis may result in adjustments to Mission Suitability scores in accordance with the procedure described in 1815.305(a)(3)(B).

(a)(2) Past performance evaluation.

(A) The Past Performance evaluation assesses the contractor's performance under previously awarded contracts.

(B) The evaluation may be limited to specific areas of past performance considered most germane for the instant acquisition. It may include any or all of the items listed in FAR 42.1501, and/or any other aspects of past performance considered pertinent to the solicitation requirements or challenges. Regardless of the areas of past performance selected for evaluation, the same areas shall be evaluated for all offerors in that acquisition.

(C) Questionnaires and interviews may be used to solicit assessments of the offeror's performance, as either a prime or subcontractor, from the offeror's previous customers.

(D) All pertinent information, including customer assessments and any offeror rebuttals, will be made part of the source selection records and included in the evaluation.

(a)(3) Technical Evaluation.

(A) Mission Suitability subfactors and the total Mission Suitability factor shall be evaluated using the following adjectival ratings, definitions, and percentile ranges.

ADJECTIVAL RATING PERCENTILE	DEFINITIONS	PERCENTILE RANGE
Excellent	A comprehensive and thorough proposal of exceptional merit with one or more significant strengths. No deficiency or significant weakness exists.	91-100
Very Good	A proposal having no deficiency and which demonstrates over-all competence. One or more significant strengths have been found, and strengths outbalance any weaknesses that exist.	71-90
Good	A proposal having no deficiency and which shows a reasonably sound response. There may be strengths or weaknesses, or both. As a whole, weaknesses not off-set by strengths do not significantly detract from the offeror's response.	51-70
Fair	A proposal having no deficiency and which has one or more weaknesses. Weaknesses outbalance any strengths.	31-50
Poor	A proposal that has one or more deficiencies or significant weaknesses that demonstrate a lack of overall competence or would require a major proposal revision to correct.	0-30

(B) When contracting on a cost reimbursement basis, the Mission Suitability evaluation shall reflect the results of any required cost realism analysis performed under the cost/price factor. A structured approach shall be used to adjust Mission Suitability scores based on the degree of assessed cost realism. An example of such an approach would:

(a) Establish a threshold at which Mission Suitability adjustments would start. The threshold should reflect the acquisition's estimating uncertainty (i.e., the higher the degree of estimating uncertainty, the higher the threshold);

(b) Use a graduated scale that proportionally adjusts a proposal's Mission Suitability score for its assessed cost realism;

(c) Affect a significant number of points to induce realistic pricing.

(d) Calculate a Mission Suitability point adjustment based on the percentage difference between proposed and probable cost as follows:

Services	Hardware Development	Point Adjustment
+/- 5 percent	+/- 30 percent	0
+/- 6 to 10 percent	+/- 31 to 40 percent	-50
+/- 11 to 15 percent	+/- 41 to 50 percent	-100
+/- 16 to 20 percent	+/- 51 to 60 percent	-150
+/- 21 to 30 percent	+/- 61 to 70 percent	-200
+/- more than 30 percent	+/- more than 70 percent	-300

(a)(4) The cost or price evaluation, specifically the cost realism analysis, often requires a technical evaluation of proposed costs. Contracting officers may provide technical evaluators a copy of the cost volume or relevant information from it to use in the analysis.

(b) The contracting officer is authorized to make the determination to reject all proposals received in response to a solicitation.

1815.305-70 Identification of unacceptable proposals.

(a) The contracting officer shall not complete the initial evaluation of any proposal when it is determined that the proposal is unacceptable because:

(1) It does not represent a reasonable initial effort to address the essential requirements of the RFP or clearly demonstrates that the offeror does not understand the requirements;

(2) In research and development acquisitions, a substantial design drawback is evident in the proposal, and sufficient correction or improvement to consider the proposal acceptable would require virtually an entirely new technical proposal; or

(3) It contains major technical or business deficiencies or omissions or out-of-line costs which discussions with the offeror could not reasonably be expected to cure.

(b) The contracting officer shall document the rationale for discontinuing the initial evaluation of a proposal in accordance with this section.

1815.305-71 Evaluation of a single proposal.

(a) If only one proposal is received in response to the solicitation, the contracting officer shall determine if the solicitation was flawed or unduly restrictive and

determine if the single proposal is an acceptable proposal. Based on these findings, the SSA shall direct the contracting officer to:

- (1) Award without discussions provided the contracting officer determines that adequate price competition exists (see FAR 15.403-1(c)(1)(ii));
 - (2) Award after negotiating an acceptable contract. (The requirement for submission of cost or pricing data shall be determined in accordance with FAR 15.403-1); or
 - (3) Reject the proposal and cancel the solicitation.
- (b) The procedure in 1815.305-71(a) also applies when the number of proposals equals the number of awards contemplated or when only one acceptable proposal is received.

1815.306 Exchanges with offerors after receipt of proposals.

(c)(2) A total of no more than three proposals shall be a working goal in establishing the competitive range. Field installations may establish procedures for approval of competitive range determinations commensurate with the complexity or dollar value of an acquisition.

(d)(3)(A) The contracting officer shall advise an offeror if, during discussions, an offeror introduces a new deficiency or significant weakness. The offeror can be advised during the course of the discussions or as part of the request for final proposal revision.

(B) The contracting officer shall identify any cost/price elements that do not appear to be justified and encourage offerors to submit their most favorable and realistic cost/price proposals, but shall not discuss, disclose, or compare cost/price elements of any other offeror. The contracting officer should question inadequate, conflicting, unrealistic, or unsupported cost information; differences between the offeror's proposal and most probable cost assessments; cost realism concerns; differences between audit findings and proposed costs; proposed rates that are too high/low; and labor mixes that do not appear responsive to the requirements. No agreement on cost/price elements or a "bottom line " is necessary.

(C) The contracting officer shall discuss contract terms and conditions so that a "model" contract can be sent to each offeror with the request for final proposal revisions. If the solicitation allows, any proposed technical performance capabilities above those specified in the RFP that have value to the Government and are considered proposal strengths should be discussed with the offeror and proposed for inclusion in that offeror's "model" contract. These items are not to be discussed with, or proposed to, other offerors. If the offeror declines to include these strengths in its

"model" contract, the Government evaluators should reconsider their characterization as strengths.

(e)(1) In no case shall the contracting officer relax or amend RFP requirements for any offeror without amending the RFP and permitting the other offerors an opportunity to propose against the relaxed requirements.

1815.307 Proposal revisions.

(b)(i) The request for final proposal revisions (FPRs) shall also:

(A) Identify any remaining deficiencies and significant weaknesses;

(B) Instruct offerors to incorporate all changes to their offers resulting from discussions, and require clear traceability from initial proposals;

(C) Require offerors to complete and execute the "model" contract, which includes any special provisions or performance capabilities the offeror proposed above those specified in the RFP;

(D) Caution offerors against unsubstantiated changes to their proposals; and

(E) Establish a page limit for FPRs.

(ii) Approval of the Associate Administrator for Procurement (Code HS) is required to reopen discussions for acquisitions of \$50 million or more. Approval of the procurement officer is required for all other acquisitions.

(iii) Proposals are rescored based on FPR evaluations. Scoring changes between initial and FPRs shall be clearly traceable.

1815.308 Source selection decision.

(1) All significant evaluation findings shall be fully documented and considered in the source selection decision. A clear and logical audit trail shall be maintained for the rationale for ratings and scores, including a detailed account of the decisions leading to the selection. Selection is made on the basis of the evaluation criteria established in the RFP.

(2) Before award, the SSA shall sign a source selection statement that clearly and succinctly justifies the selection. Source selection statements must describe: the acquisition; the evaluation procedures; the substance of the Mission Suitability evaluation; and the evaluation of the Cost/Price and Past Performance factors. The statement also addresses unacceptable proposals, the competitive range determination, late proposals, or any other considerations pertinent to the decision. The statement

shall not reveal any confidential business information. Except for certain major system acquisition competitions (see 1815.506-70), source selection statements shall be releasable to competing offerors and the general public upon request. The statement shall be available to the Debriefing Official to use in postaward debriefings of unsuccessful offerors and shall be provided to debriefed offerors upon request.

(3) Once the selection decision is made, the contracting officer shall award the contract.

1815.370 NASA source evaluation boards.

(a) The source evaluation board (SEB) procedures shall be used for those acquisitions identified in 1815.300-70(a)(1)(i).

(b) General. The SEB assists the SSA by providing expert analyses of the offerors' proposals in relation to the evaluation factors, subfactors, and elements contained in the solicitation. The SEB will prepare and present its findings to the SSA, avoiding trade-off judgments among either the individual offerors or among the evaluation factors. The SEB will not make recommendations for selection to the SSA.

(c) Designation.

(1) The SEB shall be comprised of competent individuals fully qualified to identify the strengths, weaknesses, and risks associated with proposals submitted in response to the solicitation. The SEB shall be appointed as early as possible in the acquisition process, but not later than acquisition plan or acquisition strategy meeting approval.

(2) While SEB participants are normally drawn from the cognizant installation, personnel from other NASA installations or other Government agencies may participate. When it is necessary to disclose the proposal (in whole or in part) outside the Government, approval shall be obtained in accordance with 1815.207-70.

(3) When Headquarters retains SSA authority, the Headquarters Office of Procurement (Code HS) must concur on the SEB appointments. Qualifications of voting members, including functional title, grade level, and related SEB experience, shall be provided.

(d) Organization.

(1) The organization of an SEB is tailored to the requirements of the particular acquisition. This can range from the simplest situation, where the SEB conducts the evaluation and fact-finding without the use of committees or panels/consultants (as described in paragraphs (d)(4) and (5) of this section) to a highly complex situation involving a major acquisition where two or more committees are formed and these, in

turn, are assisted by special panels or consultants in particular areas. The number of committees or panels/consultants shall be kept to a minimum.

(2) The SEB Chairperson is the principal operating executive of the SEB. The Chairperson is expected to manage the team efficiently without compromising the validity of the findings provided to the SSA as the basis for a sound selection decision.

(3) The SEB Recorder functions as the principal administrative assistant to the SEB Chairperson and is principally responsible for logistical support and recordkeeping of SEB activities.

(4) An SEB committee functions as a factfinding arm of the SEB, usually in a broad grouping of related disciplines (e.g., technical or management). The committee evaluates in detail each proposal, or portion thereof, assigned by the SEB in accordance with the approved evaluation factors, subfactors, and elements, and summarizes its evaluation in a written report to the SEB. The committee will also respond to requirements assigned by the SEB, including further justification or reconsideration of its findings. Committee chairpersons shall manage the administrative and procedural matters of their committees.

(5) An SEB panel or consultant functions as a factfinding arm of the committee in a specialized area of the committee's responsibilities. Panels are established or consultants named when a particular area requires deeper analysis than the committee can provide.

(6) The total of all such evaluators (committees, panels, consultants, etc. excluding SEB voting members and ex officio members) shall be limited to a maximum of 20, unless approved in writing by the procurement officer.

(e) Voting members.

(1) Voting members of the SEB shall include people who will have key assignments on the project to which the acquisition is directed. However, it is important that this should be tempered to ensure objectivity and to avoid an improper balance. It may even be appropriate to designate a management official from outside the project as SEB Chairperson.

(2) Non-government personnel shall not serve as voting members of an SEB.

(3) The SEB shall review the findings of committees, panels, or consultants and use its own collective judgment to develop the SEB evaluation findings reported to the SSA. All voting members of the SEB shall have equal status as rating officials.

(4) SEB membership shall be limited to a maximum of 7 voting individuals. Wherever feasible, an assignment to SEB membership as a voting member shall be on a full-time basis. When not feasible, SEB membership shall take precedence over other duties.

(5) The following people shall be voting members of all SEBs:

(i) Chairperson.

(ii) A senior, key technical representative for the project.

(iii) An experienced procurement representative.

(iv) A senior Safety & Mission Assurance (S&MA) representative, as appropriate.

(v) Committee chairpersons (except where this imposes an undue workload).

(f) Ex officio members.

(1) The number of nonvoting ex officio (advisory) members shall be kept as small as possible. Ex officio members should be selected for the experience and expertise they can provide to the SEB. Since their advisory role may require access to highly sensitive SEB material and findings, ex officio membership for persons other than those identified in paragraph (f)(3) of this section is discouraged.

(2) Nonvoting ex officio members may state their views and contribute to the discussions in SEB deliberations, but they may not participate in the actual rating process. However, the SEB recorder should be present during rating sessions.

(3) For field installation selections, the following shall be nonvoting ex officio members on all SEBs:

(i) Chairpersons of SEB committees, unless designated as voting members.

(ii) The procurement officer of the installation, unless designated a voting member.

(iii) The contracting officer responsible for the acquisition, unless designated a voting member.

(iv) The Chief Counsel and/or designee of the installation.

(v) The installation small business specialist.

(vi) The SEB recorder.

(g) Evaluation.

(1) If committees are used, the SEB Chairperson shall send them the proposals or portions thereof to be evaluated, along with instructions regarding the expected function of each committee, and all data considered necessary or helpful.

(2) While oral reports may be given to the SEB, each committee shall submit a written report which should include the following:

(i) Copies of individual worksheets and supporting comments to the lowest level evaluated;

(ii) An evaluation sheet summarized for the committee as a whole; and

(iii) A statement for each proposal describing any strengths, deficiencies, or significant weaknesses which significantly affected the evaluation and stating any reservations or concerns, together with supporting rationale, which the committee or any of its members want to bring to the attention of the SEB.

(3) Clear traceability must exist at all levels of the SEB process. All reports submitted by committees or panels will be retained as part of the SEB records.

(4) Each voting SEB member shall thoroughly review each proposal and any committee reports and findings. The SEB shall rate or score the proposals for each evaluation factor and subfactor according to its own collective judgment. SEB minutes shall reflect this evaluation process.

(h) SEB presentation.

(1) The SEB Chairperson shall brief the SSA on the results of the SEB deliberations to permit an informed and objective selection of the best source(s) for the particular acquisition.

(2) The presentation shall focus on the significant strengths, deficiencies, and significant weaknesses found in the proposals, the probable cost of each proposal, and any significant issues and problems identified by the SEB. This presentation must explain any applicable special standards of responsibility; evaluation factors, subfactors, and elements; the significant strengths and significant weaknesses of the offerors; the Government cost estimate, if applicable; the offerors' proposed cost/price; the probable cost; the proposed fee arrangements; and the final adjectival ratings and scores to the subfactor level.

(3) Attendance at the presentation is restricted to people involved in the selection process or who have a valid need to know. The designated individuals attending the SEB presentation(s) shall:

(i) Ensure that the solicitation and evaluation processes complied with all applicable agency policies and that the presentation accurately conveys the SEB's activities and findings;

(ii) Not change the established evaluation factors, subfactors, elements, weights, or scoring systems; or the substance of the SEB's findings. They may, however, advise the SEB to rectify procedural omissions, irregularities or inconsistencies, substantiate its findings, or revise the presentation.

(4) The SEB recorder will coordinate the formal presentation including arranging the time and place of the presentation, assuring proper attendance, and distributing presentation material.

(5) For Headquarters selections, the Headquarters Office of Procurement (Code HS) will coordinate the presentation, including approval of attendees. When the Administrator is the SSA, a preliminary presentation should be made to the center director and to the Official-in-Charge of the cognizant Headquarters Program Office.

(i) Recommended SEB presentation format.

(1) Identification of the Acquisition. Identifies the installation, the nature of the services or hardware to be acquired, some quantitative measure including the Government cost estimate for the acquisition, and the planned contractual arrangement. Avoids detailed objectives of the acquisition.

(2) Background. Identifies any earlier phases of a phased acquisition or, as in the case of continuing support services, identifies the incumbent and any consolidations or proposed changes from the existing structure.

(3) Evaluation Factors, Subfactors, and Elements. Explains the evaluation factors, subfactors, and elements, and any special standards of responsibility. Lists the relative order of importance of the evaluation factors and the numerical weights of the Mission Suitability subfactors. Presents the adjectival scoring system used in the Mission Suitability and Past Performance evaluations.

(4) Sources. Indicates the number of offerors solicited and the number of offerors expressing interest (e.g., attendance at a preproposal conference). Identifies the offerors submitting proposals, indicating any small businesses, small disadvantaged businesses, and women-owned businesses.

(5) Summary of Findings. Lists the initial and final Mission Suitability ratings and scores, the offerors' proposed costs/prices, and any assessment of the probable costs. Introduces any clear discriminator, problem, or issue which could affect the selection. Addresses any competitive range determination.

(6) Significant Strengths, Deficiencies, and Significant Weaknesses of Offerors.

Summarizes the SEB's findings, using the following guidelines:

(i) Present only the significant strengths, deficiencies, and significant weaknesses of individual offerors.

(ii) Directly relate the significant strengths, deficiencies, and significant weaknesses to the evaluation factors, subfactors, and elements.

(iii) Indicate the results and impact, if any, of discussions and FPRs on ratings and scores.

(7) Final Mission Suitability Ratings and Scores. Summarizes the evaluation subfactors and elements, the maximum points achievable, and the scores of the offerors in the competitive range.

(8) Final Cost/Price Evaluation. Summarizes proposed costs/prices and any probable costs associated with each offeror including proposed fee arrangements. Presents the data as accurately as possible, showing SEB adjustments to achieve comparability. Identifies the SEB's confidence in the probable costs of the individual offerors, noting the reasons for low or high confidence.

(9) Past Performance. Reflects the summary conclusions, supported by specific case data.

(10) Special Interest. Includes only information of special interest to the SSA that has not been discussed elsewhere, e.g., procedural errors or other matters that could affect the selection decision.

(j) A source selection statement shall be prepared in accordance with 1815.308. For installation selections, the installation Chief Counsel or designee will prepare the source selection statement. For Headquarters selections, the Office of General Counsel or designee will prepare the statement.

Subpart 1815.4--Contract Pricing

1815.403 Obtaining cost or pricing data.

1815.403-1 Prohibition on obtaining cost or pricing data.

(b)(1) The adequate price competition exception is applicable to both fixed-price and cost-reimbursement type acquisitions. Contracting officers shall assume that all competitive acquisitions qualify for this exception.

(c)(4) Waivers of the requirement for submission of cost or pricing data shall be prepared in accordance with FAR 1.704. A copy of each waiver shall be sent to the Headquarters Office of Procurement (Code HK).

1815.403-170 Acquisitions with the Canadian Commercial Corporation (CCC).

NASA has waived the requirement for the submission of cost or pricing data when contracting with the CCC. This waiver applies through March 31, 1999. The CCC will provide assurance of the fairness and reasonableness of the proposed prices, and will also provide for follow-up audit activity to ensure that excess profits are found and refunded to NASA. However, contracting officers shall ensure that the appropriate level of information other than cost or pricing data is submitted to permit any required Government cost/price analysis.

1815.403-3 Requiring information other than cost or pricing data.

(b) As indicated in 1815.403-1(b)(1), the adequate price competition exception applies to all competitive acquisitions. For other than firm-fixed-price competitions, only the minimum information other than cost or pricing data necessary to ensure price reasonableness and assess cost realism should be requested. For firm-fixed-price acquisitions, the contracting officer shall not request any cost information, unless proposed prices appear unreasonable or unrealistically low given the offeror's proposed approach and there are concerns that the contractor may default.

1815.403-4 Requiring cost or pricing data.

(b)(2) If a certificate of current cost or pricing data is made applicable as of a date other than the date of price agreement, the agreed date should generally be within two weeks of the date of that agreement.

1815.404 Proposal analysis.

1815.404-2 Information to support proposal analysis.

(a)(1)(A) A field pricing report consists of a technical report and an audit report by the cognizant contract audit activity. Contracting officers should request a technical report from the ACO only if NASA resources are not available.

(B) When the required participation of the ACO or auditor involves merely a verification of information, contracting officers should obtain this verification from the cognizant office by telephone rather than formal request of field pricing support.

(C) When the cost proposal is for a product of a follow-on nature, contracting officers shall ensure that the following items, at a minimum are considered: actuals incurred under the previous contract, learning experience, technical and production analysis,

and subcontract proposal analysis. This information may be obtained through NASA resources or the cognizant DCMC ACO or DCAA.

(D) Requests for field pricing assistance may be made on NASA Form 1434, Letter of Request for Pricing-Audit-Technical Evaluation Services.

1815.404-4 Profit.

(b)(1)(i) The NASA structured approach for determining profit or fee objectives, described in 1815.404-470, shall be used to determine profit or fee objectives for conducting negotiations in those acquisitions that require cost analysis.

(ii) The use of the NASA structured approach for profit or fee is not required for:

(a) Architect-engineer contracts;

(b) Management contracts for operation and/or maintenance of Government facilities;

(c) Construction contracts;

(d) Contracts primarily requiring delivery of material supplied by subcontractors;

(e) Termination settlements;

(f) Cost-plus-award-fee contracts (however, contracting officers may find it advantageous to perform a structured profit/fee analysis as an aid in arriving at an appropriate fee arrangement); and

(g) Contracts having unusual pricing situations when the procurement officer determines in writing that the structured approach is unsuitable.

1815.404-470 NASA structured approach for profit or fee objective.

(a) General.

(1) The NASA structured approach for determining profit or fee objectives is a system of assigning weights to cost elements and other factors to calculate the objective. Contracting officers shall use NASA Form 634 to develop the profit or fee objective and shall use the weight ranges listed after each category and factor on the form after considering the factors in this subsection. The rationale supporting the assigned weights shall be documented in the PPM in accordance with 1815.406-170(d)(3).

(2)(i) The structured approach was designed for determining profit or fee objectives for commercial organizations. However, the structured approach shall be used as a basis for arriving at fee objectives for nonprofit organizations (FAR Subpart 31.7),

excluding educational institutions (FAR Subpart 31.3), in accordance with paragraph (a)(2)(ii) of this section. (It is NASA policy not to pay profit or fee on contracts with educational institutions.)

(ii) For contracts with nonprofit organizations under which profits or fees are involved, an adjustment of up to 3 percent shall be subtracted from the total profit/fee objective. In developing this adjustment, it will be necessary to consider the following factors:

(A) Tax position benefits;

(B) Granting of financing through letters of credit;

(C) Facility requirements of the nonprofit organization; and

(D) Other pertinent factors that may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

(b) Contractor effort.

(1) This factor takes into account what resources are necessary and what the contractor must do to meet the contract performance requirements. The suggested cost categories under this factor are for reference purposes only. The format of individual proposals will vary, but these broad categories provide a sample structure for the evaluation of all categories of cost. Elements of cost shall be separately listed under the appropriate category and assigned a weight from the category range.

(2) Regardless of the categories of cost defined for a specific acquisition, neither the cost of facilities nor the amount calculated for the cost of money for facilities capital shall be included as part of the cost base in column 1.(a) in the computation of profit or fee.

(3) Evaluation of this factor requires analyzing the cost content of the proposed contract as follows:

(i) Material acquisition (subcontracted items, purchased parts, and other material).

(A) Consider the managerial and technical efforts necessary for the prime contractor to select subcontractors and administer subcontracts, including efforts to introduce and maintain competition. These evaluations shall be performed for purchases of raw materials or basic commodities; purchases of processed material, including all types of components of standard or near-standard characteristics; and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end item. In performing the evaluation, also consider whether the contractor's purchasing

program makes a substantial contribution to the performance of a contract through the use of subcontracting programs involving many sources, new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor.

(B) Recognized costs proposed as direct material costs, such as scrap charges, shall be treated as material for profit/fee evaluation. If intracompany transfers are accepted at price in accordance with FAR 31.205-26(e), they shall be evaluated as a single element under the material acquisition category. For other intracompany transfers, the constituent elements of cost shall be identified and weighted under the appropriate cost category, i.e., material, labor, and overhead.

(ii) Direct labor (engineering, service, manufacturing, and other labor).

(A) Analysis of the various items of cost should include evaluation of the comparative quality and level of the engineering talents, service contract labor, manufacturing skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit/fee weights, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed, in contrast to journeyman engineering effort or supporting personnel.

(B) Evaluate service contract labor in a like manner by assigning higher weights to engineering, professional, or highly technical skills and lower weights to semiprofessional or other skills required for contract performance.

(C) Similarly, the variety of engineering, manufacturing and other types of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, subtypes of labor (for example, quality control, and receiving and inspection) proposed separately from engineering, service, or manufacturing labor should be included in the most appropriate labor type. However, the same evaluation considerations as outlined in this section will be applied.

(iii) Overhead and general management (G&A).

(A) Analysis of overhead and G&A includes the evaluation of the makeup of these expenses, how much they contribute to contract performance, and the degree of substantiation provided for rates proposed in future years.

(B) Contracting officers should also consider the historical accuracy of the contractor's proposed overheads as well as the ability to control overhead pool expenses.

(C) The contracting officer, in an evaluation of the overhead rate of a contractor using a single indirect cost rate, should break out the applicable sections of the composite

rate which could be classified as engineering overhead, manufacturing overhead, other overhead pools, and G&A expenses, and apply the appropriate weight.

(iv) **Other costs.** Include all other direct costs associated with contractor performance under this item, for example, travel and relocation, direct support, and consultants. Analysis of these items of cost should include their nature and how much they contribute to contract performance.

(c) **Other factors.**

(1) **Cost risk.** The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, if a portion of the risk has been shifted to the Government through cost-reimbursement or price redetermination provisions, unusual contingency provisions, or other risk reducing measures, the amount of profit or fee should be less than for arrangements under which the contractor assumes all the risk. This factor is one of the most important in arriving at prenegotiation profit/fee objectives.

(i) Other risks on the part of the contractor, such as loss of reputation, losing a commercial market, or losing potential profit/fee in other fields, shall not be considered in this factor. Similarly, any risk on the part of the contracting office, such as the risk of not acquiring an effective space vehicle, is not within the scope of this factor.

(ii) The degree of cost responsibility assumed by the contractor is related to the share of total contract cost risk assumed by the contractor through the selection of contract type. The weight for risk by contract type would usually fall within the 0-to-3 percent range for cost-reimbursement contracts and 3-to-7 percent range for fixed-price contracts.

(A) Within the ranges set forth in paragraph (c)(1)(ii) of this subsection, a cost-plus-fixed-fee contract normally would not justify a reward for risk in excess of 0 percent, unless the contract contains cost risk features such as ceilings on overheads, etc. In such cases, up to 0.5 percent may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the range, with weightings directly related to such factors as confidence in target cost, share ratio of fees, etc.

(B) The range for fixed-price type contracts is wide enough to accommodate the various types of fixed-price arrangements. Weighting should be indicative of the price risk assumed and the end item required, with only firm-fixed-price contracts with requirements for prototypes or hardware reaching the top end of the range.

(iii) The cost risk arising from contract type is not the only form of cost risk to consider.

(A) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a particular contract type. This consideration should be a part of the contracting officer's overall evaluation in selecting a weight to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor, and the contract cost risk weight may, as a result, be below the range that would otherwise apply for the contract type proposed. The contract cost risk weight should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts unless those subcontract costs represent a substantial transfer of the contractor's risk.

(B) In making a contract cost risk evaluation in an acquisition that involves definitization of a letter contract, unpriced change orders, or unpriced orders under BOAs, consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk is substantially unchanged. To be equitable, determination of a profit/fee weight for application to the total of all recognized costs, both incurred and yet to be expended, must be made with consideration of all attendant circumstances and should not be based solely on the portion of costs incurred, or percentage of work completed, before definitization.

(2) **Investment.** NASA encourages its contractors to perform their contracts with a minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. Evaluation of this factor should include an analysis of the contractor's facilities and the frequency of payments.

(i) To evaluate how facilities contribute to the profit/fee objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors furnishing their own facilities that significantly contribute to lower total contract costs should be provided additional profit/fee. On the other hand, contractors that rely on the Government to provide or finance needed facilities should receive a correspondingly lower profit/fee. Cases between the examples in this paragraph should be evaluated on their merits, with either a positive or negative adjustment, as appropriate, in the profit/fee objective. However, where a highly facilitized contractor is to perform a contract that does not benefit from this facilitization, or when a contractor's use of its facilities has a minimum cost impact on the contract, profit/fee need not be adjusted.

(ii) In analyzing payments, consider the frequency of payments by the Government to the contractor and unusual payments. The key to this weighting is proper consideration of the impact the contract will have on the contractor's cash flow.

Generally, negative consideration should be given for payments more frequent than monthly, with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly.

(3) **Performance.** The contractor's past and present performance should be evaluated in such areas as product quality, meeting performance schedules, efficiency in cost control (including the need for and reasonableness of costs incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions.

(4) **Subcontract program management.** Subcontract program management includes evaluation of the contractor's commitment to its competition program and its past and present performance in competition in subcontracting. If a contractor has consistently achieved excellent results in these areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit or fee. Conversely, a poor record in this regard should result in a lower profit or fee.

(5) **Federal socioeconomic programs.** In addition to rewarding contractors for unusual initiative in supporting Government socioeconomic programs, failure or unwillingness on the part of the contractor to support these programs should be viewed as evidence of poor performance for the purpose of establishing this profit/fee objective factor.

(6) **Special situations.**

(i) Occasionally, unusual contract pricing arrangements are made with the contractor under which it agrees to accept a lower profit or fee for changes or modifications within a prescribed dollar value. In such circumstances, the contractor should receive favorable consideration in developing the profit/fee objective.

(ii) This factor need not be limited to situations that increase profit/fee levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract, for example, products with commercial application.

(d) **Facilities capital cost of money.**

(1) When facilities capital cost of money is included as an item of cost in the contractor's proposal, it shall not be included in the cost base for calculating profit/fee. In addition, a reduction in the profit/fee objective shall be made in the amount equal to the facilities capital cost of money allowed in accordance with FAR 31.205-10(a)(2).

(2) CAS 417, cost of money as an element of the cost of capital assets under construction, should not appear in contract proposals. These costs are included in the initial value of a facility for purposes of calculating depreciation under CAS 414.

1815.404-471 Payment of profit or fee under letter contracts.

NASA's policy is to pay profit or fee only on definitized contracts.

1815.406 Documentation.

1815.406-1 Prenegotiation objectives.

(b)(i) Before conducting negotiations requiring installation or Headquarters review, contracting officers or their representatives shall prepare a prenegotiation position memorandum setting forth the technical, business, contractual, pricing, and other aspects to be negotiated.

(ii) A prenegotiation position memorandum is not required for contracts awarded under the competitive negotiated procedures of FAR 15.3 and 1815.3.

1815.406-170 Content of the prenegotiation position memorandum.

The prenegotiation position memorandum (PPM) should fully explain the contractor and Government positions. Since the PPM will ultimately become the basis for negotiation, it should be structured to track to the price negotiation memorandum (see FAR 15.406-3 and 1815.406-3). In addition to the information described in FAR 15.406-1 and, as appropriate, 15.406-3(a), the PPM should address the following subjects, as applicable, in the order presented:

(a) **Introduction.** Include a description of the acquisition and a history of prior acquisitions for the same or similar items. Address the extent of competition and its results. Identify the contractor and place of performance (if not evident from the description of the acquisition). Document compliance with law, regulations and policy, including JOFOC, synopsis, EEO compliance, and current status of contractor systems (see FAR 15.406-3(a)(4)). In addition, the negotiation schedule should be addressed and the Government negotiation team members identified by name and position.

(b) **Type of contract contemplated.** Explain the type of contract contemplated and the reasons for its suitability.

(c) **Special features and requirements.** In this area, discuss any special features (and related cost impact) of the acquisition, including such items as--

(1) Letter contract or precontract costs authorized and incurred;

- (2) Results of preaward survey;
- (3) Contract option requirements;
- (4) Government property to be furnished;
- (5) Contractor/Government investment in facilities and equipment (and any modernization to be provided by the contractor/Government); and
- (6) Any deviations, special clauses, or unusual conditions anticipated, for example, unusual financing, warranties, EPA clauses and when approvals were obtained, if required.

(d) **Cost analysis.** For the basic requirement, and any option, include--

(1) A parallel tabulation, by element of cost and profit/fee, of the contractor's proposal and the Government's negotiation objective. The negotiation objective represents the fair and reasonable price the Government is willing to pay for the supplies/services. For each element of cost, compare the contractor's proposal and the Government position, explain the differences and how the Government position was developed, including the estimating assumptions and projection techniques employed, and how the positions differ in approach. Include a discussion of excessive wages found (if applicable) and their planned resolution. Explain how historical costs, including costs incurred under a letter contract (if applicable), were used in developing the negotiation objective.

(2) Significant differences between the field pricing report (including any audit reports) and the negotiation objectives and/or contractor's proposal shall be highlighted and explained. For each proposed subcontract meeting the requirement of FAR 15.404-3(c), there shall be a discussion of the price and, when appropriate, cost analyses performed by the contracting officer, including the negotiation objective for each such subcontract. The discussion of each major subcontract shall include the type of subcontract, the degree of competition achieved by the prime contractor, the price and, when appropriate, cost analyses performed on the subcontractor's proposal by the prime contractor, any unusual or special pricing or finance arrangements, and the current status of subcontract negotiations.

(3) The rationale for the Government's profit/fee objectives and, if appropriate, a completed copy of the NASA Form 634, Structured Approach--Profit/Fee Objective, and DD Form 1861, Contract Facilities Capital Cost of Money, should be included. For incentive and award fee contracts, describe the planned arrangement in terms of share lines, ceilings, and cost risk.

(e) **Negotiation approval sought.** The PPM represents the Government's realistic assessment of the fair and reasonable price for the supplies and services to be

acquired. If negotiations subsequently demonstrate that a higher dollar amount (or significant term or condition) is reasonable, the contracting officer shall document the rationale for such a change and request approval to amend the PPM from the original approval authority.

1815.406-171 Installation reviews.

Each contracting activity shall establish procedures to review all prenegotiation position memoranda. The scope of coverage, exact procedures to be followed, levels of management review, and contract file documentation requirements should be directly related to the dollar value and complexity of the acquisition. The primary purpose of these reviews is to ensure that the negotiator, or negotiation team, is thoroughly prepared to enter into negotiations with a well-conceived, realistic, and fair plan.

1815.406-172 Headquarters reviews.

(a) When a prenegotiation position has been selected for Headquarters review and approval, the contracting activity shall submit to the Office of Procurement (Code HS) one copy each of the prenegotiation position memorandum, the contractor's proposal, the Government technical evaluation, and all pricing reports (including any audit reports).

(b) The required information described in paragraph (a) of this section shall be furnished to Headquarters as soon as practicable and sufficiently in advance of the planned commencement of negotiations to allow a reasonable period of time for Headquarters review. Electronic submittal is acceptable.

1815.406-3 Documenting the negotiation.

(a)(i) The price negotiation memorandum (PNM) serves as a detailed summary of: the technical, business, contractual, pricing (including price reasonableness), and other elements of the contract negotiated; and the methodology and rationale used in arriving at the final negotiated agreement.

(ii) A PNM is not required for a contract awarded under competitive negotiated procedures. However, the information required by FAR 15.406-3 shall be reflected in the evaluation and selection documentation to the extent applicable.

(iii) When the PNM is a "stand-alone" document, it shall contain the information required by the FAR and NFS for both PPMs and PNMs. However, when a PPM has been prepared under 1815.406-1, the subsequent PNM need only provide any information required by FAR 15.406-3 that was not provided in the PPM, as well as any changes in the status of factors affecting cost elements (e.g., use of different rates,

hours, or subcontractors; wage rate determinations; or the current status of the contractor's systems)

1815.407 Special cost or pricing areas.

1815.407-2 Make-or-buy programs.

(e)(1) Make-or-buy programs should not include items or work efforts estimated to cost less than \$500,000.

1815.408 Solicitation provisions and contract clauses.

1815.408-70 NASA solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 1852.215-78, Make-or-Buy Program Requirements, in solicitations requiring make-or-buy programs as provided in FAR 15.407-2(c). This provision shall be used in conjunction with the clause at FAR 52.215-9, Changes or Additions to Make-or-Buy Program. The contracting officer may add additional paragraphs identifying any other information required in order to evaluate the program.

(b) The contracting officer shall insert the clause at 1852.215-79, Price Adjustment for "Make-or-Buy" Changes, in contracts that include FAR 52.215-9 with its Alternate I or II. Insert in the appropriate columns the items that will be subject to a reduction in the contract value.

Subpart 1815.5 --Preaward, Award, and Postaward Notifications, Protests, and Mistakes

1815. 504 Award to successful offeror.

The reference to notice of award in FAR 15.504 on negotiated acquisitions is a generic one. It relates only to the formal establishment of a contractual document obligating both the Government and the offeror. The notice is effected by the transmittal of a fully approved and executed definitive contract document, such as the award portion of SF 33, SF 26, SF 1449, or SF 1447, or a letter contract when a definitized contract instrument is not available but the urgency of the requirement necessitates immediate performance. In this latter instance, the procedures in 1816.603 for approval and issuance of letter contracts shall be followed.

1815. 506 Postaward debriefing of offerors.

1815. 506-70 Debriefing of offerors - Major System acquisitions.

(a) When an acquisition is conducted in accordance with the Major System acquisition procedures in Part 1834 and multiple offerors are selected, the debriefing will be limited in such a manner that it does not prematurely disclose innovative concepts, designs, and approaches of the successful offerors that would result in a transfusion of ideas.

(b) When Phase B awards are made for alternative system design concepts, the source selection statements shall not be released to competing offerors or the general public until the release of the source selection statement for Phase C/D without the approval of the Associate Administrator for Procurement (Code HS).

Subpart 1815.6--Unsolicited Proposals

1815.602 Policy.

(1) An unsolicited proposal may result in the award of a contract, grant, cooperative agreement, or other agreement. If a grant or cooperative agreement is used, the NASA Grant and Cooperative Agreement Handbook (NPG 5800.1) applies.

(2) Renewal proposals, (i.e., those for the extension or augmentation of current contracts) are subject to the same FAR and NFS regulations, including the requirements of the Competition in Contracting Act, as are proposals for new contracts.

1815.604 Agency points of contact.

(a) Information titled "Guidance for the Preparation and Submission of Unsolicited Proposals" is available on the Internet at <http://procure.msfc.nasa.gov/nashdbk.html>. A deviation is required for use of any modified or summarized version of the Internet information or for alternate means of general dissemination of unsolicited proposal information.

1815.606 Agency procedures.

(a) NASA will not accept for formal evaluation unsolicited proposals initially submitted to another agency or to the Jet Propulsion Laboratory (JPL) without the offeror's express consent.

(b)(i) NASA Headquarters and each NASA field installation shall designate a point of contact for receiving and coordinating the handling and evaluation of unsolicited proposals.

(ii) Each installation shall establish procedures for handling proposals initially received by other offices within the installation. Misdirected proposals shall be forwarded by the point of contact to the proper installation. Points of contact are also

responsible for providing guidance to potential offerors regarding the appropriate NASA officials to contact for general mission-related inquiries or other preproposal discussions.

(iii) Points of contact shall keep records of unsolicited proposals received and shall provide prompt status information to requesters. These records shall include, at a minimum, the number of unsolicited proposals received, funded, and rejected during the fiscal year; the identity of the offerors; and the office to which each was referred. The numbers shall be broken out by source (large business, small business, university, or nonprofit institution).

1815.606-70 Relationship of unsolicited proposals to NRAs.

An unsolicited proposal for a new effort or a renewal, identified by an evaluating office as being within the scope of an open NRA, shall be evaluated as a response to that NRA (see 1835.016-70), provided that the evaluating office can either:

(a) State that the proposal is not at a competitive disadvantage, or

(b) Give the offeror an opportunity to amend the unsolicited proposal to ensure compliance with the applicable NRA proposal preparation instructions. If these conditions cannot be met, the proposal must be evaluated separately.

1815.609 Limited use of data.

1815.609-70 Limited use of proposals.

Unsolicited proposals shall be evaluated outside the Government only to the extent authorized by, and in accordance with, the procedures prescribed in, 1815.207-70.

1815.670 Foreign proposals.

Unsolicited proposals from foreign sources are subject to NMI 1362.1, Initiation and Development of International Cooperation in Space and Aeronautical Programs.

Subpart 1815.70-Ombudsman

1815.7001 NASA Ombudsman Program.

NASA's implementation of an ombudsman program is in NPG 5101.33, Procurement Guidance.

1815.7002 Synopses of solicitations and contracts.

In all synopses announcing competitive acquisitions, the contracting officer shall indicate that the clause at 1852.215-84, Ombudsman, is applicable. This may be accomplished by referencing the clause number and identifying the installation Ombudsman.

1815.7003 Contract clause.

The contracting officer shall insert a clause substantially the same as the one at 1852.215-84, Ombudsman, in all solicitations (including draft solicitations) and contracts.

16.307(a) and (g), the contracting officer should include the clause at 1852.216-89, Assignment and Release Forms.

Subpart 1816.4--Incentive Contracts

1816.402 Application of pre-determined, formula-type incentives.

1816.402-2 Technical performance incentives.

1816.402-270 NASA technical performance incentives.

(a) A performance incentive shall be included in all contracts where the primary deliverable(s) is (are) hardware and where total value (including options) is greater than \$25 million unless it is determined that the nature of the acquisition (for example, commercial off-the-shelf computers) would not effectively lend itself to a performance incentive. Any exception to this requirement shall be approved in writing by the Center Director. Performance incentives may be included in hardware contracts valued under \$25 million at the discretion of the procurement officer. Performance incentives, which are objective and measure hardware performance after delivery and acceptance, are separate from other incentives, such as cost or delivery incentives.

(b) When a performance incentive is used, it shall be structured to be both positive and negative based on hardware performance after delivery and acceptance. In doing so, the contract shall establish a standard level of performance based on the salient hardware performance requirement. This standard performance level is normally the contract's minimum performance requirement. No incentive amount is earned at this standard performance level. Discrete units of measurement based on the same performance parameter shall be identified for performance both above and below the standard. Specific incentive amounts shall be associated with each performance level from maximum beneficial performance (maximum positive incentive) to minimal beneficial performance or total failure (maximum negative incentive). The relationship between any given incentive, both positive and negative, and its

associated unit of measurement should reflect the value to the Government of that level of hardware performance. The contractor should not be rewarded for above-standard performance levels that are of no benefit to the Government.

(c) The final calculation of the performance incentive shall be done when hardware performance, as defined in the contract, ceases or when the maximum positive incentive is reached. When hardware performance ceases below the standard established in the contract, the Government shall calculate the amount due and the contractor shall pay the Government that amount. Once hardware performance exceeds the standard, the contractor may request payment of the incentive amount associated with a given level of performance, provided that such payments shall not be more frequent than monthly. When hardware performance ceases above the standard level of performance, or when the maximum positive incentive is reached, the Government shall calculate the final performance incentive earned and unpaid and promptly remit it to the contractor. The exclusion at FAR 16.405(e)(3) does not apply to decisions made as to the amount(s) of positive or negative incentive.

(d) When the deliverable hardware lends itself to multiple, meaningful measures of performance, multiple performance incentives may be established. When the contract requires the sequential delivery of several hardware items (e.g., multiple spacecraft), separate performance incentive structures may be established to parallel the sequential delivery and use of the deliverables.

(e) In determining the value of the maximum performance incentives available, the contracting officer shall follow the following rules.

(1) For a CPFF contract, the sum of the maximum positive performance incentive and fixed fee shall not exceed the limitations in FAR 15.404-4(c)(4)(i).

(2) For an award fee contract.

(i) The individual values of the maximum positive performance incentive and the total potential award fee (including any base fee) shall each be at least one-third of the total potential contract fee. The remaining one-third of the total potential contract fee may be divided between award fee and the maximum performance incentive at the discretion of the contracting officer.

(ii) The maximum negative performance incentive for research and development hardware (e.g., the first and second units) shall be equal in amount to the total earned award fee (including any base fee). The maximum negative performance incentives for production hardware (e.g., the third and all subsequent units of any hardware items) shall be equal in amount to the total potential award fee (including any base fee). Where one contract contains both cases described above, any base fee shall be allocated reasonably among the items.

(3) For cost reimbursement contracts other than award fee contracts, the maximum negative performance incentives shall not exceed the total earned fee under the contract.

1816.404 Fixed-price contracts with award fees.

Section 1816.405-2 applies to the use of FPAF contracts as if they were CPAF contracts. However, neither base fee (see 1816.405-271) nor evaluation of cost control (see 1816.405-274) apply to FPAF contracts.

1816.405 Cost-reimbursement incentive contracts.

1816.405-2 Cost-plus-award-fee (CPAF) contracts.

1816.405-270 CPAF contracts.

(a) For purposes of this subsection, "performance based contracting" means effort which can be contractually defined so that the results of the contractor's effort can be objectively measured in terms of technical and quality achievement, schedule progress or cost performance. "Nonperformance based contracting" means contractor effort that cannot be objectively measured but is evaluated based on subjective, qualitative assessments (e.g., controlling changes or interfacing with other agencies, contractors and international organizations).

(b)(1) Normally, award fee incentives are not used when contract requirements can be defined in sufficient detail to allow for performance based contracting. If incentives are considered necessary, objectively measured incentives as described in FAR 16.402 are preferred.

(2) Award fee incentives may be used as follows:

(i) as a CPAF contract where a cost reimbursement contract is appropriate and none of the requirements can be defined to permit performance based contracting;

(ii) as a CPAF line item for nonperformance based requirements in conjunction with a non-CPAF line item(s) for performance based requirements. In this instance, fees for the

PART 1834

MAJOR SYSTEM ACQUISITION

Subpart 1834.0--General

1834.003 Responsibilities.

(a) NASA's implementation of OMB Circular No. A-109, Major Systems Acquisitions, and FAR Part 34 is contained in this part and in NASA Policy Directive (NPD) 7120.4, "Program/Project Management," and NASA Procedures and Guidance (NPG) 7120.5, "Program/Project Management Guide".

Subpart 1834.70--Acquisition of Major Systems

1834.7001 Definitions.

(a) **Down-selection.** In a phased acquisition, the process of selecting contractors for phases subsequent to the initial phase from among the preceding phase contractors.

(b) **Major System.** For NASA, "major system" is a program fitting the criteria of FAR 34.003(c) in lieu of the definition provided in FAR 2.101.

(c) **Phased Acquisition.** A program comprised of several distinct steps or phases where the realization of program objectives requires a planned, sequential acquisition of each step or phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(d) **Progressive Competition.** A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

1834.7002 Phased acquisitions.

(a) In acquisitions subject to the provisions of OMB Circular No. A-109 and NPD 7120.4 and NPG 7120.5, or other similar phased acquisitions, it is NASA policy to ensure competition in the selection of contractors for award in each phase of the process not performed in-house.

(b) There are five phases in the life cycle of a NASA major system acquisition:

(1) Phase A, Preliminary Analysis, involves the analysis of alternate overall project concepts for accomplishing a proposed agency technical objective or mission.

(2) Phase B, Definition, involves the detailed study, comparative analysis, and preliminary system design of selected Phase A concepts.

(3) Phase C, Design, involves the detailed system design (with mock-ups and test articles of critical systems and subsystems) of the systems design concept determined to provide the best overall system for the Government.

(4) Phase D, Development, involves final detailed design, fabrication, and delivery of an operational system that meets program requirements.

(5) Phase E, Operations, involves operation and use of the system in its intended environment, continuing until the system leaves the agency inventory. This phase includes any system modifications and upgrades.

(c) The preferred approach in NASA for the acquisition of the phases of a Major System is the following:

(1) Phase A is accomplished primarily through in-house studies.

(2) Phases B, C, and D are acquired through a phased acquisition process in which two or more Phase B contracts are awarded competitively and then a down-selection is made among these contractors to determine the single combined Phase C/D awardee.

(3) Phase E is normally acquired separately.

(d) Each phase of a major system acquisition not performed in-house must be synopsisized in accordance with FAR 5.201 and must include all the information required by FAR 5.207.

(e) Whether or not down-selection procedures are used, contracts awarded in phased acquisitions shall not include requirements for submission of subsequent phase proposals. Instead, proposals shall be requested through a solicitation or other appropriate mechanism (e.g., by letter when using the progressive competition technique). Priced options for preparation of subsequent phase proposals are prohibited.

(f) Time gaps between phases should be minimized in all major system phased acquisitions. Accordingly, early synopsis of subsequent phase competition is encouraged. Also, when sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. When appropriate, these activities should commence as early as practicable during the period of performance of a phase to ensure the expeditious award of the succeeding phase.

1834.7003 Down-selections in phased acquisitions.

1834.7003-1 Pre-solicitation planning.

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the Phase B solicitation will also lead to Phase C/D award, the decision to use a down-selection strategy must be made prior to initiation of the Phase B acquisition. Accordingly, both phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or ASM minutes.

(b) If there is no direct link between successful performance in the preceding phase and successful performance in the subsequent phase, down-selection is inappropriate. In this case, the major system acquisition phases should be contracted for separately without a down-selection between phases.

(c) With one exception, both the initial and subsequent phase(s) of a major system acquisition down-selection process are considered to be full and open competition if the procedures in 1834.7003-4 and 1834.7003-5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205 and 1804.570-2, when appropriate.

1852.211-70 Brand Name or Equal.

As prescribed in 1811.104-71, insert the following provision:

BRAND NAME OR EQUAL (DECEMBER 1988)

(a) As used in this provision, "brand name" means identification of products by make and model. The term "bid" means "offer" if this is a negotiated acquisition.

(b) If items called for by this solicitation are identified in the Schedule by a "brand name or equal" description, that identification is intended to be descriptive, not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products, including products of the brand name manufacturer other than the one described by model designation, will be considered for award if the products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics requirements referenced in the solicitation.

(c) Unless the offeror clearly indicates in the bid that it is offering an "equal" product, the bid shall be considered as offering a brand-name product referenced in the solicitation.

(d)(1) If the offeror proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or that product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the offeror or identified in its bid, as well as on other information reasonably available to the contracting activity.

(2) CAUTION TO OFFERORS: The contracting office is not responsible for locating or securing any information not identified in the bid and reasonably available to the contracting office. Accordingly, to ensure that sufficient information is available, the offeror must furnish as a part of its bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting office to (i) determine whether the product offered meets the salient characteristics requirements of the solicitation and (ii) establish exactly what the offeror proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the contracting office.

(3) If the offeror proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall (i) include in the bid a clear description of the proposed modifications and (ii) clearly mark any descriptive material to show them.

(4) If this is a sealed bid acquisition, modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

(End of provision)

1852.214-70 Caution to Offerors Furnishing Descriptive Literature.

As prescribed in 1814.201-670(a), insert the following provision:

**CAUTION TO OFFERORS FURNISHING
DESCRIPTIVE LITERATURE
(DECEMBER 1988)**

Bidders are cautioned against furnishing as a part of their bids descriptive literature that

includes language reserving to the bidder the right to deviate from the requirements of the invitation for bids. Statements that "Data are subject to change without notice," "Prices subject to change without notice," or words having a similar effect are examples of such reservation. The Government will reject as nonresponsive any bid that incorporates literature containing such language or any bid that must be evaluated

by using literature containing such language. Bidders should clearly label any submissions of descriptive literature not intended to form a part of a bid as such in order to preclude any need for the Government to interpret the bidder's intent in submitting descriptive literature. [See FAR 14.202-5.]

(End of provision)

1852.214-71 Grouping for Aggregate Award.

As prescribed in 1814.201-670(c), insert the following provision:

**GROUPING FOR AGGREGATE AWARD
(MARCH 1989)**

(a) The Government will evaluate offers and make award on a basis of the aggregate offers for items

[Insert the item numbers and/or descriptions].

The Government will not consider an offer for quantities less than those specified for these items.

(b) If this is an invitation for bids, the Government will reject as nonresponsive a bid that

is not made on the total quantities for all of the items specified in paragraph (a) of this section.

(End of provision)

1852.214-72 Full Quantities.

As prescribed in 1814.201-670(b), insert the following provision:

**FULL QUANTITIES
(DECEMBER 1988)**

The Government will not consider an offer for quantities of items less than those specified. If this is an invitation for bids, the Government will reject as nonresponsive a bid that is not made on full quantities.

(End of provision)

1852.215-77 Preproposal/Pre-bid Conference.

As prescribed in 1815.209-70(a), insert the following provision:

PREPROPOSAL/PRE-BID CONFERENCE

(DECEMBER 1988)

(a) A preproposal/pre-bid conference will be held as indicated below:

Date:

Time:

Location:

Other Information, as applicable:

[Insert the applicable conference information.]

(b) Attendance at the preproposal/pre-bid conference is recommended; however, attendance is neither required nor a prerequisite for proposal/bid submission and will not be considered in the evaluation.

(End of provision)

1852.215-78 Make or Buy Program Requirements.

As prescribed in 1815.408-70(a), insert the following provision:

MAKE OR BUY PROGRAM REQUIREMENTS

(FEBRUARY 1998)

The offeror shall submit a Make-or-Buy Program in accordance with the requirements of Federal Acquisition Regulation (FAR) 15.407-2. The offeror shall include the following supporting documentation with its proposal:

(a) A description of each major item or work effort (see FAR 15.704).

(b) Categorization of each major item or work effort as "must make," "must buy," or "can either make or buy."

(c) For each item or work effort categorized as "can either make or buy," a proposal either to "make" or "buy."

(d) Reasons for (i) categorizing items and work effort as "must make" or "must buy" and (ii) proposing to "make" or "buy" those categorized as "can either make or buy."

The reasons must include the consideration given to the applicable evaluation factors described in the solicitation and be in sufficient detail to permit the Contracting Officer to evaluate the categorization and proposal.

(e) Designation of the offeror's plant or division proposed to make each item or perform each work effort and a statement as to whether the existing or proposed new facility is in or near a labor surplus area.

(f) Identification of proposed subcontractors, if known, and their location and size status.

(g) Any recommendations to defer make-or-buy decisions when categorization of some items or work efforts is impracticable at the time of submission.

(End of provision)

1852.215-79 Price Adjustment for "Make-or-Buy" Changes.

As prescribed in 1815.408-70(b), insert the following clause:

PRICE ADJUSTMENT FOR "MAKE-OR-BUY" CHANGES

(DECEMBER 1988)

The following make-or-buy items are subject to the provisions of paragraph (d) of the clause at FAR 52.215-21, Change or Additions to Make-or-Buy Program, of this contract:

ITEM	MAKE-OR-BUY
DESCRIPTION	DETERMINATION

(End of clause)

1852.215-81 Proposal Page Limitations.

As prescribed in 1815.209-70(d), insert the following provision:

PROPOSAL PAGE LIMITATIONS

(FEBRUARY 1998)

(a) The following page limitations are established for each portion of the proposal submitted in response to this solicitation.

Proposal Section	Page Limit
------------------	------------

(List each volume or section)	(Specify limit)

(b) A page is defined as one side of a sheet, 8 1/2" x 11", with at least one inch margins on all sides, using not smaller than 12 point type. Foldouts count as an equivalent number of 8 1/2" x 11" pages. The metric standard format most closely approximating the described standard 8 1/2" x 11" size may also be used.

(c) Title pages and tables of contents are excluded from the page counts specified in paragraph (a) of this provision. In addition, the Cost section of your proposal is not page limited. However, this section is to be strictly limited to cost and price information. Information that can be construed as belonging in one of the other sections of the proposal will be so construed and counted against that section's page limitation.

(d) If final revisions are requested, separate page limitations will be specified in the Government's request for that submission.

(e) Pages submitted in excess of the limitations specified in this provision will not be evaluated by the Government and will be returned to the offeror.

(End of provision)

1852.215-84 Ombudsman.

As prescribed in 1815.7003, insert the following clause:

OMBUDSMAN

(October 1996)

An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the contracting officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution. If resolution cannot be made by the contracting officer, interested parties may contact the installation ombudsman, [Insert name], at

[Insert telephone number]. Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman, the Deputy Administrator for Procurement, at 202-358-2090. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the contracting officer or as specified elsewhere in this document.

(End of clause)

1852.216-73 Estimated Cost and Cost Sharing.

As prescribed in 1816.307-70(a), insert the following clause:

**ESTIMATED COST AND COST SHARING
(DECEMBER 1991)**

(a) It is estimated that the total cost of performing the work under this contract will be \$ ____.

(b) For performance of the work under this contract, the Contractor shall be reimbursed for not more than ____ percent of the costs of performance determined to be allowable under the Allowable Cost and Payment clause. The remaining ____ percent or more of the costs of performance so determined shall constitute the Contractor's share, for which it will not be reimbursed by the Government.

(c) For purposes of the ____ [insert "Limitation of Cost" or "Limitation of Funds"] clause, the total estimated cost to the Government is hereby established as \$____ (insert estimated Government share); this amount is the maximum Government liability.

(d) The Contractor shall maintain records of all contract costs claimed by the Contractor as constituting part of its share. Those records shall be subject to audit by the Government. Costs contributed by the Contractor shall not be charged to the Government under any other grant, contract, or agreement (including allocation to other grants, contracts, or agreements as part of an independent research and development program).

(End of clause)

1852.216-74 Estimated Cost and Fixed Fee.

As prescribed in 1816.307-70(b), insert the following clause:

**ESTIMATED COST AND FIXED FEE
(DECEMBER 1991)**

The estimated cost of this contract is ____ exclusive of the fixed fee of ____ . The total estimated cost and fixed fee is ____ .

(End of clause)

1852.216-75 Payment of Fixed Fee.

As prescribed in 1816.307-70(c), insert the following clause:

**PAYMENT OF FIXED FEE
(DECEMBER 1988)**

The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Contracting Officer.

(End of clause)

1852.216-76 Award Fee for Service Contracts.

As prescribed in 1816.406-70(a), insert the following clause:

**AWARD FEE FOR SERVICE CONTRACTS
(October 1996)**

(a) The contractor can earn award fee from a minimum of zero dollars to the maximum stated in NASA FAR Supplement clause 1852.216-85, "Estimated Cost and Award Fee" in this contract.

(b) Beginning 6* months after the effective date of this contract, the Government shall evaluate the Contractor's performance every 6* months to determine the amount of award fee earned by the contractor during the period. The Contractor may submit a self-evaluation of performance for each evaluation period under consideration. These self-evaluations will be considered by the Government in its evaluation. The Government's Fee Determination Official (FDO) will determine the award fee amounts based on the Contractor's performance in accordance with [identify performance evaluation plan]. The plan may be revised unilaterally by the Government prior to the beginning of any rating period to redirect emphasis.

(c) The Government will advise the Contractor in writing of the evaluation results. The [insert payment office] will make payment based on [Insert method of authorizing award fee payment, e.g., issuance of unilateral modification by contracting officer].

(d) After 85 percent of the potential award fee has been paid, the Contracting Officer may direct the withholding of further payment of award fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the

Government's interest. This reserve shall not exceed 15 percent of the total potential award fee.

(e) The amount of award fee which can be awarded in each evaluation period is limited to the amounts set forth at [identify location of award fee amounts]. Award fee which is not earned in an evaluation period cannot be reallocated to future evaluation periods.

(f) Award fee determinations made by the Government under this contract are not subject to the Disputes clause.

*[A period of time greater or lesser than 6 months may be substituted in accordance with 1816.405-272(a).]

ALTERNATE I (October 1996)

As prescribed in 1816.406-70(a), insert the following paragraph (f) and reletter existing paragraph (f) to (g):

(f)(1) Pending a determination of the amount of award fee earned for an evaluation period, a portion of the available award fee for that period will be paid to the contractor on a [Insert the frequency of provisional payments (not more often than monthly)] basis. The portion paid will be [Insert percentage (not to exceed 80 percent)] percent of the current period's available amount or the equivalent of the prior period's interim fee, whichever is lower; provided, however, that when the Contracting Officer determines that the Contractor will not achieve a level of performance commensurate with the provisional rate, payment of provisional award fee will be discontinued or reduced in such amounts as the Contracting Officer deems appropriate. The Contracting Officer will notify the Contractor in writing if it is determined that such discontinuance or reduction is appropriate. This determination is not subject to the Disputes clause.

(2) In the event the amount of award fee earned, as determined by the FDO, is less than the sum of the provisional payments made for that period, the Contractor will either credit the next payment voucher for the amount of such overpayment or refund the difference to the Government, as directed by the Contracting Officer.

(3) Provisional award fee payments will [insert "not" if appropriate] be made prior to the first award fee determination by the Government.

(End of clause)

1852.216-77 Award Fee for End Item Contracts.

As prescribed in 1816.406-70(b), insert the following clause:

**AWARD FEE FOR END ITEM CONTRACTS
(January 1997)**

(a) The contractor can earn award fee, or base fee, if any, from a minimum of zero dollars to the maximum stated in NASA FAR Supplement clause 1852.216-85, "Estimated Cost and Award Fee" in this contract. All award fee evaluations, with the exception of the last evaluation, will be interim evaluations. At the last evaluation, which is final, the Contractor's performance for the entire contract will be evaluated to determine total earned award fee. No award fee or base fee will be paid to the Contractor if the final award fee evaluation is "poor/unsatisfactory."

(b) Beginning 6* months after the effective date of this contract, the Government will evaluate the Contractor's interim performance every 6* months to monitor Contractor performance prior to contract completion and to provide feedback to the Contractor. The evaluation will be performed in accordance with [identify performance evaluation plan] to this contract. The Contractor may submit a self-evaluation of performance for each period under consideration. These self-evaluations will be considered by the Government in its evaluation. The Government will advise the Contractor in writing of the evaluation results. The plan may be revised unilaterally by the Government prior to the beginning of any rating period to redirect emphasis.

(c) (1) Base fee, if applicable, will be paid in [Insert "monthly", or less frequent period] installments based on the percent of completion of the work as determined by the Contracting Officer.

(2) Interim award fee payments will be made to the Contractor based on each interim evaluation. The amount of the interim award fee payment is limited to the lesser of the interim evaluation score or 80 percent of the fee allocated to that period less any provisional payments made during the period. All interim award fee payments will be superseded by the final award fee determination.

(3) Provisional award fee payments will [insert "not" if applicable] be made under this contract pending each interim evaluation. If applicable, provisional award fee payments will be made to the Contractor on a [insert the frequency of provisional payments (not more often than monthly)] basis. The amount of award fee which will be provisionally paid in each evaluation period is limited to [Insert a percent not to exceed 80 percent] of the prior interim evaluation score (see [insert applicable cite]). Provisional award fee payments made each evaluation period will be superseded by the interim award fee evaluation for that period. If provisional payments made exceed the interim evaluation score, the Contractor will either credit the next payment voucher for the amount of such overpayment or refund the difference to the Government, as directed by the Contracting Officer. If the Government determines that (i) the total amount of provisional fee payments will

apparently substantially exceed the anticipated final evaluation score, or (ii) the prior interim evaluation is "poor/unsatisfactory," the Contracting Officer will direct the suspension or reduction of the future payments and/or request a prompt refund of excess payments as appropriate. Written notification of the determination will be provided to the Contractor with a copy to the Deputy Chief Financial Officer (Finance). This determination is not subject to the Disputes clause.

(4) All interim (and provisional, if applicable) fee payments will be superseded by the fee determination made in the final award fee evaluation. The Government will then pay the Contractor, or the Contractor will refund to the Government the difference between the final award fee determination and the cumulative interim (and provisional, if applicable) fee payments. If the final award fee evaluation is "poor/unsatisfactory", any base fee paid will be refunded to the Government.

(5) Payment of base fee, if applicable, will be made based on submission of an invoice by the Contractor. Payment of award fee will be made by the [insert payment office] based on [Insert method of making award fee payment, e.g., issuance of a unilateral modification by the Contracting Officer].

(d) Award fee determinations made by the Government under this contract are not subject to the Disputes clause.

*[A period of time greater or lesser than 6 months may be substituted in accordance with 1816.405-272(a).]

(End of clause)

1852.216-78 Firm Fixed Price.

As prescribed in 1816.202-70, insert the following clause:

FIRM FIXED PRICE (DECEMBER 1988)

The total firm fixed price of this contract is \$[Insert the appropriate amount].

(End of clause)

1852.216-80 Task Ordering Procedure.

As prescribed in 1816.506-70, insert the following clause:

TASK ORDERING PROCEDURE (October 1996)

(a) Only the Contracting Officer may issue task orders to the Contractor, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of task orders and task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.

(b) Prior to issuing a task order, the Contracting Officer shall provide the Contractor with the following data:

(1) A functional description of the work identifying the objectives or results desired from the contemplated task order.

(2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.

(3) A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, and any other information required to determine the reasonableness of the Contractor's proposal.

(c) Within ____ calendar days after receipt of the Contracting Officer's request, the Contractor shall submit a task plan conforming to the request.

(d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, as a minimum, the following:

(1) Date of the order.

(2) Contract number and order number.

(3) Functional description of the work identifying the objectives or results desired from the task order, including special instructions or other information necessary for performance of the task.

(4) Performance standards, and where appropriate, quality assurance standards.

(5) Maximum dollar amount authorized (cost and fee or price). This includes allocation of award fee among award fee periods, if applicable.

(6) Any other resources (travel, materials, equipment, facilities, etc.) authorized.

(7) Delivery/performance schedule including start and end dates.

(8) If contract funding is by individual task order, accounting and appropriation data.

(e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within ____ calendar days after receipt of the task order.

(f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.

(g) The Contracting Officer may amend tasks in the same manner in which they were issued.

(h) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the task order shall prevail.

(End of clause)
ALTERNATE I
(October 1996)

As prescribed in 1816.506-70, insert the following paragraph (i) if the contract does not include 533M reporting:

(i) Contractor shall submit monthly task order progress reports. As a minimum, the reports shall contain the following information:

- (1) Contract number, task order number, and date of the order.
- (2) Task ceiling price.
- (3) Cost and hours incurred to date for each issued task.
- (4) Costs and hours estimated to complete each issued task.
- (5) Significant issues/problems associated with a task.
- (6) Cost summary of the status of all tasks issued under the contract.

1852.216-81 Estimated Cost.

As prescribed in 1816.307-70(d), insert the following clause:

ESTIMATED COST
(DECEMBER 1988)

The total estimated cost for complete performance of this contract is \$[Insert total estimated cost of the contract]. See FAR clause 52.216-11, Cost Contract--No Fee, of this contract.

(End of clause)

1852.216-83 Fixed Price Incentive.

As prescribed in 1816.406-70(c), insert the following clause:

**FIXED PRICE INCENTIVE
(October 1996)**

The target cost of this contract is \$____. The Target profit of this contract is \$____. The target price (target cost plus target profit) of this contract is \$____. [The ceiling price is \$____.]

The cost sharing for target cost underruns is:

Government ____percent Contractor ____percent.

The cost sharing for target cost overruns is:

Government ____percent Contractor ____percent.

(End of clause)

1852.216-84 Estimated Cost and Incentive Fee.

As prescribed in 1816.406-70(d), insert the following clause:

**ESTIMATED COST AND INCENTIVE FEE
(October 1996)**

The target cost of this contract is \$____. The target fee of this contract is \$____. The total target cost and target fee as contemplated by the Incentive Fee clause of this contract are \$____.

The maximum fee is \$____.

The minimum fee is \$____.

The cost sharing for cost underruns is:

Government ____percent Contractor ____percent.

The cost sharing for cost overruns is:

Government ____percent Contractor ____percent.

(End of clause)

1852.216-85 Estimated Cost and Award Fee.

As prescribed in 1816.406-70(e), insert the following clause:

**ESTIMATED COST AND AWARD FEE
(SEPTEMBER 1993)**

The estimated cost of this contract is \$____. The maximum available award fee, excluding base fee, if any, is \$____. The base fee is \$_. Total estimated cost, base fee, and maximum award fee are \$____.

**(End of clause)
ALTERNATE I
(SEPTEMBER 1993)**

As prescribed in 1816.406-70(e), insert the following sentence at the end of the clause:

The maximum positive performance incentive is \$_. The maximum negative performance incentive is (1).

(1) For research development hardware contracts, insert [equal to total earned award fee (including any base fee)]. For production hardware contracts, insert [\$total potential award fee amount, including any base fee].

(End of clause)

1852.216-87 Submission of Vouchers for Payment.

As prescribed in 1816.307-70(e), insert the following clause:

**SUBMISSION OF VOUCHERS FOR PAYMENT
(OCTOBER 1997)**

(a) Public vouchers for payment of costs shall include a reference to this contract [Insert the contract number] and be forwarded to:

[Insert the mailing address for submission of cost vouchers.]

This is the designated billing office for cost vouchers for purposes of the Prompt Payment clause of this contract.

(b) The Contractor shall prepare vouchers as follows:

- (1) One original Standard Form (SF) 1034, SF 1035, or equivalent Contractor's attachment.
- (2) Seven copies of SF 1034A, SF 1035A, or equivalent Contractor's attachment.
- (3) The Contractor shall mark SF 1034A copies 1, 2, 3, 4, and such other copies as may be directed by the Contracting Officer by insertion in the memorandum block the names and addresses as follows:
- (i) Copy 1 NASA Contracting Officer;
 - (ii) Copy 2 Auditor;
 - (iii) Copy 3 Contractor;
 - (iv) Copy 4 Contract administration office; and
 - (v) Copy 5 Project management office.
- (4) For any period that the Defense Contract Audit Agency has authorized the Contractor to submit interim vouchers directly to the Government paying office, interim vouchers are not required to be sent to the Auditor, and are considered to be provisionally approved for payment, subject to final audit.
- (c) Public vouchers for payment of fee shall be prepared similarly and be forwarded to:

[Insert the mailing address for submission of fee vouchers.]

This is the designated billing office for fee vouchers for purposes of the Prompt Payment clause of this contract.

- (d) In the event that amounts are withheld from payment in accordance with provisions of this contract, a separate voucher for the amount withheld will be required before payment for that amount may be made.

1852.216-88 Performance Incentive.

As prescribed in 1816.406-70(f), insert the following clause:

PERFORMANCE INCENTIVE (January 1997)

- (a) A performance incentive applies to the following hardware item(s) delivered under this contract: **(1)**

The performance incentive will measure the performance of those items against the salient hardware performance requirement, called "unit(s) of measurement," e.g., months in service or amount of data transmitted, identified below. The performance incentive becomes effective when the hardware is put into service. It includes a standard performance level, a positive incentive, and a negative incentive, which are described in this clause.

(b) **Standard performance level.** At the standard performance level, the Contractor has met the contract requirement for the unit of measurement. Neither positive nor negative incentives apply when this level is achieved but not exceeded. The standard performance level for (1) is established as follows: (2)

(c) **Positive incentive.** The Contractor earns a separate positive incentive amount for each hardware item listed in paragraph (a) of this clause when the standard performance level for that item is exceeded. The amount earned for each item varies with the units of measurement achieved, up to a maximum positive performance incentive amount of \$ (3) per item. The units of measurement and the incentive amounts associated with achieving each unit are shown below: (4)

(d) **Negative incentive.** The Contractor will pay to the Government a negative incentive amount for each hardware item that fails to achieve the standard performance level. The amount to be paid for each item varies with the units of measurement achieved, up to the maximum negative incentive amount of \$ (5). The units of measurement and the incentive amounts associated with achieving each unit are shown below: (6)

(e) The final calculation of positive or negative performance incentive amounts shall be done when performance (as defined by the unit of measurement) ceases or when the maximum positive incentive is reached.

(1) When the Contracting Officer determines that the performance level achieved fell below the standard performance level, the Contractor will either pay the amount due the Government or credit the next payment voucher for the amount due, as directed by the Contracting Officer.

(2) When the performance level exceeds the standard level, the Contractor may request payment of the incentive amount associated with a given level of performance, provided that such payments shall not be more frequent than monthly. When performance ceases or the maximum positive incentive is reached, the Government shall calculate the final performance incentive earned and unpaid and promptly remit it to the contractor.

(f) If performance cannot be demonstrated, through no fault of the Contractor, within [insert number of months or years] after the date of hardware acceptance by the

Government, the Contractor will be paid [insert percentage] of the maximum performance incentive.

(g) The decisions made as to the amount(s) of positive or negative incentives are subject to the Disputes clause.

(1) Insert applicable item number(s) and/or nomenclature.

(2) Insert a specific unit of measurement for each hardware item listed in (1) and each salient characteristic, if more than one.

(3) Insert the maximum positive performance incentive amount (see 1816.402-270(e)(1) and (2)).

(4) Insert all units of measurement and associated dollar amounts up to the maximum performance incentive.

(5) Insert the appropriate amount in accordance with 1816.402-270(e).

(6) Insert all units of measurement and associated dollar amounts up to the maximum negative performance incentive.

(End of clause)

1852.216-89 Assignment and Release Forms.

As prescribed in 1816.307-70(f), insert the following clause:

ASSIGNMENT AND RELEASE FORMS (JULY 1997)

The Contractor shall use the following forms to fulfill the assignment and release requirements of FAR clause 52.216-7, Allowable Cost and Payment, and FAR clause 52.216-13, Allowable Cost and Payment (Facilities):

NASA Form 778, Contractor's Release;

NASA Form 779, Assignee's Release;

NASA Form 780, Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts; and

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

Computer generated forms are acceptable, provided that they comply with FAR clause 52.253-1, Computer Generated Forms.

(End of clause)

Contractor's on-site personnel work during a holiday other than those in paragraph (a) above, no form of holiday or other premium compensation shall be reimbursed as either a direct or indirect cost. However, this does not preclude reimbursement for authorized overtime work that would have been overtime regardless of the status of the day as a holiday.

(d) The Contractor shall place identical requirements, including this paragraph, in all subcontracts that require performance of work on-site, unless otherwise instructed by the Contracting Officer.

**ALTERNATE II
(SEPTEMBER 1989)**

As prescribed in 1842.7001(c), add the following paragraphs (e) and (f):

(e) When the NASA installation grants administrative leave to its Government employees (e.g., as a result of inclement weather, potentially hazardous conditions, or other special circumstances), Contractor personnel working on-site should also be dismissed. However, the contractor shall provide sufficient on-site personnel to perform round-the-clock requirements of critical work already in process, unless otherwise instructed by the Contracting Officer or authorized representative.

(f) Whenever administrative leave is granted to Contractor personnel pursuant to paragraph (e) of above, it shall be without loss to the Contractor. The cost of salaries and wages to the Contractor for the period of any such excused absence shall be a reimbursable item of cost under this contract for employees in accordance with the Contractor's established accounting policy.

1852.242-73 NASA Contractor Financial Management Reporting.

As prescribed in 1842.7202, insert the following clause:

**NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING
(JULY 1997)**

(a) The Contractor shall submit NASA Contractor Financial Management Reports on NASA Forms 533 in accordance with the instructions in NASA Policy Guidance (NPG) 9501.2, NASA Contractor Financial Management Reporting, and on the reverse side of the forms, as supplemented in the Schedule of this contract. The

detailed reporting categories to be used, which shall correlate with technical and schedule reporting, shall be set forth in the Schedule. Contractor implementation of reporting requirements under this clause shall include NASA approval of the definitions of the content of each reporting category and give due regard to the Contractor's established financial management information system.

(b) Lower level detail used by the Contractor for its own management purposes to validate information provided to NASA shall be compatible with NASA requirements.

(c) Reports shall be submitted in the number of copies, at the time, and in the manner set forth in the Schedule or as designated in writing by the Contracting Officer. Upon completion and acceptance by NASA of all contract line items, the Contracting Officer may direct the Contractor to submit Form 533 reports on a quarterly basis only, report only when changes in actual cost occur, or suspend reporting altogether.

(d) The Contractor shall ensure that its Form 533 reports include accurate subcontractor cost data, in the proper reporting categories, for the reporting period.

(e) If during the performance of this contract NASA requires a change in the information or reporting requirements specified in the Schedule, or as provided for in paragraph (a) or (c) of this clause, the Contracting Officer shall effect that change in accordance with the Changes clause of this contract.

(End of clause)

1852.243-70 Engineering Change Proposals.

As prescribed in 1843.205-70(a), insert the following clause, modified to suit contract type:

ENGINEERING CHANGE PROPOSALS (FEBRUARY 1998)

(a) Definitions.

"ECP" means an Engineering Change Proposal (ECP) which is a proposed engineering change and the documentation by which the change is described, justified, and submitted to the procuring activity for approval or disapproval.

"MIL-STD-973" means a DOD publication entitled, Military Standard Configuration Control - Engineering Changes, Deviations and Waivers, 15 July 1988.

(b) Either party to the contract may originate ECPs. The originator shall forward proposed ECPs to the Contracting Officer. Unless another process has been approved

by the Government or specified by the Contracting Officer, the ECP formats, forms and controls specified in MIL-STD-973 shall be used. Implementation of an approved ECP may occur by either a supplemental agreement or, if appropriate, as a written change order to the contract.

(c) Any ECP submitted to the Contracting Officer shall include a "not-to-exceed" ____ [price or estimated cost] increase or decrease adjustment amount, if any, and the required [time of delivery or period of performance] adjustment, if any, acceptable to the originator of the ECP. If the change is originated within the Government, the Contracting Officer shall obtain a written agreement with the contractor regarding the "not-to-exceed" ____ [price or estimated cost] and [delivery or period of performance] adjustments, if any, prior to issuing an order for implementation of the change.

(d) After submission of a contractor initiated n ECP, the contracting officer may require the contractor to submit the following information:

(1) Cost or pricing data in accordance with FAR 15.403-5 if the proposed change meets the criteria for its submission under FAR 15.403-4; or

(2) Information other than cost or pricing data adequate for contracting officer determination of price reasonableness or cost realism. The contracting officer reserves the right to request additional information if that provided by the contractor is considered inadequate for that purpose. If the contractor claims applicability of one of the exceptions to submission of cost or pricing data, it shall cite the exception and provide rationale for its applicability.

(e) If the ECP is initiated by NASA, the contracting officer shall specify the cost information requirements, if any.

(End of clause)
ALTERNATE I
(JULY 1997)

As prescribed in 1843.205-70(b), add the following paragraph (f), modified to suit contract type, to the basic clause:

PART 1853

FORMS

TABLE OF CONTENTS

SUBPART 1853.1 GENERAL

1853.100 Scope of subpart.

1853.101 Requirements for use of forms.

1853.103 Exceptions.

1853.105 Computer generation.

1853.107 Obtaining forms.

1853.108 Recommendations concerning forms.

SUBPART 1853.2 PRESCRIPTION OF FORMS

1853.200 Scope of subpart.

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).

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 5400.3, Nuclear Regulatory Commission Form 313).

1853.215 Contracting by negotiation.

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

1853.216 Types of contracts.

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

1853.217 Special contracting methods (NASA Form 523).

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

1853.242 Contract administration.

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

1853.242-71 Notifications (NASA Form 456).

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

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

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

SUBPART 1853.3 ILLUSTRATIONS OF FORMS

1853.300 Scope of subpart.

1853.301 Standard forms.

1853.303 Agency forms.

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 5400.3, 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) *Department of Energy Form 5400.3, Isotope Order Blank*. 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 1815.805-5(a)(1)(E).

1853.242-71 Notifications (NASA Form 456).

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

1853.245-70 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.

PART 1871

MIDRANGE PROCUREMENT PROCEDURES

TABLE OF CONTENTS

1871.000 Scope of part.

SUBPART 1871.1 GENERAL

1871.101 Purpose.

1871.102 Authority.

1871.103 Applicability.

1871.104 Definitions.

1871.105 Policy.

SUBPART 1871.2 PLANNING AND REQUIREMENTS PROCESS

1871.201 Use of buying team.

1871.202 Organizational responsibilities.

1871.2021 Requiring organization.

1871.2022 Procurement organization.

1871.2023 Supporting organizations.

1871.2024 Center management.

1871.203 Buying team responsibilities.

1871.204 Small business setasides.

SUBPART 1871.4 REQUEST FOR OFFER (RFO)

1871.400 General.

1871.401 Types of RFO's.

1871.4011 Sealed offers.

1871.4012 Twostep competitive procurement.

1871.4013 Competitive negotiated procurement not using qualitative criteria.

1871.4014 Competitive negotiation using qualitative criteria (Best Value Selection).

1871.4015 Noncompetitive negotiations.

1871.401-6 Commercial items.

1871.402 Preparation of the RFO.

1871.404 Protection of offers.

1871.405 RFO by NAIS (applicable to procurements meeting the thresholds in 1871-302(a)).

SUBPART 1871.5 AWARD

1871.501 Representations and certifications.

1871.502 Determination of responsible contractor.

1871.503 Negotiation documentation.

1871.504 Award documents.

1871.505 Notifications to unsuccessful offerors.

1871.506 Publication of award.

1871.507 Debriefing of unsuccessful offerors.

SUBPART 1871.6 "BEST VALUE SELECTION"

1871.601 General.

1871.602 Specifications for MidRange procurements.

1871.603 Establishment of evaluation criteria.

1871.604 Evaluation phases.

1871.6041 Initial evaluation.

1871.6042 Determination of "Finalists".

1871.6043 Discussions with "Finalists".

1871.6044 Selection of "Best Value" Offer.

PART 1871 MIDRANGE PROCUREMENT PROCEDURES

1871.000 Scope of part.

This Part prescribes policies and procedures for the acquisition of supplies, including commercial items, and services.

Subpart 1871.1General

1871.101 Purpose.

The purpose of this part is to establish policies and procedures that implement the MidRange procurement process.

1871.102 Authority.

The Office of Federal Procurement Policy has provided authority for NASA to conduct a pilot test of a new procurement process within the scope of this Part.

1871.103 Applicability.

(a) This Part applies to all acquisitions, as described in 1871.103(b), conducted at NASA installations except as provided in 1871.401-4(a)(3).

(b) This Part applies to all contract actions the aggregate amount of which is not more than \$2,000,000 in basic value (not more than \$10,000,000 with options) and for commercial items (FAR Part 12) not more than \$25,000,000 including options. This part may be used for commercial item contracts above \$25,000,000 at the installation's discretion.

(c) For other than commercial items, if the Government estimate for the basic award amount or any option amount, if any, exceeds the limits of 1871.103(b), the procurement will be processed under FAR and NFS procurement procedures applicable to large procurements (see FAR Parts 14 and 15). When the estimate is within the range of 1871.103(b) and the procurement was started using these procedures but the offered prices/costs exceed the MidRange ceiling, the procurement may continue under MidRange procedures, provided that:

(1) the price/cost can be determined to be fair and reasonable,

(2) the successful offeror accepts incorporation of required FAR and NFS clauses applicable to large procurements, and

(3) the procurement does not exceed \$3,000,000 for the basic requirement or \$15,000,000 for the total requirement.

1871.104 Definitions.

The following terms are used throughout Part 1871 as defined in this subpart.

(a) **MidRange procurement procedure** means a set of procedures within the authority of 1871.102 and the applicability of 1871.103.

(b) **Request for Offer (RFO)** means the solicitation used to request offers for all authorized MidRange procurements.

(c) **Clarification** and **Discussion** are used as defined in FAR 15.306.

(d) **Commercial item** is used as defined in FAR 2.101.

1871.105 Policy.

(a) Under MidRange procedures, pricing requirements shall be determined in accordance with FAR 15.402 and 15.403.

(b) Procurements conducted under Part 1871, unless otherwise properly restricted under the provisions of FAR Part 6, are considered to be full and open competition after exclusion of sources in accordance with FAR 6.203, Setasides for small business concerns, or full and open competition in accordance with FAR Part 6, subpart 6.1.

(c) Options may be included in the acquisition provided they conform to 1871.103(b) or do not exceed \$10,000,000 for the total requirement (\$25,000,000 for commercial items), options included.

(d) The appropriate Part 1871 post-selection processes (negotiation, award, and publication of award) may be used to the extent applicable for Small Business Innovation Research (SBIR), broad agency announcements, unsolicited proposals, and Small Business Administration 8(a) procurement actions within the applicability of 1871.103(b).

(e) The NAIS will be used to the maximum extent practicable to disseminate advance procurement information and conduct Part 1871 procurements.

(f) Use of locally generated forms is encouraged where their use will contribute to the efficiency and economy of the process. NASA Forms 1667, Request for Offer, and 1668, Contract, or computer generated versions of these forms may be used as the solicitation and contract cover sheets, respectively, except that the SF1442, Solicitation, Offer, and Award (Construction, Alteration, or Repair) shall be used for construction acquisitions and the SF1449, Solicitation/Contract/Order for Commercial Items, shall be used for commercial item acquisitions. Contractor generated forms or formats for solicitation response should be allowed whenever possible. There is no requirement for uniform formats (see FAR 15.406).

Subpart 1871.2 Planning and Requirements Process

1871.201 Use of buying team.

MidRange procedures are based on the use of a buying team to conduct the procurement. The concept is to designate individuals who are competent in their respective functional areas, provide those individuals with the basic authority to conduct the procurement and hold them accountable for the results. The buying team will normally consist of one technical member and one procurement member, but may be augmented with additional members as necessary. Personnel providing normal functional assistance to the team (e.g., legal, financial) will not be considered a part of the team unless so designated. To function properly, the team should be given the maximum decision authority in matters related to the procurement. When higher level management approvals remain essential, it will be incumbent upon the functional team member to obtain such approvals.

1871.202 Organizational responsibilities.

1871.2021 Requiring organization.

The requirements organization shall appoint, by name, the technical member of the buying team. This individual will normally be an end user or the one most familiar with the technical aspects of the requirement. The individual appointed, whatever the relationship with the procured item, is expected to totally fulfill the responsibilities to the buying team.

1871.2022 Procurement organization.

The procurement organization shall appoint the procurement member of the buying team. This individual shall be a warranted contracting officer or a contract specialist with broad latitude to act for the contracting officer. The procurement member shall be the team leader with the ultimate responsibility to conduct the procurement.

1871.2023 Supporting organizations.

Buying team members may require additional team members to perform specialized functions or to assist in the evaluation of offers. Requests for supporting members shall be made by the organization identifying the need for the support and directed to the appropriate management level in the supporting organization. Supporting team members, once designated for the team, shall fulfill all applicable responsibilities to the team as other members.

1871.2024 Center management.

Center managers shall, to the maximum extent practical and consistent with their responsibilities to manage the Center mission, convey sufficient authority to members of the buying team to conduct the procurement. Administrative or technical approvals should be minimized, and where deemed essential, facilitated to the maximum extent practicable. Center managers should lend their full support to the buying team should problems arise from the procurement.

1871.203 Buying team responsibilities.

(a) The buying team shall conduct the procurement in a manner that best satisfies the user requirements and meets the norms expected of a Government procurement. Team members should develop open communications, rely on decisions of other responsible functional team members and meet their obligations to the team. The team will typically

(1) Refine the final specifications for the solicitation;

(2) Decide the most appropriate solicitation method;

(3) Establish milestones for the procurement;

(4) Finalize the evaluation criteria;

(5) Develop the RFO and model contract; and

(6) Evaluate offers and determine the awardee.

(b) The procurement member of the buying team shall lead clarifications, discussions, and negotiations; shall be the source selection official; and shall conduct debriefings.

1871.204 Small business setasides.

(a) Except as provided in paragraphs (b) through (e) of this section, each MidRange acquisition shall be reserved exclusively for small business concerns.

(b) The requirement for small business MidRange setasides does not relieve the buying office of its responsibility to procure from required sources of supply, such as Federal Prison Industries, Industries for the Blind and Other Severely Handicapped, and multiple award Federal Supply Schedule contracts.

(c) Procurements not conducted as small business setasides and under less than full and open competition require a Justification for Other than Full and Open Competition pursuant to FAR Part 6.

(d) If the buying team procurement member determines there is no reasonable expectation of obtaining offers from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery, the buying team need not proceed with the small business setaside and may purchase on an unrestricted basis utilizing MidRange procedures. The buying team procurement member shall document the contract file with the reason for the unrestricted procurement.

(e) If the buying team proceeds with the small business MidRange setaside and receives an offer from only one responsible small business concern at a reasonable price, the contracting officer will normally make an award to that concern. However, if the buying team does not receive a reasonable offer from a responsible small business concern, the buying team procurement member may cancel the small business setaside and complete the procurement on an unrestricted basis utilizing MidRange procedures. The buying team procurement members shall document in the file the reason for the unrestricted purchase.

(f) Each model contract under a small business MidRange setaside shall contain the clause at FAR 52.2196, Notice of Total Small Business SetAside.

Subpart 1871.4 Request for Offer (RFO)

1871.400 General.

In MidRange procedures, solicitation of sources shall be accomplished by use of an RFO. The RFO will be solely a solicitation document incorporating only those elements of information required to solicit the offer. Offers will be provided on a model contract furnished with the RFO.

1871.401 Types of RFO'S.

The RFO may be used for all types of procurements to which MidRange is applicable. The distinguishing difference will be the evaluation and award criteria specified in the RFO. This, in turn, will be driven by the buying team's decisions on the extent of discussion required, the amount of nonprice factors that will influence the award and the amount of competition available. If the conditions FAR 6.401(a) are met, the RFO's described in 1871.401-1 and 1871.401-2 shall be used; otherwise, RFO's described in 1871.401-3, 1871.401-4, 1871.401-5, or 1871.401-6 may be used. Once the evaluation and award criteria have been specified in the RFO, the procurement must conform to the procedures applicable to these criteria, unless changed by formal amendment to the RFO.

1871.4011 Sealed Offers.

(a) **Policy.** RFO's may specify that award will be made to the low, responsive, responsible offeror providing the most advantageous offer considering only price and pricerelated factors. This method shall be used when (1) time permits the solicitation, submission, and evaluation of sealed offers; (2) award will be made on the basis of price and other pricerelated factors; (3) conducting discussions with the offerors is not necessary; and (4) a reasonable expectation of receiving more than one offer exists. The RFO shall be in compliance with the requirements of FAR Part 14 relating to Sealed Bidding.

(b) Procedures.

(1) The RFO shall request offerors to provide a complete offer by the closing date specified.

(2) In accordance with FAR Part 14, offers (whether received by facsimile or sealed envelope delivery) shall be publicly opened at the designated time and place. Interested members of the public will be permitted to attend the opening. Offers shall be abstracted pursuant to FAR Part 14 and be available for public inspection. The abstract shall be included in the contract file.

(3) All offers shall be examined for mistakes in accordance with FAR 14.406. The buying team shall determine that a prospective contractor is responsible and that the prices offered are reasonable (see FAR 14.4072).

(4) The Government will award a contract to the low, responsive, responsible offeror, whose offer conforms to the RFO and will be most advantageous to the Government, considering only price and the price-related factors included in the solicitation.

1871.4012 TwoStep competitive procurement.

(a) Policy.

(1) RFO's may specify that evaluation and award may be conducted in two distinct steps, similar in concept to "Two Step Sealed Bidding." The MidRange Two Step process should be used when it is desirable to award to the lowest, responsive, responsible offeror after determining that the initial technical offer, or the revised technical offer, is acceptable.

(2) The procedures of FAR 14.5032(a) shall be used once Step two of this process begins.

(b) Procedures.

(1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified. Price offers are requested to ensure that they are accomplished in a timely manner and to reduce the time required for Step Two.

(2) *Step One.* The technical offer will be evaluated to determine if the product or service offered is acceptable. The buying team may proceed directly to Step Two if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional offers acceptable and thereby increase competition would not be in the Government's interest. If this is not the case, the buying team procurement member shall enter into discussions and request offeror(s) whose offer(s) is susceptible to being made acceptable to submit additional clarifying or supplementing information to make it acceptable (see FAR 14.5031). It is expected that these discussions will be conducted on an informal basis. After completion of discussions, the buying team shall proceed to Step Two.

(3) *Step Two.* If discussions were held, the buying team shall afford all offerors who have submitted acceptable offers and those offers with whom discussions were conducted, an opportunity, by a common date, to revise their price offers. No changes to technical offers will be permitted during this process. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each offeror. The procedures at 1871.4011(b)(2) and (3) shall then be followed.

(4) The Government will award a contract to the low, responsive, responsible offeror, whose offer conforms to the RFO and will be most advantageous to the Government, considering only price and the price-related factors included in the solicitation.

1871.4013 Competitive negotiated procurement not using qualitative criteria.

(a) Policy.

(1) RFO's may provide for discussion of all aspects of the offer but award is based on the technically acceptable offer having the lowest price (if fixed price) or the lowest most probable cost (if cost reimbursable). This method should be used when qualitative factors are not material in the award decision, but it is important to assure that technical offers and contract terms are fully compliant with the Government's needs. This method also permits direct discussion of price with offerors and is particularly appropriate when different approaches can be offered to satisfy the Government's need.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. FAR 52.21516, Alternate II, will be included in all RFO's for competitive negotiated procurements not using qualitative criteria except for solicitations for commercial item acquisitions.

(3) See FAR 15.304, FAR 15.305(a)(2), and 1815.305(a)(2) regarding the evaluation of past performance.

(b) Procedures.

(1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified.

(2) *Initial evaluation.* The buying team shall review each offer to determine if all required information has been provided. No further evaluation shall be made of any offer that is deemed unacceptable because it does not meet the technical requirements of the RFO and is not reasonably susceptible to being made so. Offerors may be contacted for clarification purposes only during the initial evaluation. Offerors determined not to be acceptable shall be notified of their rejection and the reasons therefor and excluded from further consideration. Documentation for such rejection should consist of one or more succinct statements of fact that show the offer is not acceptable. No documentation is required if all offers are deemed to be acceptable or reasonably susceptible to being made so.

(3) *Determination of finalists.* From among the acceptable offers and those susceptible to being made acceptable, the buying team shall rank the offers based on price (or most probable cost) and exclude any whose price/most probable cost precludes any reasonable chance of being selected for final award. The remaining offers constitute

the "finalists" for the contract. Only in exceptional cases will this number be less than two offers. The procurement buying team member shall succinctly record the basis for the decision.

(4) *Discussions.* The procurement buying team member shall lead discussions with each finalist. The discussions are intended to assist the buying team in fully understanding each finalist's offer and to assure that all finalists are competing equally on the basis intended. Care must be exercised to ensure these discussions adhere, to the extent applicable, to the guidelines set forth in FAR 15.610. It is expected that discussions will be conducted on an informal basis with each finalist. After completion of discussions, each finalist shall be afforded an opportunity to revise its offer to support and clarify its offer. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each finalist. Such discussions are not required if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional proposals acceptable and thereby increase competition, would not be in the Government's interest.

(5) *Selection.* The procurement team member shall be the source selection official. The source selection official may elect to make selection in lieu of determining finalists provided that it can be demonstrated that (i) selection of an initial offer(s) will result in the lowest price/cost to the Government and (ii) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to evaluated price/cost. It is expected that the source selection statement will not ordinarily exceed one page and that the basis for the decision will be apparent upon review of the informal worksheets used in the evaluation process. These informal worksheets shall be included in the contract file.

(6) The names of offerors determined to be finalists or the name of the offeror selected for contract award will be electronically transmitted to all offerors. This will serve as notification to those offers that were not selected for further evaluation (see 1871.505).

1871.4014 Competitive negotiations using qualitative criteria (Best Value Selection).

(a) Policy.

(1) MidRange procurements shall normally use the BVS source selection method, prescribed in Part 1871, subpart 1871.6, when it is desirable to base evaluation and award on a combination of price and nonprice qualitative criteria.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. FAR 52.21516, Alternate II, will be included in all RFO's for

competitive negotiated procurements using qualitative criteria except for solicitations for commercial item acquisitions.

(3) In exceptionally complex procurements, a source selection method other than MidRange Best Value Selection may be more appropriate. This may be appropriate in cases in which the following factors cannot be accommodated within the MidRange/BVS selection methodology:

(i) The ability to predefine the value characteristics that will constitute the discriminators among the offers;

(ii) The complexity of the interrelationships that must be evaluated;

(iii) The number of evaluators required to address the disciplines that will be involved in the offers; or

(iv) The impact that the procurement may have on higher level mission management (level of selection official) or future procurements.

(4) See FAR 15.304, FAR 15.305(a)(2), and 1815.305(a)(2) regarding the evaluation of past performance.

(b) Procedures.

(1) The buying team will determine which of the source selection methodologies is most appropriate to the specific procurement.

(2) The team shall record its rationale for selecting a methodology rather than BVS. Once this decision is made, the team shall no longer function as a MidRange buying team, but shall follow the instructions prescribed in the local procedures for the source selection method.

1871.4015 Noncompetitive negotiations.

(a) Policy.

(1) The RFO may be used as the solicitation method for noncompetitive procurements.

(2) MidRange procedures may be used in noncompetitive acquisitions to the extent they are applicable.

(b) Procedures.

(1) Within the dollar thresholds specified in 1871.302(a), posting a synopsis on the NAIS meets the requirement of FAR 5.201 and complies with the notice required by the Competition in Contracting Act. A synopsis is not required if one of the exceptions of FAR 5.202 is met.

(2) The buying team shall request pricing information in accordance with FAR 15.402 and 15.403.

(3) The technical member of the buying team shall provide technical assistance to the procurement member during evaluation and negotiation of the contractor's offer.

1871.401-6 Commercial Items.

(a) Policy.

(1) MidRange procedures are considered consistent with the requirements of FAR Part 12, Acquisition of Commercial Items. In the event of a conflict, however, FAR Part 12 takes precedence.

(2) MidRange Procedures shall also be used, to the extent applicable, for commercial item acquisitions accomplished under FAR Subpart 13.6, Test Program for Certain Commercial Items.

(3) Contract type shall be in accordance with FAR 12.207.

(b) Procedures.

The offers will be evaluated in accordance with applicable procedures, and shall include consideration of technical, past performance, and price.

1871.402 Preparation of the RFO.

(a) The RFO shall provide all standard information required for the offeror to submit an offer.

(b) The RFO shall contain space for all necessary additional instructions to offerors. As a minimum, the RFO shall contain the following:

(1) Incorporation by reference of all required standard provisions.

(2) A provision notifying offerors that standard Representations and Certifications will be required.

(3) Evaluation and award criteria.

(4) A provision requiring offerors to submit offers on an attached model contract.

(c) Requirements for the content and format of the offer should be the minimum required to provide for proper evaluation. Offerors' formats should be allowed to the maximum extent possible.

(d) Facsimile offers, defined by FAR 14.2027 and 15.402(i), are authorized for MidRange procurements.

1871.404 Protection of offers.

A facsimile machine(s) shall be dedicated for receipt of offers and placed in a secure location where offers received on it can be safeguarded. All offers submitted shall be recorded, sealed in an envelope marked with the RFO number and taken to the buying team procurement member. Facsimile attendants shall make a good faith effort to inspect the document for completeness and legibility. If the attendant believes there are missing or illegible pages, the document will be promptly referred to the buying team procurement member for notification to the offeror that it should resubmit the offer. The Government shall not assume responsibility for proper transmission.

1871.405 RFO by NAIS (applicable to procurements meeting the thresholds in 1871.302(a)).

(a) Competitive solicitations for MidRange Procurements shall be made available on the NAIS. Solicitations available on the NAIS are exempt from the requirement in FAR 14.203-1 that delivery of the solicitations be made pursuant to FAR 14.205.

(b) For the purposes of FAR 15.402(a), a solicitation posted on the NAIS is a written solicitation.

(c) Solicitations posted on the NAIS in accordance with these regulations are exempt from the requirement in FAR 15.408(a) to issue solicitations using the procedures in FAR Part 5.

Subpart 1871.5Award

1871.501 Representations and certifications.

Upon determination of the successful offeror, the buying team procurement member will determine if the offeror has on file valid Representations and Certifications. If the offeror has not completed the required forms, or they have expired, the offeror will be requested to provide the forms promptly. Should the offeror refuse to provide the required Representations and Certifications or fail to meet a required condition, the buying team shall reject the offer and proceed to the next highest ranked offeror who is responsive and responsible.

1871.502 Determination of responsible contractor.

Contractor responsibility shall be determined in accordance with FAR Part 9.

1871.503 Negotiation documentation.

The prenegotiation memorandum, if required, and the results of negotiation will be in abbreviated form and will be approved by the buying team.

1871.504 Award documents.

Contract award shall be accomplished by contracting officer execution of the contract document and providing a paper copy to the successful offeror. If facsimile documents were used in the evaluation process, the successful offeror may be required to execute original copies of the contract to facilitate legibility during the administration phase of the contract.

1871.505 Notifications to unsuccessful offerors.

For solicitations that were posted on the NAIS, a preaward notice shall be electronically transmitted to the offerors. This notice meets the requirements of FAR 15.1001. However, the preaward notice in a small business set-aside must allow unsuccessful offerors 5 working days to challenge the small business status of the successful offeror.

1871.506 Publication of award.

An award notice shall be posted on the NAIS for 7 calendar days after posting, if the contract offers subcontracting opportunities or if it is subject to the Trade Agreements Act. The information required by FAR 5.207 shall be included in the award notice in abbreviated form.

1871.507 Debriefing of unsuccessful offerors.

The procurement buying team member shall conduct debriefings if requested.

Subpart 1871.6 "Best Value Selection"

1871.601 General.

(a) Best Value Selection (BVS) seeks to select an offer based on the best combination of price and qualitative merit of the offers submitted and reduce the administrative burden on the offerors and the Government.

(b) BVS takes advantage of the lower complexity of MidRange procurements and predefines the value characteristics which will serve as the discriminators among

offers. It eliminates the use of area evaluation factors and the highly structured scoring.

1871.602 Specifications for MidRange procurements.

BVS refines the traditional approach to preparing specifications. BVS envisions that the requirement will focus on the end result that is to be achieved and will serve as a statement of the Government's baseline requirements. The offeror will be guided in meeting the Government's needs by a separate set of value characteristics which establish what the Government considers to be valuable in an offer. These value characteristics will be performance based and will permit the selection of the offer which provides better results for a reasonable marginal increase in price.

1871.603 Establishment of evaluation criteria.

(a) The requiring organization will provide, along with the requirement, a list of value characteristics against which the offers will be judged. There is no limit to the number or the type of characteristics that may be specified. The only standard will be whether the characteristic is rationally related to the need specified in the specification. Characteristics may include such factors as improved reliability, innovativeness of ideas, speed of service, demonstrated delivery performance, higher speeds, ease of use, qualifications of personnel, solutions to operating problems, level of service provided on previous similar contracts, or any of numerous other characteristics that may be of value to the Government in satisfying its needs.

(b) Cost and technical will be considered equal in importance. The value characteristics will not be assigned weights.

(c) All subsequent evaluations will consider these characteristics when determining the finalists or making the final selection for award.

1871.604 Evaluation phases.

1871.6041 Initial evaluation.

(a) Offers will be reviewed to determine if all required information has been provided and the offeror has made a reasonable attempt to present an acceptable offer. Offerors may be contacted only for clarification purposes during the initial evaluation. No further evaluation shall be made of any offer that is deemed unacceptable because:

(1) It does not represent a reasonable effort to address itself to the essential requirements of the RFO or clearly demonstrates that the offeror does not understand the requirements of the RFO;

(2) It contains major technical or business deficiencies or omissions or outofline costs which discussions with the offeror could not reasonably be expected to cure; or

(3) In R&D procurement, a substantial design drawback is evident in the offer and sufficient correction or improvement to consider the offer acceptable would require virtually an entirely new offer.

(b) Offerors determined not to be acceptable shall be notified of their rejection and the reasons therefor and excluded from further consideration.

(c) **Documentation.** If it is concluded that all offers are acceptable, then no documentation is required and evaluation proceeds. If one or more offers are not acceptable, the procurement member of the team will notify the offeror of the rejection and the reasons therefor. The documentation should consist of one or more succinct statements of fact that show the offer is not acceptable.

1871.6042 Determination of "Finalists".

(a) All acceptable offers will be evaluated against the requirement and the value characteristics. Based on this evaluation, the team will identify the finalists from among the offers submitted. Finalists will include the most highly rated offerors in accordance with FAR 15.306(c)(1) and 1815.306(c)(2). Generally, finalists will include the offer having the best price (or lowest most probable cost) and the offer having the highest qualitative merit, plus those determined to have the best combination of price and merit. Offers not qualifying as finalists will be excluded from the balance of the evaluation process.

(b) The selection official may elect to make selection in lieu of determining finalists, provided it can be clearly demonstrated that (1) selection of an initial offer(s) will result in the best value for the Government, considering both price and nonprice qualitative criteria; (2) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to the best value offer(s), and (3) the solicitation contains a provision permitting award without discussions.

(c) **Documentation.** If finalists are identified as discussed in paragraph (a) of this section, the documentation expected and required to result from this phase of evaluation is approximately onequarter of a page for each finalist. The documentation shall succinctly describe how the value characteristics in the RFO were provided by the offeror and cost/price considerations that caused the offer to qualify as a finalist. The evaluator(s) shall not be required to justify why other offers provided less qualitative merit. It is expected that, should the decision be challenged, the documented reason for selection, when compared with the nonselected offer, shall clearly demonstrate the difference that resulted in nonselection. It is expected and recommended that all informal worksheets used in the evaluation process be included

in the contract file. When selection of the successful offeror(s) is made, the buying team shall document the selection in accordance with 1871.6044(c).

(d) Offerors determined not to be finalists or not selected for contract award will be electronically notified.

1871.6043 Discussions with "Finalists".

(a) The procurement team member shall lead discussions with each finalist. Care must be exercised to ensure these discussions adhere, to the extent applicable, to the guidelines set forth in FAR 15.610. It is expected that these discussions will be conducted on an informal basis with each finalist.

(b) After completion of discussions, each finalist shall be afforded an opportunity to revise its offer. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each finalist.

1871.6044 Selection of "Best Value" Offer.

(a) The procurement team member shall be the source selection official.

(b) The BVS source selection is based on the premise that, if all offers are of approximately equal qualitative merit, award will be made to the offer with the lowest evaluated price (fixed price contracts) or the lowest most probable cost (cost type contracts). However, the Government will consider awarding to an offeror with higher qualitative merit if the difference in price is commensurate with added value. Conversely, the Government will consider making award to an offeror whose offer has lower qualitative merit if the price (or cost) differential between it and other offers warrant doing so.

(c) **Documentation.** Rationale for selection of the successful offeror shall be recorded in a selection statement which succinctly records the value characteristics upon which selection was made. The statement need not and should not reveal details of the successful offer that are proprietary or business sensitive. Since the value characteristics are expressed in performance terms, the reasons for selection can focus on results to be achieved, rather than the detailed approach the offeror will use. The statement shall also comment on the rationale used to equate cost and qualitative merit. Little or no additional analysis is required when the selected offeror possessed the highest merit and lowest price. When a marginal analysis is made between value characteristics and price (or cost) in most cases this will be a subjective, integrated assessment of all pertinent factors. Specific rationale should be provided to the extent possible. It is expected that the statement will not ordinarily exceed one page. Where the procurement is closely contested, it would be prudent to expand on the rationale provided in the statement.

(d) The name of the offeror(s) selected for award shall be electronically transmitted to the offerors which will serve as a notification to those offerors that were not selected (see 1871.505). The selection statement may be made available at the buying team's discretion.

(b) The program office shall:

(1) Synopsise the AO in the Commerce Business Daily and on the NAIS prior to release;

(2) Determine if there is instrumentation or support equipment available which may be appropriate to the AO with all necessary background data considered essential for use by a proposer;

(3) Determine mailing lists, including the mailing list maintained by the International Affairs Division, Office of External Relations, for broad dissemination of the AO; and

(4) Assure mandatory provisions are contained in the AO.

(c) Other methods of dissemination of the AO may also be used, such as the use of press releases, etc. When possible, the AO should be widely publicized through publications of appropriate professional societies; however, NASA policy does not allow payment for the placement of advertisements.

1872.303 Responsibilities.

(a) The program office originator is responsible for the content of the AO and coordination with concerned Headquarters offices and field installations. All personnel involved in the evaluation of proposals are responsible for familiarizing themselves and complying with this part and other applicable regulations. To this end, they are expected to seek the advice and guidance of appropriate Headquarters program and staff offices, and Project Installation management.

(b) The Program Office is also responsible for coordinating the AO with the International Affairs, Educational Affairs, Management Support Divisions, Office of External Relations, Office of General Counsel, and Office of Acquisition prior to issuance (See NMI 1362.1, Initiation and Development of International Cooperation in Space and Aeronautical Programs).

(c) Concurrence of the Office of Acquisition is required before issuance of an AO.

1872.304 Proposal opportunity period.

(a) The AO must accommodate to the maximum extent practicable opportunities afforded by the Shuttle/Spacelab flights. The following methods may be used to

enable an AO to be open for an extended period of time and/or to cover a series or range of flight possibilities or disciplines:

(1) The AO may be issued establishing a number of proposal submission dates. Normally, no more than three proposal submission dates should be established. The submittal dates may be spread over the number of months most compatible with the possible flight opportunities and the availability of resources necessary to evaluate and fund the proposals.

(2) The AO may be issued establishing a single proposal submission date. However, the AO could provide that NASA amend the AO to provide for subsequent dates for submission of proposals, if additional investigations are desired within the AO objectives.

(3) The AO may provide for an initial submission date with the AO to remain open for submission of additional proposals up to a final cutoff date. This final date should be related to the availability of resources necessary to evaluate the continuous flow of proposals, the time remaining prior to the flight opportunity(s) contemplated by the AO, and payload funding and availability.

(b) Generally, a core payload of investigations would be selected from the initial submission of proposals under the above methods of open-ended AOs. These selections could be final or tentative recognizing the need for further definition. Proposals received by subsequent submission dates would be considered in the scope of the original AO but would be subject to the opportunities and resources remaining available or the progress being made by prior selected investigations.

(c) Any proposal, whether received on the initial submission or subsequent submission, requires notification to the investigator and the investigator's institution of the proposal disposition. Some of the proposals will be rejected completely and the investigators immediately notified. The remaining unselected proposals may, if agreeable with the proposers, be held for later consideration and funding and the investigator so notified. However, if an investigator's proposal is considered at a later date, the investigator must be given an opportunity to validate the proposal with the investigator's institution and for updating the cost and other data contained in the original submission prior to a final selection. In summary, NASA may retain proposals, receiving Category I, II, or III classifications (see 1872.403-1(e)), for possible later sponsorship until no longer feasible to consider the proposal. When this final stage is reached, the investigator must be promptly notified. Proposing investigators not desiring their proposals be held for later consideration should be given the opportunity to so indicate in their original submissions.

1872.305 Guidelines for announcement of opportunity.

(a) The AO should be tailored to the particular needs of the contemplated investigations and be complete in itself. Each AO will identify the originating program office and be numbered consecutively by calendar year, e.g., OA1-95, OA-2-95; OLMSA-1-95; OSS-1-95; etc. The required format and detailed instructions regarding the contents of the AO are contained in Appendix A.

(b) The General Instructions and Provisions (Appendix B) are necessary to accommodate the unique aspects of the AO process. Therefore, they must be appended to each AO.

(c) At the time of issuance, copies of the AO must be furnished to Headquarters, Office of Acquisition (Code HS) and Office of General Counsel (Code GK).

(d) Proposers should be informed of significant departures from scheduled dates for activities related in the AO.

1872.306 Announcement of opportunity soliciting foreign participation.

Proposals for participation by individuals outside the U.S. shall be submitted in the same format (excluding cost plans) as U.S. proposals, typewritten in English, and reviewed and endorsed by the appropriate foreign governmental agency. If letters of "Notice of Intent" are required, the AO should indicate that they be sent to Headquarters, Office of External Relations, International Relations Division (Code IR). Should a foreign proposal be selected, NASA will arrange with the sponsoring foreign agency for the proposed participation on a no-exchange-of-funds basis, in which NASA and the sponsoring agency will each bear the cost of discharging its respective responsibilities. Note that additional guidelines applicable to foreign proposers are contained in the Management Plan Section of Appendix C (see Section II) and must be included in any Guidelines for Proposal Preparation or otherwise furnished to foreign proposers.

1872.307 Guidelines for proposal preparation.

While not all of the guidelines outlined in Appendix C will be applicable in response to every AO, the investigator should be informed of the relevant information required. The proposal may be

(b) It may not be possible to select a subcommittee fully satisfying all of the conditions described in paragraph (a) of this section. It is the responsibility of the nominating and appointing officials to make trade-offs, where necessary, among the criteria in paragraph (a) of this section. This latitude permits flexibility in making decisions in accord with circumstances of each application. In so doing, however, it is

emphasized that recognized expertise in evaluating dissimilar proposals is essential to the continued workability of the investigation acquisition process.

(c) Candidate subcommittee members should be nominated by the office having responsibility for the evaluation. Nominations should be approved in accordance with NMI 1150.2, "Establishment, Operation, and Duration of NASA Advisory Committees." The notification of appointment should specify the duration of assignment on the subcommittee, provisions concerning conflicts of interest, and arrangements regarding honoraria, per diem, and travel when actually employed.

(d) It is important that members of the subcommittee be formally instructed as to their responsibilities with respect to the investigation acquisition process, even where several or all of the members have served previously. This briefing of subcommittee members should include:

(1) Instruction of subcommittee members on agency policies and procedures pertinent to acquisition of investigations.

(2) Review of the program goals, AO objectives, and evaluation criteria, including relative importance, which provide the basis for evaluation.

(3) Instruction on the use of preliminary proposal evaluation data furnished by the Installation Project Office. The subcommittee should examine these data to gain a better understanding of the proposed investigations, any associated problems, and to consider cost in relation to the value of the investigations' objectives.

(4) Definition of responsibility of the subcommittee for evaluation and categorization with respect to scientific and/or technical merit in accordance with the evaluation criteria.

(5) Instruction for documentation of deliberations and categorizations of the subcommittee.

(6) Inform the chairperson of the subcommittee and all members that they should familiarize themselves with the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, and the Supplemental Standards of Ethical Conduct for employees of the National Aeronautics and Space Administration, 5 CFR Part 6901, regarding conflicts of interest. Members should inform the appointing authority if their participation presents a real or apparent conflict of interest situation. In addition, all participants should inform the selection official in the event they are subjected to pressure or improper contacts.

(7) Inform members that prior to the selection and announcement of the successful investigators and investigations, subcommittee members and NASA personnel shall not reveal any information concerning the evaluation to anyone who is not also

participating in the same evaluation proceedings, and then only to the extent that such information is required in connection with such proceedings. Also, inform members that subsequent to selection of an investigation and announcement of negotiations with the investigator's institution, information concerning the proceedings of the subcommittee and data developed by the subcommittee will be made available to others within NASA only when the requestor demonstrates a need to know for a NASA purpose. Such information will be made available to persons outside NASA including other Government agencies, only when such disclosure is concurred in by the Office of General Counsel. In this connection, reference is made to 18 U.S.C. 1905 which provides criminal sanctions if any officer or employee (including special employees) of the United States discloses or divulges certain kinds of business confidential and trade secret information unless authorized by law.

(e) The product of an advisory subcommittee is the classification of proposals into four categories. The categories are:

(1) **Category I**--Well conceived and scientifically and technically sound investigations pertinent to the goals of the program and the AO's objectives and offered by a competent investigator from an institution capable of supplying the necessary support to ensure that any essential flight hardware or other support can be delivered on time and that data can be properly reduced, analyzed, interpreted, and published in a reasonable time. Investigations in Category I are recommended for acceptance and normally will be displaced only by other Category I investigations.

(2) **Category II**--Well conceived and scientifically or technically sound investigations which are recommended for acceptance, but at a lower priority than Category I.

(3) **Category III**--Scientifically or technically sound investigations which require further development. Category III investigations may be funded for development and may be reconsidered at a later time for the same or other opportunities.

(4) **Category IV**--Proposed investigations which are recommended for rejection for the particular opportunity under consideration, whatever the reason.

(f) A record of the deliberations of the subcommittee shall be prepared by the assigned executive secretary and shall be signed by the Chairperson. The minutes shall contain the categorizations with basic rationale for such ratings and the significant strengths and weaknesses of the proposals evaluated.

1872.403-2 Contractor evaluation process.

(a) The use of the contractor method for obtaining support for evaluation purposes of proposals received in response to an AO requires the approval of the Program AA. Prior to the use of this method, discussion should be held with the Office of Acquisition.

(b) It is NASA policy to avoid situations in the acquisition process where, by virtue of the work or services performed for NASA, or as a result of data acquired from NASA or from other entities, a particular company:

(1) Is given an unfair competitive advantage over other companies with respect to future NASA business;

(2) Is placed in a position to affect Government actions under circumstances in which there is potential that the company's judgment may be biased; or

(3) Otherwise finds that a conflict exists between the performance of work or services for the Government in an impartial manner and the company's own self-interest.

(c) To reduce the possibility of an organizational conflict of interest problem arising, the following minimum restrictions will be incorporated into the contract:

(1) No employee of the contractor will be permitted to propose in response to the AO;

(2) The "Limitation on Future Contracting" clause contained in 1852.209-71 will be included in all such contracts; and

(3) Unless authorized by the NASA contracting officer, the contractor shall not contact the originator of any proposal concerning its contents.

SPECIAL INSTRUCTIONS

Amend the internal references throughout the NFS as indicated in the following table.

NFS Location	Remove	Insert
1803.104-5(a)(i)	1815.612-70	1815.370
1814.201-670(d)	1815.407-70(d)	1815.209-70(a)
1816.405-270(b)(2)(ii)	FAR 15.9 and 1815.9	FAR 15.404-4, 1815.404-4 and 1815.404-470
1817.503(a)(2)	FAR 15.405	FAR 15.201
1832.409-170(d)	1815.9	1815.404-470
1835.016-70(d)(1)	1815.508-70 and 1815.509-70	FAR 15.608, FAR 15.609, and 1815.609-70
1835.016-70(d)(2)	1815.412-70	1815.208
1835.016-70(d)(3)	FAR 15.413-2(f) and 1815.413-2	1815.207
1835.016-70(d)(3)	FAR 15.601	FAR 15.306
1835.016-70(d)(5)	FAR 15.610(e)(1)	FAR 15.306(e)
1835.016-70(d)(7)	FAR 15.1004	FAR 15.5
1842.7301(a)	1815.807-71	1815.406-171

1844.201-2(c)(2)	FAR 15.806-2(a)(1) or (2)	FAR 15.404-3(c)
1853.242-70(g)	1815.805-5(a)(1)(E)	1815.404-2(a)(1)(D)
1871.105(f)	FAR 15.406	FAR 15.204
1871.401-3(a)(2)	FAR 52.215-16, Alternate II	FAR 52.215-1
1871.401-3(b)(4)	FAR 15.610	FAR 15.306
1871.401-4(a)(2)	FAR 52.215-16, Alternate II	FAR 52.215-1
1871.402(d)	15.402(i)	FAR 15.203(d)
1871.505 introductory text	FAR 15.1001	FAR 15.503
1871.604-3(a)	FAR 15.610	FAR 15.306
1872.505	FAR 15.1004	FAR 15.5
1872.702(b)(1)	1815.412	1815.208
1872.705-1 paragraph VI	FAR 15.8	FAR 15.403-5