

cease providing video service to their subscribers, but simply to provide service in compliance with one of the statutorily-recognized video programming delivery options. We also believe that this conclusion is consistent with the Conference Report, since we are not requiring video dialtone operators to elect a different option until after our open video system rules have become effective. To hold otherwise, as NCTA points out, would require the Commission to initiate a new rulemaking proceeding to establish rules governing a handful of systems. We believe that creating a fifth option for a limited number of systems would be unnecessary, wasteful, and contrary to Congress' Section 651 framework. We decline to adopt such an approach.

11. We also believe that the above election requirement generally is consistent with the positions advanced by BellSouth, Bell Atlantic and Pacific Bell. We also believe that the election requirement generally is consistent with Sprint's position that the Commission is not required to terminate currently authorized video dialtone systems, and addresses its concern that subscribers' service not be disrupted. None of those companies has argued for, or expressed an interest in, providing video programming service separate and apart from the Communication Act's current framework. These parties have all posited that entities with existing video dialtone authorizations should have the opportunity to continue offering service under Title II. For instance, although Pacific Bell disagrees with NCTA's assertion that existing video dialtone authorizations were not "grandfathered," it argues that existing video dialtone systems "should have the opportunity to continue offering service under Title II" or some other permissible framework. Similarly, Bell Atlantic asserts that its video dialtone system in Dover Township, New Jersey already qualifies as a common carrier system, and that it will evaluate the appropriate regulatory framework for its Dover Township system once the Commission's open video system rules are in place. We expressly do not reach the merits of Bell Atlantic and BellSouth's assertions that some or all video dialtone systems qualify as common carrier video offerings under Section 651. As noted above, common carrier transmission is one of the Section 651 alternatives under which video dialtone operators may continue to provide service.

12. We do not distinguish between video dialtone trials and commercial authorizations for purposes of this election. The repeal of our video

dialtone rules requires an election comporting with the provisions of the amended law. The type of authorization under the video dialtone structure is not relevant to this requirement.

IV. Paperwork Reduction Act of 1995 Analysis

13. This *First Order on Reconsideration* contains a new information collection under the Paperwork Reduction Act of 1995 (the "1995 Act"). The Commission has requested approval of this collection by the Office of Management and Budget ("OMB"), under the emergency processing provisions of the 1995 Act. Approval is requested to be effective September 4, 1996. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection contained in this *First Order on Reconsideration* as required by the 1995 Act. Public and agency comments on the information collection are due on or before August 30, 1996. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. OMB notification of action is requested September 4, 1996.

14. A copy of any comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236, NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain-t@al.eop.gov. For additional information concerning the information collections contained herein contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

V. Ordering Clauses

15. Accordingly, it is Ordered that NCTA's Petition for Reconsideration in CS Docket No. 96-46 is granted in part and denied in part, as provided herein.

16. It is further ordered that pursuant to Sections 4(i), 4(j), 651, and 653 of the Communications Act of 1934, as

amended, 47 U.S.C. §§ 154(i), 154(j), 571, and 573, and Section 302(b)(3) of the Telecommunications Act of 1996, the requirements and policies discussed in this *First Order on Reconsideration* are adopted.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Regulatory Flexibility Analysis

The Federal Communications Commission certifies that the Regulatory Flexibility Act is not applicable to the requirements we adopt in this *First Order on Reconsideration*. There will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Entities directly subject to the requirements herein are large corporations engaged in the provision of video programming services, and therefore are not "small entities" as defined by the Small Business Act. We are nevertheless committed to reducing the regulatory burdens on small communications services companies whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this *First Order on Reconsideration* to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Sections 603(a) and 605(b) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601, *et seq.* (1981).

Federal Communications Commission.

[FR Doc. 96-19428 Filed 8-2-96; 8:45 am]

BILLING CODE 6712-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1806, 1852

Rewrite of the NASA FAR Supplement (NFS)

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Parts 1801 through 1806, and clauses affected by these parts, are revised in their entirety. The numbering of NFS sections has been changed to indicate the exact section of the FAR being implemented or supplemented.

The FAR numbering system is by part, subpart, section, and subsection, for example 1.105-2. Subdivisions below these numbers are designated by

parenthetical alpha numerics in the following sequence: (a)(1)(i)(A).

The NFS "implements" and "supplements" the FAR. Implementing coverage is that which directly carries out the FAR policies and procedures. Supplementing coverage is that additional information not required by the FAR but necessary to satisfy the specific needs of NASA.

Numbering of NFS text implementing the FAR will be the same as that of the related FAR text when the NFS coverage is one paragraph.

Implementing NFS coverage exceeding one paragraph is numbered by first identifying the corresponding FAR text to the lowest appropriate FAR number and then adding the NFS coverage. To indicate where the FAR subdivision ends and the NFS begins, the NFS coverage is identified by skipping a sequence in the (a)(1)(i)(A) alpha numeric subdivision scheme. For example, four paragraphs implementing FAR 1.602-3(c)(7) are numbered 1801.602-3(c)(7)(A), (B), (C), and (D) (instead of the 1801.602-3(b)(1) through (4) in the current NFS). In this case, the next available alpha numeric subdivision identifier (i) is skipped and the NFS coverage starts with the subsequent identifier (A).

NFS text that supplements the FAR will be 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 prescribed alpha numeric sequence without skipping a unit.

Parts 1801 through 1806 use the new numbering system. Other NFS parts will be transitioned as the NFS rewrite progresses. The new numbering system will require a short orientation period. However, it will prove to be a significant value to the user of the NFS in that it will clearly and precisely identify the associated FAR coverage, as well as clearly distinguish implementing from supplementing coverage.

EFFECTIVE DATE: August 5, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Toole, (202) 358-0478; Mr. Bruce King, (202) 358-0461.

SUPPLEMENTARY INFORMATION:

Background

The National Performance Review urged agencies to streamline and clarify their regulations. The NFS rewrite initiative was established to pursue these goals by conducting a section by section review of the NFS to verify its

accuracy, relevancy, and validity. The NFS will be rewritten in blocks of parts and issued through Procurement Notices (PNs). Upon completion of all parts, the NFS will be reissued in a new edition.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1806, and 1852 Government procurement.

Tom Luedtke,
Deputy Associated Administrator for Procurement.

Accordingly, 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1806, and 1852 are amended as follows:

1.-2. Part 1801 is revised to read as follows:

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

1801.000 Scope of part.

Subpart 1801.1 Purpose, Authority, Issuance

1801.103 Authority.

1801.104 Applicability.

1801.105 Issuance.

1801.105-1 Publication and code arrangement.

1801.105-2 Arrangement of regulations.

1801.105-3 Copies.

1801.105-370 Internal dissemination.

1801.106 OMB approval under the Paperwork Reduction Act.

Subpart 1801.2 Administration

1801.270 Amendment of Regulation.

1801.270-1 Revisions.

1801.270-2 Procurement Notices.

1801.270-3 Effective date.

1801.270-4 Numbering.

1801.271 NASA procedures for FAR and NFS changes.

1801.272 Procurement Information Circulars.

Subpart 1801.3 Agency Acquisition Regulations

1801.301 Policy.

1801.303 Publication and codification.

Subpart 1801.4 Deviations From the FAR

1801.400 Scope of subpart.

1801.471 Procedure for requesting deviations.

Subpart 1801.6 Career Development, Contracting Authority, and Responsibilities

1801.601 General.

1801.602-3 Ratification of unauthorized commitments.

1801.603 Selection, appointment, and termination of appointment.

1801.603-2 Selection.

1801.670 Delegations to contracting officer's technical representatives (COTRs).

Subpart 1801.7 Determinations and Findings

1801.707 Signatory authority.

1801.770 Legal review.

Authority: 42 U.S.C. 2473(c)(1)

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 Regulations (FAR) Supplement, also referred to as the NFS.

Subpart 1801.1—Purpose, Authority, Issuance

1801.103 Authority. (NASA supplements paragraph (a))

(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 (Public Law 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 chapter.

1801.105 Issuance.

1801.105-1 Publication and code arrangement. (NASA supplements paragraphs (a) and (b))

(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, Code of Federal Regulations (CFR).

1801.105-2 Arrangement of regulations. (NASA supplements paragraph (b))

(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 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 (NASA paragraphs (1), (2) and (3))

(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. (NASA paragraphs (1) and (2))

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

NFS segment	OMB control No.
1815.406-70(b)(5)(iii)	2700-0082
1815.608-72	2700-0080
1819	2700-0073
1819.72	2700-0078
1827	2700-0052
1843	2700-0054
NF 533	2700-0003
NF 667	2700-0004
NF 1018	2700-0017

(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**1801.270 Amendment of regulation.****1801.270-1 Revisions.**

The NFS is amended by publishing amendments in the Federal Register and issuing NFSDs containing loose-leaf replacement pages revising various segments of it (also see 1801.270-2). Each replacement page bears the NFSD number and page number at the top. A vertical bar at the side of a line indicates that a change has been made within that line.

1801.270-2 Procurement Notices.

(a) The NFS is amended by publishing amendments in the Federal Register and issuing Procurement Notices (PNs) when it is necessary or advisable to change the NFS in advance of an NFSD.

(b) Unless otherwise indicated, each PN remains in effect until the effective date of the subsequent NFSD incorporating the PN or until specifically canceled.

1801.270-3 Effective date.

(a) Compliance with a revision to the NFS shall be in accordance with the NFSD or PN containing the revision.

(b) Unless otherwise stated, solicitations that have been issued, and bilateral agreements for which negotiations have been completed, before the receipt of new or revised contract clauses need not be amended to include the new or revised clauses if including them would unduly delay the acquisition.

1801.270-4 Numbering.

NFSDs and PNs are numbered consecutively, prefixed by the last two digits of the calendar year of issuance of the current edition of the NFS.

1801.271 NASA procedures for FAR and NFS changes.

(a) Informal suggestions for improving the NFS, including correction of errors, should be directed to the Headquarters Office of Procurement (Code HK).

(b) (1) Formal requests for changes to the FAR or the NFS should be written and contain

(i) A description of the problem the suggested revision is designed to cure,

(ii) The revision in the form of a marked-up copy of the current FAR or NFS language or the text of any additional language,

(iii) The consequences of making no change and the benefits to be expected from a change, and

(iv) Any other information necessary for understanding the situation, such as relationship between FAR and NFS coverage, legal opinions, coordination with other offices, and existing agreements.

(2) Formal requests for FAR and NFS changes should be sent to Code HK. Requests from Headquarters offices should originate at the division level or higher, while installation requests should be signed at the procurement officer or higher level.

1801.272 Procurement Information Circulars.

(a) The Procurement Information Circular (PIC) is used for internal dissemination of procurement-related information and directives not suitable for inclusion in the NFS. Code HK is responsible for issuing PICs.

(b) PICs are numbered on a calendar year basis, beginning with number 1, prefixed by the last two digits of the year.

Subpart 1801.3—Agency Acquisition Regulations**1801.301 Policy. (NASA supplements paragraphs (a) and (b))**

(a) (2) Heads of NASA field installations may prescribe policies and procedures that do not have a significant effect beyond the internal operating procedures of their installations. All other policies, procedures, and solicitation and contract provisions and clauses must be forwarded to the Headquarters Office of Procurement (Code HK) for approval in accordance with 1801.271(b).

(b) (i) 41 U.S.C. 418b requires publication of NFS changes for public comment where there will be a significant effect beyond the internal operating procedures of the agency or a significant cost or administrative impact on contractors or offerors. However, it does not define "significant effect beyond the internal operating procedures" or "significant cost or administrative impact." Examples of policies or procedures that fall in either of these categories are:

(A) A contract clause requiring contractors to take precautions to avoid injury to Florida manatees, which have been designated as an endangered species, has a significant cost impact for contractors who must obtain protective devices for boat propellers and take other safety actions.

(B) A contract clause requiring contractors to follow the Government's holiday schedule, thereby disallowing premium pay for work on contractor-designated holidays, will have an effect outside the internal operating procedures of the agency.

(C) A contract clause requiring contractors to segregate costs by appropriations will affect the contractor's internal accounting system and have a significant impact.

(D) Requiring contractor compliance with NASA's Space Transportation System Personnel Reliability Program will have an effect outside the internal operating procedures of the agency.

(ii) In contrast, the following would not have to be publicized for public comment:

(A) Security procedures for identifying and badging contractor personnel to obtain access at a NASA installation.

(B) A one-time requirement in a construction contract for the contractor to develop a placement plan and for inspection prior to any concrete being placed. (This is a part of the specification or statement of work.)

(C) A policy that requires the NASA installation to maintain copies of unsuccessful offers.

1801.303 Publication and codification. (NASA supplements paragraph (a))

(a) Part, subpart, and section numbers 70 through 89 are reserved for NFS supplementary material for which there is no FAR counterpart.

Subpart 1801.4—Deviations From the FAR**1801.400 Scope of subpart.**

This subpart prescribes the policies and procedures for authorizing deviations from the FAR and the NFS.

1801.471 Procedure for requesting deviations.

(a) Requests for authority to deviate from the FAR or the NFS shall be submitted by the Procurement Officer to the Headquarters Office of Procurement (Code HS).

(b) Each request for a deviation shall contain, as a minimum—

(1) Identification of the FAR or the NFS requirement from which a deviation is sought;

(2) A full description of the deviation, the circumstances in which it will be used, and the specific contract action(s) to which it applies;

(3) A description of its intended effect;

(4) A statement as to whether the deviation has been requested previously and, if so, the circumstances of the previous request;

(5) Identification of the contractor(s) and the contract(s) affected, including dollar value(s);

(6) Detailed reasons supporting the request, including any pertinent background information; and

(7) A copy of counsel's concurrence or comments.

(c) In addition to the information required by 1801.471(b), requests for individual deviations from FAR cost principles under FAR 31.101 should include a copy of the contractor's request for cost allowance.

Subpart 1801.6—Career Development, Contracting Authority, and Responsibilities**1801.601 General.**

The authority to contract for authorized supplies and services is delegated to the Associate Administrator for Procurement and installation officials by NPD 5101.32.

1801.602–3 Ratification of unauthorized commitments. (NASA supplements paragraphs (b) and (c))

(b) Policy. Individuals making unauthorized commitments may be subject to disciplinary action, and the issue may be referred to the Office of Inspector General.

(c)(7) The authority in FAR 1.602–3 may be exercised only when—

(A) The Government employee who made the unauthorized commitment, or his/her supervisor, if appropriate, initiates a procurement request in accordance with 1804.7301.

(B) The procurement request and/or accompanying documentation identifies the individual who made the unauthorized commitment, and includes a statement signed by the individual that explains why normal acquisition procedures were not followed, explains why the firm was selected, lists other sources considered, describes the work, and estimates or states the agreed price. If the Government representative who made the unauthorized commitment is no longer available, appropriate program personnel shall provide the information described in this paragraph.

(C) The procurement request is submitted through the director of the cognizant program office at the contracting activity, or comparable official. In the procurement request, the director shall describe measures taken to prevent the recurrence of the unauthorized commitment.

1801.603 Selection, appointment, and termination of appointment.**1801.603–2 Selection.**

Normally, only GS–1102 and –1105 personnel with the proper training and experience may be appointed contracting officers and only when a valid organizational need can be demonstrated.

1801.670 Delegations to contracting officer's technical representatives (COTRs).

A COTR delegation may be made only by the contracting officer cognizant of that contract at the time the delegation is made. If the cognizant contracting officer is absent, the delegation letter may be signed by a warranted contracting officer at any level above the cognizant contracting officer. An individual COTR may have only the duties specifically identified in a written delegation to him or her by name (i.e., COTR duties may not be delegated to a position) and has no authority to exceed them. COTRs should be informed that they may be personally liable for unauthorized commitments. Contracting officer authority to sign or

authorize contractual instruments shall not be delegated through a COTR designation or by any means other than a contracting officer warrant.

Subpart 1801.7—Determinations and Findings

1801.707 Signatory authority.

Signatory authority for determinations and findings (D&Fs) is specified in the FAR or the NFS text for the associated subject matter. The Administrator may make any of the D&Fs that may be made by the Associate Administrator for Procurement or by a contracting officer.

1801.770 Legal review.

Each D&F, including class D&Fs, shall be reviewed by counsel for form and legality before signature by the approving authority.

3. Part 1802 is revised to read as follows:

PART 1802—DEFINITIONS OF WORDS AND TERMS

1802.000 Scope of part.

Subpart 1802.1—Definitions

1802.101 Definitions.

Authority: 42 U.S.C. 2473(c)(1)

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.

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, Space Station Program Office 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.

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

4. Part 1803 is revised to read as follows:

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1803.1—Safeguards

1803.101 Standards of conduct.

1803.101-1 General.

1803.101-2 Solicitation and acceptance of gratuities by Government personnel.

1803.104 Procurement integrity.

1803.104-4 Definitions.

1803.104-5 Disclosure, protection, and marking of proprietary and source selection information.

1803.104-7 Postemployment restrictions applicable to Government officers and employees serving as procurement officials and certifications required from procurement officials leaving Government service.

1803.104-8 Knowing violations, duty to inquire, and ethics advisory opinions.

1803.104-11 Processing violations or possible violations.

1803.104-12 Ethics program training requirements.

Subpart 1803.2—Contract or Gratuities to Government Personnel

1803.203 Reporting suspected violations of the Gratuities clause.

Subpart 1803.3—Reports of Suspected Antitrust Violations

1803.303 Reporting suspected antitrust violations.

Subpart 1803.5—Other Improper Business Practices

1803.502 Subcontractor kickbacks.

Subpart 1803.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1803.602 Exceptions.

Subpart 1803.7—Voiding and Rescinding Contracts

1803.704 Policy.

1803.705 Procedures.

Subpart 1803.8—Limitation on the Payment of Funds to Influence Federal Transactions

1803.804 Policy.

1803.806 Processing suspected violations.

Authority: 42 U.S.C. 2473(c)(1)

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1803.1—Safeguards

1803.101 Standards of conduct.

1803.101-1 General.

The statutory prohibitions and their application to NASA personnel are discussed in NHB 1900.1, Standards of Conduct for NASA Employees, and NHB 1900.2, Standards of Conduct for NASA Special Government Employees. All NASA personnel involved in acquisitions shall become familiar with these statutory prohibitions. Any questions concerning them shall be referred to legal counsel. In addition to criminal penalties, the statutes provide that transactions entered into in violation of these prohibitions are voidable (18 U.S.C. 218).

1803.101-2 Solicitation and acceptance of gratuities by Government personnel.

Any suspected violations shall be reported promptly to the installation's Office of Inspector General. (See Standards of Conduct for NASA Employees, NHB 1900.1.)

1803.104 Procurement integrity.

1803.104-4 Definitions.

Designated agency ethics official means for Headquarters, the General Counsel, and the Associate General Counsel for General Law, and for each center, the Chief Counsel.

1803.104-5 Disclosure, protection, and marking of proprietary and source selection information. (NASA supplements paragraphs (c) and (d))

(c)(i) The originator of information that may be source selection information shall consult with the contracting officer or the procurement officer, who shall determine whether the information is source selection information. NASA personnel responsible for preparing material described in FAR 3.104-4(k)(2)(i) through (ix) shall assure that the material is marked with the legend in FAR 3.104-5(c) at the time the material is prepared.

(ii) Unless marked with the legend "SOURCE SELECTION INFORMATION—SEE FAR 3.104," draft specifications, purchase descriptions, and statements of work are not considered source selection information and may be released during a market survey in order to determine the capabilities of potential competitive sources (see FAR subpart 7.1). All documents, once released, must remain

available to the public until the conclusion of the acquisition.

(d)(1) Government employees serving in the following positions are authorized access to proprietary or source selection information, but only to the extent necessary to perform their official duties:

(A) Personnel participating in source evaluation board (SEB) procedures under 1870.303, App. I, or personnel evaluating an offeror's or bidder's technical or cost proposal under other competitive procedures, and personnel evaluating protests.

(B) Personnel assigned to the contracting office.

(C) The initiator of the procurement request (to include the official having principal technical cognizance over the requirement).

(D) Small business specialists.

(E) Personnel assigned to counsel's office.

(F) Personnel assigned to the Defense Contract Audit Agency and contract administration offices of the Department of Defense.

(G) Personnel responsible for the review and approval of documents in accordance with the Master Buy Plan Procedure in subpart 1807.71.

(H) Other government employees authorized by the contracting officer.

(I) Supervisors, at any level, of the personnel listed in paragraphs 1803.104-5(d)(1) (A) through (H).

(J) Duly designated ombudsman.

(3) For contracts and contract modifications over \$100,000, release of proprietary or source selection information to another Government activity shall be made by a letter citing the obligation under FAR 3.104-5(d) to maintain a list of persons or classes of persons authorized access to proprietary or source selection information and to provide the list to the contracting officer for the contract file.

1803.104-7 Postemployment restrictions applicable to Government officers and employees serving as procurement officials and certifications required from procurement officials leaving Government service. (NASA supplements paragraph (a))

(a) The contracting officer shall obtain the following certification from any procurement official leaving the Government or transferring to another Government agency or any contractor employee serving as a procurement official who ceases performance of those duties during the conduct of an acquisition expected to result in a contract or modification in excess of \$100,000.

(Certification)

PROCUREMENT OFFICIAL CERTIFICATION UPON TERMINATION OF GOVERNMENT SERVICE

I, [Name of procurement official], hereby certify that I understand the continuing obligation under Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) not to disclose proprietary or source selection information relating to any ongoing acquisition for which I have served as a procurement official.

Signature of procurement official and date

Identify applicable acquisitions (ones for which awards have not been made at the time of the procurement official's departure):

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of certification)

1803.104-B Knowing violations, duty to inquire, and ethics advisory opinions.

When a contracting officer has not been appointed, questions regarding whether information is proprietary or source selection information shall be referred to the procurement officer.

1803.104-11 Processing violations or possible violations. (NASA supplements paragraphs (a), (b) and (f))

(a)(1) The Procurement Officer is the individual designated to receive the contracting officer's report of violations in accordance with FAR 3.104-11.

(b) The head of the contracting activity (HCA) or designee shall refer all information describing an actual or possible violation to the installation's counsel and inspector general staff and to the Associate Administrator for Procurement (Code HS).

(f) When the HCA or designee determines that award is justified by urgent and compelling circumstances or is otherwise in the interest of the Government, then that official shall submit a copy of the determination to the Associate Administrator for Procurement (Attn: Code HS) simultaneous with transmittal to the Administrator.

1803.104-12 Ethics program training requirements. (NASA supplements paragraph (a))

(a)(3) Individuals who will serve as procurement officials shall complete either Optional Form 333 or the following certification. The Privacy Act Notice is intended for use when either the executed Optional Form 333 or the executed certification will be filed in the employee's official personnel file and a social security number is needed.

When an individual's social security number is being requested, Centers may use the attached Privacy Act Notice or an appropriate alternative Privacy Act Notice. The Privacy Act Notice may be omitted if a social security number is not being requested.

(Certification)

PROCUREMENT INTEGRITY CERTIFICATION FOR PROCUREMENT OFFICIALS

As a condition of serving as a procurement official, I, [Name], hereby certify that I am familiar with the provisions of subsections 27(b), (c), and (e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) as amended by section 814 of Public Law 101-189. I further certify that I will not engage in any conduct prohibited by such subsections and will report immediately to the contracting officer any information concerning a violation or possible violation of subsections 27 (a), (b), (d), or (f) of the Act and applicable implementing regulations. A written explanation of subsections 27(a) through (f) has been made available to me. I understand that, should I leave the Government during the conduct of an acquisition for which I have served as a procurement official, I have a continuing obligation under section 27 not to disclose proprietary or source selection information relating to the acquisition and a requirement to so certify.

I understand that my execution of this certification does not make me a procurement official, nor will it be utilized to establish that I am a procurement official.

Signature and date

(End of certification)

(Notice)

Name

Social Security Number

PRIVACY ACT NOTICE TO EMPLOYEES AND OFFICIALS

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the following notice is provided: AUTHORITY FOR COLLECTION OF INFORMATION: 41 U.S.C. 423 and Executive Order 9397. Your signature on the Procurement Integrity Certification for Procurement Officials and disclosure of your Social Security Number are voluntary, but possible effects upon you if the certification is not signed and the Social Security Number is not provided include the following:

Disqualification from particular work or duty assignments, or from the position for which you have applied or which you currently hold, or other appropriate action, or administrative delay in processing your certification.

Principal purpose for collection of this information:

To obtain and maintain a completed certification from any person designated as a "Procurement Official," as defined by 41 U.S.C. 423 and applicable acquisition regulations.

Routine uses which may be made of the collected information:

Transfers to Federal, state, local, or foreign agencies when relevant to civil, criminal,

administrative, or regulatory investigations or proceedings, including transfer to the Office of Government Ethics in connection with its program oversight responsibilities, or pursuant to a request by any appropriate Federal agency in connection with hiring, retention, or grievance of an employee or applicant, the issuance of a security clearance, the award or administration of a contract, the issuance of a license, grant, or other benefit, to committees of the Congress, or any other use specified by the Office of Personnel Management (OPM) in the system of records entitled "PM/GOT-1. General Personnel Records," as published in the Federal Register periodically by OPM. (End of Notice)

Subpart 1803.2—Contract or Gratuities to Government Personnel

1803.203 Reporting suspected violations of the Gratuities clause.

Any suspected violations of the clause at FAR 52.203-3, Gratuities, shall be reported to the installation's Office of Inspector General.

Subpart 1803.3—Reports of Suspected Antitrust Violations

1803.303 Reporting suspected antitrust violations. (NASA supplements paragraphs (b) and (d))

(b)(i) When offers are received that, in the opinion of the contracting officer, indicate possible antitrust violations, the contracting officer shall report the circumstances to the General Counsel, NASA Headquarters, through the Office of Procurement (Code HS). Reports should not be submitted automatically but only when there is reason to believe the offers may not have been arrived at independently. These reports shall be submitted with conformed copies of bids or proposals, contract documents, and other supporting data, and shall set forth—

(A) The noncompetitive pattern or situation under consideration;

(B) Purchase experience in the same product or service for a reasonable period (one or more years) preceding receipt of the offers under consideration, including unit and total contract prices and abstracts of bids;

(C) Community of financial interest among offerors, insofar as it is known;

(D) The extent, if any, to which specification requirements or patents restrict competition;

(E) Any information available about the pricing system employed in offers believed to reflect noncompetitive practices; and

(F) Any other pertinent information. (ii) Evidence of practices that, in the opinion of the General Counsel, NASA Headquarters, may violate the antitrust laws shall be forwarded to the Attorney

General of the United States (see FAR 3.303).

(d) The contracting officer shall submit the identical bid report required by FAR 3.303(d) to NASA Headquarters, Office of Procurement (Code HS). The report shall include the reasons for suspecting collusion. Code HS shall forward a copy to the NASA Office of the Inspector General.

Subpart 1803.5—Other Improper Business Practices

1803.502 Subcontractor kickbacks.

Contracting officers shall report suspected violations of the Anti-Kickback Act in accordance with 1809.470.

Subpart 1803.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1803.602 Exceptions.

The Associate Administrator for Procurement has been delegated the authority to authorize an exception to the policy in FAR 3.601. The Associate Administrator for Procurement has redelegated this authority to the heads of contracting activities (HCAs) for individual actions in the aggregate of \$100,000 and below, inclusive of follow-on acquisitions, with concurrence by the HCA's Office of Chief Counsel. All requests above the HCA's authority shall be forwarded to the Associate Administrator for Procurement (Code HS) for approval.

Subpart 1803.7—Voiding and Rescinding Contracts

1803.704 Policy. (NASA supplements paragraph (a))

(a) The Associate Administrator for Procurement has been delegated authority to void or rescind contracts when there is a final conviction for violation of 18 U.S.C. 201-224 (Bribery, Graft and Conflicts of Interest) relating to them.

1803.705 Procedures.

Procurement officers shall make reports to the Associate Administrator for Procurement (Code HS). The Associate Administrator for Procurement is responsible for the actions, notices, and decisions required by FAR 3.705(c), (d), and (e).

Subpart 1803.8—Limitation on the Payment of Funds to Influence Federal Transactions

1803.804 Policy

Procurement officers shall forward one copy of each Disclosure of Lobbying

Activities (SF-LLL) furnished pursuant to FAR 3.803 to the Office of Procurement (Code HS). The original shall be retained in the contract file. Forms shall be submitted semi-annually by April 15th for the six-month period ending March 31st, and by October 15th for the period ending September 30th.

1803.806 Processing suspected violations.

The Associate Administrator for Procurement (Code HS) is the designated official to whom suspected violations of the Act shall be referred.

5. Part 1804 is revised as set forth below:

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.1 Contract Executive

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 Contract clauses.

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

1804.7301 General.

Authority: 42 U.S.C. 2473(c)(1)

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. (NASA supplements paragraph (b))

(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 is 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 Contract clauses.

The contracting officer shall insert the clause substantially as stated at 1852.204-76, 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 1804.6—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. (NASA supplements paragraph (d))

(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. (NASA supplements paragraph (b))

(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. (NASA supplements paragraphs (a) and (b))

(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. (NASA supplements paragraph (a))

(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 alphanumeric 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 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

Installation	Contract prefix	Purchase order prefix
Lyndon B. Johnson Space Center.	NAS 9	T
John F. Kennedy Space Center.	NAS10	CC
Langley Research Center.	NAS 1	L
Lewis Research Center	NAS 3	C
George C. Marshall Space Flight Center.	NAS 8	H
NASA Management Office-JPL.	NAS 7	WO
John C. Stennis Space Center.	NAS13	NS
Space Station Program Office.	NAS15	K

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

(1) Contracts, including letter contracts, indefinite-delivery contracts, utilities, 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 section, 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 section.

Subpart 1804.72—Review and Approval of Contractual Instruments

1804.7200 Contact 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.

6. Part 1805 is revised as set forth below:

PART 1805—PUBLICIZING CONTRACT ACTIONS

Subpart 1805.1—Dissemination of Information

1805.101 Methods of disseminating information.

Subpart 1805.2—Synopsis of Proposed Contracts

1805.201 General.

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—Synopsis of Contract Awards

1805.303 Announcement of contract awards.

1805.303-70 NASA Headquarters public announcement.

1805.303-71 Notification to the Administrator of significant procurement actions.

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.

Authority: 42 U.S.C. 2473(c)(1).

PART 1805—PUBLICIZING CONTRACT ACTIONS

Subpart 1805.1—Dissemination of Information

1805.101 Methods of disseminating information. (NASA supplements paragraph (b))

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

Subpart 1805.2—Synopsis of Proposed Contracts

1805.201 General. (NASA supplements paragraph (a))

(a)(i) Except for acquisitions described in (a)(ii) of this section, a copy of each synopsis shall be made available on the Internet as well as published in the CBD.

(ii) Midrange acquisitions (see part 1871) with annual values of up to \$500,000 shall be made available only on the Internet.

1805.205 Special situations. (NASA supplements paragraph (a))

(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.

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

(a) Architect-engineering 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. (NASA supplements paragraph (a))

(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 of 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 Notification to the Administrator of significant procurement actions.

(a) In addition to the public announcement requirements described in 1805.303-70, contracting officers shall notify the Administrator of the following procurement 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 procurement actions 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) through (10) of this subsection 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. (NASA paragraphs (1) and (2))

(1) Unless the head of the contracting activity determines that disclosure would be prejudicial to the interests of NASA, installation Public Affairs Offices may make public the following information on NASA acquisitions:

(i) The names of firms invited to submit offers;

(ii) The names of firms that attended any pre-bid or pre-proposal conference; and

(iii) The names of firms that submitted offers.

(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. (NASA supplements paragraph (a))

(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.

7. Part 1806 is revised as set forth below:

PART 1806—COMPETITION REQUIREMENTS

Subpart 1806.2—Full and Open Competition After Exclusion of Sources

1806.202 Establishing or maintaining alternative sources.

1806.202-70 Formats.

Subpart 1806.3—Other Than Full and Open Competition

1806.302 Circumstances permitting other than full and open competition.

1806.302-4 International agreement.

1806.302-470 Documentation.

1806.302-7 Public interest.

1806.303 Justifications.

1806.303-1 Requirements.

1806.303-170 Sole-source purchases by contractors.

1806.303.2 Content.

1806.303-270 Use of unusual and compelling urgency authority.

1806.304-70 Approval of NASA justifications.

Subpart 1806.5—Competition Advocates

1806.501 Requirement.

1806.502 Duties and responsibilities.

Authority: 42 U.S.C. 2473(c)(1)

PART 1806—COMPETITION REQUIREMENTS

Subpart 1806.2—Full and Open Competition After Exclusion of Sources

1806.202 Establishing or maintaining alternative sources. (NASA supplements paragraphs (a) and (b))

(a) The authority of FAR 6.202 is to be used to totally or partially exclude a particular source.

(b) The supporting data and the D&F must name the source to be excluded and shall include the following information as applicable and any other relevant information:

(i) The specific purpose to be served in excluding the source as enumerated in FAR 6.202(a).

(ii) The acquisition history of the supplies or services, including sources, prices, quantities, and dates of award.

(iii) The circumstances making it necessary to exclude a particular source from the contract action:

(A) Reasons for lack of sources; e.g., the technical complexity and criticality of the item.

(B) Current annual requirement and prospective needs for the supplies and services.

(C) Projected future requirements.

(iv) Whether the existing source must be totally excluded from the action or whether a partial exclusion is sufficient.

(v) The potential effect of exclusion on the excluded source in terms of any loss of capability to furnish the supplies or services in subsequent contract actions.

(vi) When the authority of FAR 6.202(a)(1) is cited, the basis for—

(A) Assumptions regarding future competition; and

(B) The determination that exclusion of a particular source will likely result in reduced overall costs for anticipated future acquisitions, including (as a minimum) discussion of start-up costs, costs associated with facilities, duplicative administration costs (such as for additional inspection or testing), economic order quantities, and life-cycle-cost considerations.

(vii) When an additional source or additional sources must be established to provide production capacity to meet current and mobilization requirements—

(A) The current annual and the mobilization requirements for the item, citing the source of, or the basis for, the planning data;

(B) A comparison of current production capacity with current and mobilization requirements; and

(C) The hazards of relying on the present source and the time required for new sources to acquire the necessary facilities and skills and achieve the production capacity necessary to meet requirements.

§ 1806.202-70 Formats.

A sample format for D&Fs citing the authority of FAR 6.202(a) follows:

National Aeronautics and Space Administration, Washington, DC 20546

Determination and Findings

Authority to Exclude a Source

On the basis of following findings and determination, which I make under the authority of 10 U.S.C. 2304(b)(1) as implemented by FAR 6.202, the proposed contract action described below may be awarded using full and open competition after exclusion of _____.(1).

Findings

1. It is proposed that the following requirement be acquired using full and open competition after exclusion of the source identified above.

2. The source identified above can be expected to receive an award for this requirement unless excluded.

3. It is necessary to establish or maintain an alternative source or sources.

4. The exclusion of this source will increase or maintain competition and is likely to result in reduction of _____.(2) in overall costs for any anticipated acquisition of the supplies or services being acquired. This estimate is based on _____.(3).

(See Note 4 for the use of Alternates I and II below.)

Alternate I: The exclusion of this source will serve the national defense interest by having an alternative supplier available for furnishing the supplies or services being acquired, in case of a national emergency or industrial mobilization, because _____.(5).

Alternate II: The exclusion of this source will serve the national defense interest by establishing or maintaining an essential engineering, research, or development capability of an educational or other nonprofit institution or a federally funded research and development center, because _____.(5).

Determination

The exclusion of the source identified above will increase or maintain competition and is likely to result in reduced overall costs for any anticipated acquisition of the supplies or services being acquired.

(See Note 4 for the use of Alternates I and II below.)

Alternate I: It is in the interest of the national defense to exclude the source identified above in order to have an alternative supplier available for furnishing the supplies or services being acquired, in case of a national emergency or industrial mobilization.

Alternate II: It is in the interest of national defense to exclude the source identified above in order to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

Date _____

NOTES:

1. Name of source to be excluded.

2. Description of estimated reduction in overall costs.

3. Description of how estimate was derived.

4. In paragraph 4 and in the Determination, the basic wording is appropriate when FAR 6.202(a)(1) applies; Alternate I is appropriate when FAR 6.202(a)(2) applies; and Alternate II is appropriate when FAR 6.202(a)(3) applies.

5. Description of circumstances necessitating the exclusion of the identified source.

Subpart 1806.3—Other Than Full and Open Competition

§ 1806.302 Circumstances permitting other than full and open competition.

§ 1806.302-4 International agreement.

§ 1806.302-470 Documentation.

Pursuant to 10 U.S.C. 2304(f)(2)(E), an individual justification for other than full and open competition under the authority of FAR 6.302-4 is not required

when the procurement officer signs a Memorandum for the Record that:

(a) Describes the specific terms of the international agreement or treaty that limit acquisitions in support of, or as a result of, the agreement or treaty to less than full and open competition;

(b) Is reviewed and approved by the appropriate competition advocate in accordance with NFS 1806.304-70; and

(c) Is included in each official contract file in the place for filing a Justification for Other than Full and Open Competition (see NASA Form 1098).

1806.302-7 Public interest. (NASA supplements paragraph (c))

(c)(2) The notice to Congress shall be made by NASA Headquarters, Office of Legislative Affairs (Code LC). Code HS shall request the notice to be made immediately upon approval of a D&F and shall advise the contracting activity of the date upon which the notification period ends.

(3) The contracting officer shall prepare the D&F required by FAR 6.302-7(c)(1) in any format that clearly documents the determination and the supporting findings.

1806.303 Justifications.

1806.303-1 Requirements. (NASA supplements paragraphs (b) and (d))

(b) Justifications for using less than full and open competition may be prepared by the technical office initiating the contract action when it is recommending the use of the justification authority, or by the contracting officer if the technical office does not make such a recommendation.

(d) The contracting officer shall send a copy of each approved justification or D&F that cites that authority of FAR 6.302-1 (a)(2)(i) or FAR 6.302-7 to NASA Headquarters, International Relations Division (Code IR), unless one of the exceptions at FAR 25.403 applies to the acquisition. The transmittal shall indicate that the justification is being furnished under FAR 6.303-1(d).

1806.303-170 Sole-source purchases by contractors.

The requirements of FAR part 6 and this part 1806 apply if NASA directs a prime contractor (by specifications, drawings, parts lists, or otherwise) to purchase items on a sole-source basis. Accordingly, procurement officers shall take necessary actions to ensure that such sole-source acquisitions are properly justified. Where "brand name or equal" purchase descriptions list the salient physical, functional, or other characteristics of the item being procured and are properly used under

1811.104, the justification requirements of FAR part 6 and this part 1806 do not apply.

1806.303–2 Content.

1806.303–270 Use of unusual and compelling urgency authority.

If the authority at FAR 6.302–2 is used for extending the performance period of an existing services contract, the justification shall contain the information required by FAR 6.303–2 and;

(a) Documentation that the acquisition process for the successor contract was started early enough to allow for adequately planning and conducting a full and open competition, together with a description of the circumstances that prevented award in a timely manner; and

(b) Documentation of the reasons why no other source could practicably compete for the interim requirement.

1806.304–70 Approval of NASA justifications.

Concurrences and approvals for justifications of contract actions conducted in accordance with FAR subparts 6.2 and 6.3 shall be obtained as follows:

(a) For proposed contracts over \$500,000 but not exceeding \$10,000,000—

(1) Concurring official: Procurement Officer

(2) Approving official: Center or Headquarters Competition Advocate.

(b) For proposed contracts over \$10,000,000 but not exceeding \$50,000,000—

(1) Concurring officials:

(i) Procurement Officer
(ii) Center or Headquarters Competition Advocate

(2) Approving official: Center Director or Associate Administrator for Headquarters Operations.

(c) For proposed contracts over \$50,000,000—

(1) Concurring officials:

(i) Procurement Officer
(ii) Center or Headquarters Competition Advocate

(iii) Center Director or Associate Administrator for Headquarters Operations

(iv) Agency Competition Advocate

(2) Approving Official: Associate Administrator for Procurement

(d) The approval authority of FAR 6.304(a)(3) may not be delegated to other than the installation's Deputy Director.

(e) For proposed contract actions requiring approval by the Associate Administrator for Procurement, the original justification shall be forwarded

to the Associate Administrator for Procurement (Code HS).

(f) Regardless of dollar value, class justifications shall be approved by the Associate Administrator for Procurement.

Subpart 1806.5—Competition Advocates

1806.501 Requirement. (NASA paragraphs (1), (2), (3) and (4))

(1) The Deputy Associate Administrator for Procurement is the agency competition advocate, reporting to the Associate Deputy Administrator on issues related to competition of NASA acquisitions.

(2) The Center Deputy Directors or Associate Directors are the competition advocates for their contracting activities.

(3) The Director, Program Operations Division, Code HS, is the competition advocate for the Headquarters contracting activity.

(4) The Deputy Manager is the contracting activity competition advocate for the Space Station Program Office.

1806.502 Duties and responsibilities. (NASA supplements paragraph (b))

(b)(i) Center competition advocates shall submit annual reports to the agency competition advocate (Code HS) on or before November 30.

(ii) The agency competition advocate shall submit an annual agency report on or before January 31.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7a. The authority citation for part 1852 continues to read as follows:

Authority: 42 U.S.C. 2473 (c)(1).

8. Part 1852 is amended as follows:

1852.000 [Amended]

a. Section 1852.000 is revised to read as follows:

1852.000 Scope of part.

This part, in conjunction with FAR Part 52—

(a) Sets forth the provisions and clauses prescribed in the NFS,

(b) Gives instructions for their use, and

(c) Presents a matrix listing the provisions and clauses applicable to each principal contract type and/or purpose (e.g., fixed-price supply, cost-reimbursement research and development).

Subpart 1852.1—[Revised]

b. Subpart 1852.1 is revised to read as follows:

Subpart 1852.1—Instructions for Using Provisions and Contracts.

1852.101 Using Part 52.

1852.103 Identification of provisions and clauses.

1852.103–70 Identification of modified provisions and clauses.

1852.104 Procedures for modifying and completing provisions and clauses.

1852.101 Using FAR part 52. (NASA supplements paragraphs (b) and (e))

(b)(2)(i)(B) NASA contracting offices prescribing or developing clauses shall ensure that the requirements of subpart 1801.3 are met.

(e)(1) The NFS matrix in subpart 1852.3 is formatted similarly to that in the FAR. The first page of the NFS matrix contains a key to column headings, a dollar threshold chart, and requirement symbols. To fully determine the applicability of a provision or clause in the "required-when-applicable" and "optional" categories, Contracting Officers shall refer to the NFS text (cited in the matrix) that prescribes its use.

(4) The NFS matrix may be reproduced by field installations for the purpose of supplementing it with installation-developed provisions and clauses.

1852.103 Identification of provisions and clauses. (NASA supplements paragraphs (b) and (c))

(b) Provisions and clauses prescribed by a field installation to satisfy its needs shall be identified as stated in paragraphs (b) (i) and (ii) of this section. Articles, formats, and similar language shall be treated as provisions and clauses for purposes of this section 1852.103.

(i) A provision or clause shall be numbered using a prefix, a base, and a suffix. The prefix shall be an alphabetical abbreviation of the installation name (e.g., ARC, DFRC, GSFC, CW, JSC, KSC, LARC, LERC, MSFC, SSC, or SSPO). The base shall be a numeric value beginning with "52.2," with the next two digits corresponding to the number of the FAR or NFS subject part to which the provision or clause relates. The suffix shall be a hyphen and sequential number assigned within each part. NASA installations shall use suffix numbers from –90 to –199. For example, the first Johnson Space Center (JSC) provision or clause relating to part 36 of the FAR or NFS shall be JSC 52.236–90, the second JSC 52.236–91, and so forth. Provisions and clauses shall be dated in accordance with FAR 52.101(f).

(ii) Contracting officers shall identify provisions and clauses as in the following examples:

(A) I.2 BID ENVELOPES (GSFC 52.214-90) (AUGUST 1987) This example is applicable when identifying the title of provisions and clauses in solicitations and contracts using the uniform contract format (UCF). The first number ("I.2") designates the UCF section and the sequential clause within that section "GSFC 52.214-90" specifies the clause number.

(B) GSFC 52.214-90—Bid Envelopes (AUGUST 1987) This example is applicable in all instances in which the provision or clause citation is not associated with the UCF number.

(C) Contracting officers shall not number provisions and clauses developed for individual acquisitions only. For example, "F.3 Delivery Procedures for Special Hardware" cites the third clause in Section F of a contract using the UCF, but has no clause number or date identified with it, indicating that the clause was developed for the particular contract it appears in.

1852.103-70 Identification of modified provisions and clauses.

When a FAR clause or provision is included in a solicitation or contract and the NFS prescribes a modification, the title line shall identify the modification as shown in this subsection. This format shall be used both for incorporation by reference and when using full text.

"52.232-28 Electronic Funds Transfer Payment Methods (APR 1989)—as modified by NASA FAR Supplement 1832.908(a)"

1852.104 Procedures for modifying and completing provisions and clauses.

NFS provisions and clauses shall not be modified unless authorized by the NFS. When authorized, contracting officers must comply with the procedures in FAR 52.104.

Subpart 1852.2—Text of Provisions and Clauses.

1852.203-70, 1852.204-77, 1852.204-78, 1852.207-70 [Removed]

c. Sections 1852.203-70, 1852.204-77, 1852.204-78, and 1852.207-70 are removed.

1852.204-75, 1852.204-76, 1852.208-81, 1852.209-70, 1852.209-71, 1852.209-72 [Revised]

d. Sections 1852.204-75, 1852.204-76, 1852.208-81, 1852.209-70, 1852.209-71, and 1852.209-72 are revised to read as follows:

1852.204-75 Security classification requirements.

As prescribed in 1804.404-70, insert the following clause:

SECURITY CLASSIFICATION REQUIREMENTS (SEPTEMBER 1989)

Performance under this contract will involve access to and/or generation of classified information, work in a security area, or both, up to the level of

_____ [insert the applicable security clearance level]. See Federal Acquisition Regulation clause 52.204-2 in this contract and DD Form 254, Contract Security Classification Specification, Attachment _____. [Insert the attachment number of the DD Form 254]. (End of clause)

1852.204-76 Security requirements for unclassified automated information resources.

As prescribed in 1804.470-3, insert the following clause:

SECURITY REQUIREMENTS FOR UNCLASSIFIED AUTOMATED INFORMATION RESOURCES (SEPTEMBER 1993)

(a) In addition to complying with any functional and technical security requirements set forth in the schedule and the clauses of this contract, the Contractor shall initiate personnel screening checks and obtain user responsibility agreements, as required by this clause, for each contractor employee requiring unescorted or unsupervised physical access or electronic access to the following limited or controlled areas, systems, programs and data: [List areas, systems, programs and data].

(1) The Contractor shall submit a personnel security questionnaire (NASA Form 531, Name Check Request, for National Agency Check (NAC) investigations and Standard Form 85P, Questionnaire for Public Trust Positions, for specified sensitive positions) and a Fingerprint Card (FD-258 with NASA overprint in Origin Block) to the installation Security Officer for each Contractor employee who requires access. The required forms may be obtained from the installation security office. Employees may have fingerprints taken at the [Insert office name and location], or at any police department.

(i) Several months may be required for completion of complex personnel screening investigations. Background screening may not be required for employees with recent or current Federal Government investigations.

(ii) When employee access is necessary prior to completion of personnel screening, each contractor employee requiring access may be considered for escorted access. The installation Security Officer will establish the eligibility of proposed escorts.

(2) The Contractor shall ensure that each contractor employee requiring access executes any user responsibility agreements required by the Government prior to access. The Contractor shall provide signed copies of the agreements to the installation Security Officer for inclusion in the employee's security file. Unauthorized access is a violation of law and punishable under the

provisions of 18 U.S.C. 1029, 18 U.S.C. 1030 and other applicable statutes.

(3) The Contractor shall notify the installation AIS Manager no later than the end of the day of the termination for cause of an authorized employee's access. The Contractor shall notify the COTR no later than ten days after an authorized employee no longer requires access for any other type of termination. Verbal notifications shall be confirmed in writing within thirty days.

(b) The Contractor shall incorporate this clause in all subcontracts where the requirements identified in paragraph (a) are applicable to performance of the subcontract. (End of clause)

1852.208-81 Restrictions on Printing and Duplicating.

As prescribed in 1801.870, insert the following clause:

RESTRICTIONS ON PRINTING AND DUPLICATING (AUGUST 1993)

(a) The Contractor shall reproduce any documentation required by this contract in accordance with the provisions of the Government Printing and Binding Regulations, No. 26, S. Pub 101-9, U.S. Government Printing Office, Washington, DC, 20402, published by the Joint Committee on Printing, U.S. Congress.

(b) The Contractor shall not perform, or procure from any commercial source, any printing in connection with the performance of work under this contract. The term "printing" includes the processes of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes and equipment.

(c) "Duplicating/copying" is not considered to be printing. It is material produced by duplicating equipment employing the lithographic process and automatic copy-processing or copier-duplicating machines employing electrostatic, thermal, or other copying processes not requiring the use of negatives or metal plates. The Contractor is authorized to duplicate production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 units in the aggregate of multiple pages. Such plates may not exceed a maximum image size of 10¾ by 14¼ inches. A "production unit" is one sheet, size 8½ × 11 inches (215 × 280 mm), one side only, and one color ink.

(d) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the Contractor to respond to the terms of the contract).

(e) Costs associated with printing or duplicating/copying in excess of the limits set forth above are unallowable without prior written approval of the Contracting Officer. If the contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating/copying, it immediately shall provide written notice to the Contracting Officer and request approval prior to

proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with the provisions of the Government Printing and Binding Regulations and NFS 1808.802.

(f) The Contractor shall include in each subcontract which may involve a requirement for any printing and/or any duplicating/copying in excess of the limits specified in paragraph (c) of this clause, a provision substantially the same as this clause, including this paragraph (f).

(End of clause)

1852.209-70 Product removal from Qualified Products List.

As prescribed in 1809.206-71, insert the following clause:

PRODUCT REMOVAL FROM QUALIFIED PRODUCTS LIST (DECEMBER 1988)

If, during the performance of this contract, the product being furnished is removed from the Qualified Products List for any reason, the Government may terminate the contract for Default pursuant to the default clause of the contract.

(End of clause)

1852.209-71 Limitation of Future Contracting.

As prescribed in 1809.507-2, the contracting officer may insert a clause substantially as follows in solicitations and contracts, in compliance with FAR 9.507-2:

LIMITATION OF FUTURE CONTRACTING (DECEMBER 1988)

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5—Organizational Conflicts of Interest.

(b) The nature of this conflict is [describe the conflict].

(c) The restrictions upon future contracting are as follows:

(1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements or work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing NASA contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair

competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). NASA shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

(2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

(End of clause)

1852.209-72 Composition of the Contractor.

As prescribed in 1809.670, insert the following clause:

COMPOSITION OF THE CONTRACTOR (DECEMBER 1988)

If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract.

(End of clause)

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