

Washington, D.C. 20573-0001, 202-523-5740.

#### **SUPPLEMENTARY INFORMATION:**

The Commission previously published a Notice of Proposed Rulemaking (60 FR 53572) in this proceeding seeking comments on allowing limited access to the annual financial and operating statements filed by ocean common carriers providing port-to-port services in the domestic offshore trades. The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 ("ICC Termination Act"), has since transferred jurisdiction over such services, which had formerly been regulated by the FMC under the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843-848 ("1933 Act"), to the Surface Transportation Board ("Board"), and provides that such services are subject to rate regulation by the Board. Accordingly, no further Commission action in this proceeding is appropriate and the proposed rule is withdrawn.

By the Commission.

Joseph C. Polking,  
Secretary.

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## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

### **48 CFR Parts 1842 and 1852**

#### **Revision to NASA FAR Supplement Coverage on Contractor Financial Management Reporting**

**AGENCY:** Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of Proposed rulemaking.

**SUMMARY:** Changes are proposed to update the NASA FAR Supplement (NFS) coverage on contractor financial management reporting to make it compatible with current NASA reporting policy, including accounting requirements imposed by the Chief Financial Officers Act of 1990, the need for complete, timely and accurate project cost information and reassessment of the appropriate level of responsibility and authority in accordance with Government downsizing initiatives.

The revised NFS coverage eliminates requirements for use of the Monthly Contractor Financial Management Performance Analysis Report, NASA Form 533P, and the clause included in 1852.242-74. NASA no longer uses the NF 533P format and is revising its

approach to performance measurement reporting as a result of discussions with other Government agencies and industry. Revisions to the NASA performance measurement requirements will be published at a later date. The revised coverage gives regulatory effect to the publication of revised guidance on NASA Contractor Financial Management Reporting in NASA Procedures and Guidelines (NPG) 9501.2; provides for approval of exceptions from the standard reporting requirements set forth in the NPG at NASA Centers, rather than at Headquarters; permits waiver of NF 533Q reporting for certain contracts where NF 533M reporting provides adequate information; encourages the submission of reports earlier than the required due dates whenever feasible; and permits the use of alternative due dates, but only when data will be received in time for use in NASA's monthly cost accrual process. The time period for submission of the initial report is extended from 10 to 30 days after authorization to proceed has been granted. Contracting officers are given additional options to direct the contractor to report only when actual cost changes occur or suspend reporting altogether when the contract effort is completed and NASA has accepted all contract line items. Prime contractors are no longer required to use NASA Forms 533 for subcontractor reporting, but must ensure that their NF 533 reports include accurate and timely subcontractor cost data. The revised procedures will be required to be used on all new contracts issued after the proposed regulations are adopted as a final rule. Existing contracts at that time will not require modification to incorporate the changes unless: requested by the contractor; there is a demonstrated cost savings; or there will be no cost for implementation.

**DATES:** Comments must be received on or before November 25, 1996.

**ADDRESSES:** Submit comments to Larry G. Pendleton, Contract Management Division (Code HK), Office of Procurement, NASA Headquarters, Washington, DC 20546. Comments on the paperwork burden should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NASA, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry G. Pendleton, NASA Headquarters, Code HK, (202) 358-0487.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

NASA is updating its requirements for contractor financial management reporting in order to comply with the Chief Financial Officers Act of 1990, obtain complete, timely and accurate project cost information, and implement changes in the responsibilities and authorities of both NASA Headquarters and subordinate organizational elements.

The Chief Financial Officers Act of 1990 requires that NASA publish audited annual financial statements. This requirement has placed additional emphasis on the need for timely and accurate contract cost data to ensure the accuracy of NASA accounting information.

NASA's guidance for contractor financial management reporting, NPG 9501.2, has been revised to clarify reporting requirements, address problems and questions that have arisen over time, and reassign responsibilities and authorities to permit more effective operations in today's environment. Training on NASA's expectations for contractor financial management reporting has been presented to all NASA contractors holding cost-reimbursement contracts over the past two years, and contractors have informally reviewed and commented upon the revised guidance. These changes to the NFS recognize the modified NPG 9501.2 and provide complimentary coverage.

Based upon discussions with other Government agencies and industry representatives, NASA has eliminated the Monthly Contractor Financial Management Performance Report, NF 533P, from the NASA Contractor Financial Management Reporting system. The agency is revising its approach to performance measurement, or earned value, reporting to make it more consistent with Department of Defense requirements and existing contractor systems.

##### **Change Highlights**

The following revisions eliminate the use of the Monthly Contractor Financial Management Performance Analysis Report, NASA Form 533P. The contract clause at 1852.242-74 which required use of NF 533P is deleted. Exceptions from the standard reporting requirements are authorized to be approved at NASA Centers rather than at NASA Headquarters. The time period for submission of the initial report is extended from 10 to 30 days after contract authorization to proceed has been granted. Prime contractors are no

longer required to use NASA Forms 533 for subcontractor reporting, but must ensure that their NF 533 reports include accurate and timely subcontractor cost data.

#### Regulatory Flexibility Act

NASA certifies that these regulation changes 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.*).

#### Paperwork Reduction Act

This rule proposes to eliminate the following report that was approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 2700-0003.

**Title:** Monthly Contractor Financial Management Performance Analysis Report.

**Summary:** This report provided NASA project management with a timely and comprehensive assessment of the contractor's performance over the reporting period, including cost, technical and schedule status.

**Notice:** Comments on the elimination of this report may be submitted to the OMB address shown under **ADDRESSEES**.

List of Subjects in 48 CFR Parts 1842 and 1852

Government procurement.  
Tom Luedtke,  
Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR 1842 and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1842 and 1852 continues to read as follows:

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

#### PART 1842—CONTRACT ADMINISTRATION

##### Subpart 1842.72—NASA Contractor Financial Management Reporting

##### 1842.7201 [Amended]

2. In paragraph (b)(1) to section 1842.7201, the graphics box containing reporting criteria and report format is revised to read as follows:

Criteria		Report Format	
Contract Value/Scope	Period of Performance	533M	533Q
\$500K to \$999K .....	1 Year or More .....	Required .....	Optional.
\$1,000,000 and Over .....	1 Less than 1 Year .....	Required .....	Optional.
\$1,000,000 and Over .....	1 Year or More .....	Required .....	Required.

3. In paragraph (b)(2) to section 1842.7201, the phrase "as initially awarded." is revised to read "based on the estimated final contract value at the time of award."

4. In section 1842.7201, paragraph (b)(3) is revised and a new paragraph (b)(4) is added to read as follows:

##### 1842.7201 General.

(a) \* \* \*

(b) \* \* \*

(3) NF 533Q reporting may be waived by the Contracting Officer, with the concurrence of the Center Chief Financial Officer and cognizant Project Manager, for support service or task order contracts, when NF 533M reports and other data are sufficient to ensure accurate monthly cost accruals, evaluate the contractor's cost performance and forecast resource requirements.

(4) Where a specific contractual requirement differs from the standard system set forth in NPG 9501.2, *NASA Contractor Financial Management Reporting*, but is determined to be in the best interests of the Government and does not eliminate any of the data elements required by the standard NF 533 formats, it may be approved by the Contracting Officer with the concurrence of the Center Chief Financial Officer and cognizant Project Manager. Such approval shall be documented and retained, with the supporting rationale, in the contract file.

\* \* \* \* \*

5. In section 1842.7201, the existing paragraph (c) is redesignated as a new paragraph (b)(5), and paragraphs (d) and (e) are redesignated as paragraphs (c) and (d) and are revised to read as follows:

(c) *Contract requirements.* (1) Reporting requirements, including a description of reporting categories, shall be detailed in the procurement request, and reports shall be required by inclusion of the clause in 1842.7202. the contract schedule shall include report addressees and numbers of copies.

Reporting categories shall be coordinated with the Center Financial Management Office to ensure that data required for agency cost accounting will be provided by the reports. Reporting dates shall be in accordance with NPG 9501.2, except that earlier submission is encouraged wherever feasible. No due date shall be permitted which is later than the date by which the Center Financial Management Office needs the data to enter an accurate monthly cost accrual in the accounting system.

(2) The contractor shall be required to submit an initial report in the NF 533Q format, time phased for the expected life of the contract, within 30 days after authorization to proceed has been granted. NF 533M reporting will begin no later than 30 days after incurrence of cost. NF 533Q reporting begins with the initial report.

(d) *Deviations.* Deviations from the financial management reporting clause

require approval in accordance with 1801.471, and the concurrence of the Director, Financial Management Division and the official-in-charge of the cognizant Headquarters Program Office.

6. Section 1842.7202 is revised to read as follows:

##### 1842.7202 Contract clauses.

The clause at 1852.242-73, *NASA Contractor Financial Management Reporting*, shall be used when any of the NASA Form 533 reports are required from the contractor.

#### 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 1852.242-73 is revised to read as follows:

##### 1852.242-73 NASA Contractor Financial Management Reporting.

As prescribed in 1842.7202, insert the following clause in contracts that require submission of NASA Form 533M or 533Q reports.

NASA Contractor Financial Management Reporting

August 1996.

(a) The Contractor shall submit NASA Contractor Financial Management Reports on NASA Forms 533 in accordance with the instructions in *NASA Contractor Financial Management Reporting* (NPG 9501.2) and on the reverse side of the forms, as supplemented in the Schedule of this contract. The detailed reporting categories to be used, which shall correlate with technical

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

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

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

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

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

(End of clause)

**1852.242-74 [Removed]**

8. Section 1852.242-74 is removed.

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