National Aeronautics and Space Administration

NASA FAR Supplement

Companion Guide

This document is a complement to the National Aeronautics and Space Administration (NASA) Federal Acquisition Regulation (FAR) Supplement (NFS) issued as Chapter 18 of Title 48, Code of Federal Regulations. The information contained in this companion guide is non statutory and provides instructions to the Contracting officer for implementing internal processes and procedures that enhance efficacy in procurement operations. Contracting officers must adhere to the instructions within this companion guide to ensure consistency is maintained throughout the Enterprise.

Updated October 1, 2026 (See Appendix C, Document History Log)

Office of Procurement

Interim NFS CG Established April 6, 2026

Procurement Notices (PNs): PNs are used to make changes to internal guidance and procedures documented within the NFS CG. Internal guidance and procedures are controlled, processed, and approved internally and do not require publication in the Federal Register. Changes are incorporated into the NFS CG through the issuance of PNs. PNs are numbered consecutively, prefixed by the last two digits of the calendar year of issuance.

Procurement Class Deviations (PCDs): PCDs are used to deviate from FAR and/or NFS requirements in cases where the deviation affects more than one contract action and is temporary in nature and rulemaking is required.

Procurement Information Circulars (PICs): PICs are used to internally disseminate procurement-related information that is temporary in nature or episodic and not suitable for inclusion in the NFS or CG.

References to the Federal Acquisition Regulations (FAR), NASA FAR Supplement (NFS), NASA Procedural Requirements (NPR), NASA Policy Directive (NPD), NASA Office of Procurement Guides, and agency-wide procurement templates throughout the NFS CG can be explored through the following websites:

FAR
NFS
NASA Online Directives Information System (NODIS)
Agency Templates (Internal NASA Only)

For questions relating to NFS publications, contact the NASA FAR Supplement Manager, Erica D. Jones.

For questions pertaining to NASA regulations applicable to Small Business, please contact the NASA HQs, Office of Procurement, Small Business Point of Contract.

Recommended administrative changes to the NFS or NFS CG, such as corrections to misspelled words, omitted words or lines, and errors in format or in links to referenced documents must be emailed to the NFS Manager -- include the NFS or NFS CG citation and a clear description of the error.

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TITLE	RESPONSIBLE ORGANIZATION
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ENTEPRISE CONTRACT CLOSEOUT PROCEDURES	Enterprise Pricing Office (EPO)
ENTERPRISE PRICING PROCEDURES	EPO
ENTERPRISE SOURCE SELECTION GUIDE	EPIX
*ENTERPRISE LABOR RELATIONS GUIDE	EPIX
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*ENTERPRISE ORGANIZATIONAL CONFLICTS OF INTEREST GUIDE	Office of General Counsel (OGC)
ENTERPRISE AWARD FEE CONTRACTING GUIDE	EPIX
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***Updates are forthcoming**

NASA Federal Acquisition Regulation Supplement (NFS)
Companion Guide (CG)

NFS CG 1801
FEDERAL ACQUISITION REGULATIONS SYSTEM

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NASA Federal Acquisition Regulation Supplement (NFS)
Companion Guide (CG)

NFS CG 1801
FEDERAL ACQUISITION REGULATIONS SYSTEM

1801.1—Administration

1801.11 Amendment of the NFS.

(a) Changes to the NFS require public commenting, rulemaking, and publication in the Federal Register.

(b) Changes to internal guidance and procedures provided in the NFS CG are processed and approved internally and are not required to be published in the Federal Register.

(c) Changes are incorporated into the NFS CG through the issuance of Procurement Notices (PNs) approved by the Assistant Administrator of Procurement.

1801.12 Application of FAR changes to solicitations and contracts.

(a) Unless otherwise specified—

(1) FAR and NFS changes apply to solicitations issued on or after the effective date of the change;

(2) Contracting officers may, at their discretion, include the FAR and NFS changes in solicitations issued before the effective date, provided award of the resulting contract(s) occurs on or after the effective date; and

(3) Contracting officers may, at their discretion, include the changes in any existing contract with appropriate consideration.

(b) Citations. When the FAR cites a statute, Executive order, Office of Management and Budget circular, Office of Federal Procurement Policy letter, or relevant portion of the Code of Federal Regulations, the citation includes all applicable amendments, unless otherwise stated.

(c) Imperative sentences. When an imperative sentence directs action, the contracting officer is responsible for the action, unless another party is expressly cited.

1801.13 NASA procedures for FAR, NFS, and NFS CG changes.

(a) Recommended administrative changes to the NFS or NFS CG, such as corrections to misspelled words, omitted words or lines, and errors in format or in links to referenced documents must be emailed to the NFS Manager.

(b) Requests for proposed revisions to the FAR, NFS, or NFS CG must be emailed to the NFS Manager and must contain the following information:
(1) a description of the issue or concern the suggested revision is designed to correct,
(2) the revision in the form of a marked-up copy of the current FAR, NFS, or NFS CG language and/or the text of any proposed language to be added,

(3) a brief explanation of the consequences of not making a change and the benefits expected from making a change, and

(4) any other information necessary for a clear understanding of the issue or concern, such as the relationship between the FAR and NFS coverage, legal opinions and/or concurrences, inputs and/or concurrences from other cognizant offices, and any existing agreements.

(c) With the exception of administrative changes, requests from Headquarters offices must originate at the division level or higher, while requests from the centers must be from the procurement officer or a higher-level official. The sender's email address will suffice as the official signature for proposed revisions to the FAR, NFS, or NFS CG. The email must include the supporting information referenced in paragraph (b) above.

1801.14 Procurement Information Circulars.

(a) The Procurement Information Circular (PIC) is used for internal dissemination to communicate procurement-related information that is temporary in nature or episodic and not suitable for inclusion in the NFS or NFS CG. PICs must not be used to mandate new requirements but to provide guidance and clarity. The duration of a PIC must not exceed one year, unless an extension is approved by the Deputy Director for Procurement or Director, Enterprise Procurement Integration and Excellence (EPIX) Office. Any PIC that has a duration greater than one year must be reviewed, updated as required, and revalidated, not later than on its anniversary date.

(b) The Assistant Administrator of Procurement is the approver of PICs. Approval authority may be delegated to the Deputy Administrator of Procurement or Director, EPIX Office.

(c) The EPIX Office is responsible for the control, processing, and vetting of PICs.

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

(e) PICs are posted on the online HQs Office of Procurement SharePoint.

1801.15 Procurement Class Deviations.

(a) The Procurement Class Deviation (PCD) is used to deviate from the statutory requirements of the FAR and/or NFS in cases where the deviation affects more than one contract action and is temporary in nature. Since PCDs are processed and issued without public comment, PCDs must be used carefully and with a specified duration that is sufficient to allow for rulemaking to formally implement the change in the FAR and/or NFS.

(b) PCDs are approved in accordance with FAR Subpart 1.3. If a deviation to a NFS CG requirement is deemed necessary, COs should follow the procedures at NFS CG 1801.31 and specify within the document that it is a request for an individual deviation to the NFS CG.

(c)The EPIX Office is responsible for the control, processing, and vetting of PCDs.

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

(e) PCDs are posted on the online HQs Office of Procurement SharePoint.

1801.2—Agency Acquisition Regulations

1801.21 Policy.

(a) Procurement Officers at NASA field installations may prescribe policies and procedures that do not have a significant effect beyond the internal operating procedures of their installations such as internal organizational work instructions for Contracting officers and other personnel within their cognizant leadership authority. Center policies and procedures must not conflict with the FAR, NFS, or this NFS CG. Any deviation from the FAR, NFS, of the NFS CG must be approved by the Assistant Administrator for Procurement, unless otherwise stated.

(b) To avoid issuing policy that may inadvertently trigger rulemaking under FAR 1.301, require Paperwork Reduction Act (PRA) clearance, or create unnecessary barriers or burdens within the marketplace, the issuance of Center level and contract specific clauses or provisions is restricted.
Procedures have been established to ensure that contract clauses and solicitation provisions are implemented only at the Agency level.

See NFS CG 1852.1, Instructions for Using Clauses and Provisions, for additional guidance.

1801.3—Deviations from the FAR

1801.31 Procedure for requesting deviations.

(a) Requests for authority to deviate from the FAR, NFS, or NFS CG requirements must be submitted by the contracting officer, using the agency-wide “FAR & NFS Deviation Request” procurement template to the cognizant HQs Procurement Analyst.

(b) The Assistant Administrator for Procurement is the approval authority for deviations to the FAR, NFS, and this NFS CG, unless otherwise stated.

1801.4—Career Development, Contracting Authority, and Responsibilities

1801.41 General.

(a) The NASA Administrator delegates the authority for FAR-based purchases, contracts, and for financial assistance instruments and the responsibilities in NPD 1000.3E to the Assistant Administrator for Procurement.

(b) The Assistant Administrator for Procurement redelegates this authority to the appropriate contracting activity personnel in accordance with applicable laws and regulations.

(c) The NASA Administrator delegates the authority for the necessary approvals and overall Agency-wide implementation of the Federal Activities Inventory Reform (FAIR) Act and OMB Circular A-76 to the Assistant Administrator for Procurement.

(d) The Assistant Administrator for Procurement serves as the Competitive Sourcing Official (CSO) for overall implementation of the FAIR Act and OMB Circular A-76 with NASA Center Directors delegated authority for the implementation of the FAIR Act and OMB Circular A-76 within the respective Centers subject to overall authority of the CSO. NASA Center Directors can redelegate this authority to an individual within the Office of the Center Director.

1801.42 Contracting Officer Responsibilities.

(a) A Contracting Officer's Representative (COR) delegation may only be made by the cognizant contracting officer for the contract at the time the delegation is needed. If deemed necessary, any CO a level above the cognizant CO may appoint the COR.

(b) CORs must be appointed using the NASA Form (NF) 1634. If the individual will be assigned as COR for more than one contract each contract number must be listed on the NF 1634 delegation at time of the appointment.

(c) COR duties as delegated by the CO on the NF 1634 cannot be re-delegated by the COR to someone else. However, this does not prohibit the COR from obtaining assistance in monitoring contractor performance and gathering information.

(1) If necessary, the CO may appoint an Alternate COR using the NF 1634. In this case a separate NF 1634 would be completed. The Alt. COR would serve in short absences (e.g., leave, TDY, jury duty, etc.) on behalf of the primary COR.

(2) The Procurement Officer may approve the appointment of more than one Alt. COR, in limited circumstances if warranted by contract scope, workload, and the need to provide adequate oversight.

(3) If more than one Alt. COR is appointed the CO must provide the COR, the alt. CORs, and contractor written guidance specifying how the line of successions works to ensure each party knows who is acting as the COR at any given time.

(d) COs can only appoint a qualified government employee as a COR to manage the technical aspects of a contract.

(1) CORs must be:

(i) A NASA or Federal Agency Civil Servant

(ii) A member of the Military; or

(iii) An Intergovernmental Personnel Act (IPA) appointee (see 5 U.S.C. 3374)

IPA appointees cannot be delegated inherently governmental functions. COs must coordinate with Center Counsel for conflicts of interest determinations related to their duties; confirmation of Standards of Ethical Conduct for Employees of the Executive Branch training; and ensure the NF 1634 does not delegate any inherently governmental functions.

(e) Technical organizations are responsible for recommending CORs. The technical organization must ensure the individual possesses the necessary training, qualifications, and experience commensurate with the duties and responsibilities to be delegated. The recommendation must be submitted using the agency-wide "Recommendation for Appointment of Contracting Officer Representative (COR) or Alternate COR" procurement template.

(f) The contracting officer must verify that the proposed COR has a Federal Acquisition Certification (FAC) - COR Certification before signing the NF1634.

(1) The contracting officer must take into consideration the appropriate FAC-COR Level needed to protect the government's interest. Factors such as the risk and complexity associated with the acquisition, and contract type must be considered in determining the appropriate level of FAC-COR coverage.

(2) The contracting officer should also consider the following in determining the appropriate level of FAC-COR certification:

(i) Level I - This level of COR is generally appropriate for simple, low-risk contract vehicles, such as supply contracts and orders.
(ii) Level II - This level of COR is generally appropriate for contract vehicles of moderate to high complexity and risk, including both supply and service contracts.
(iii) Level III – This level of COR is generally appropriate for the most complex, critical risk, and mission critical contracts within the agency.

(g) The COR may be authorized to provide technical direction in accordance with the Statement of Work or Performance Work Statement and the NF 1634. Technical direction is written direction from the COR to provide clarification of the contract's general description of the scope of work to include approaches, solutions, designs, refinements or shifts within tasks, or inquires related to the general tasks and requirements in the SOW. Technical direction does not authorize the contractor to perform work outside of the general scope of the contract and should not increase contract cost.

(1) CORs must be informed by the CO that they may be personally liable for unauthorized commitments. Only the CO is authorized to commit the government.

(2) Only for construction contracts may the CO authorize the COR authority to issue emergency on-site change orders not to exceed a total cost of $25,000.

(h) The CO must file the executed NF1634 and accompanying documentation in the contract file. Copies of the signed delegation must be distributed to the COR, the contractor, and each cognizant contract administration office.

(i) The COR delegation remains in effect throughout the life of the contract unless cancelled in writing by the CO. COs must use the agency-wide COR/Alternate COR

Cancellation Memorandum procurement template. Modifications to existing delegations require the issuance of a new NF1634.

1801.43 Ratification of unauthorized commitments.

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

(b) The authority in FAR 1.4 may be exercised only when—

(1) The Government employee who made the unauthorized commitment, or his/her supervisor, if appropriate, initiates a procurement request. The agency-wide "Ratification of Unauthorized Commitments" procurement template must be used to process this request.

(2) 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 must provide the information described in this paragraph.

(3) 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 must describe measures taken to prevent the recurrence of the unauthorized commitment.

1801.44 Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) Requirements.

(a) These requirements apply to all individuals appointed as CORs and alternate CORs on NASA contracts, including Phase II and Phase III awards made under NASA's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. These requirements do not apply to CORs on Phase I SBIR or Phase I STTR awards.

(b) The following certificates, if issued in accordance with FAI certification requirements, by another civilian agency, are equivalent to a FAC-COR certificate at NASA:

(1) FAC-COR Certifications

(2) Federal Acquisition Certification in Contracting (FAC-C);

or

(3) Federal Acquisition Certification for Program and Project Managers (FAC-P/PM) Mid-Level.

(4) An individual with a FAC-COR certificate does not necessarily meet the requirements for the FAC-C or the FAC-P/PM mid-level/journeyman.

(5) Individuals with equivalent certificates who will be appointed as CORs must:

(i) update their profile in Cornerstone on Demand (CSOD) to reflect NASA as their employment agency; and

(ii) inform their Center Training Coordinator and the Acquisition Career Manager (ACM) in the Headquarters Office of Procurement that they have updated their agency of employment to NASA.

(c) COR Certification Requirements:

(1) To earn Level, I FAC-COR Certification, individuals must complete an 8-hour self-paced COR online training, available via CSOD.

(2) To earn Level II FAC-COR Certification, individuals must have 1 year of previous COR experience and complete 40 hours of basic COR training approved by the ACM. NASA training approved by the ACM is available under the NASA Shared Service Center's Agency-wide COR Training Blanket Purchase Agreement (BPA), and via CSOD.

(3) To earn Level III FAC-COR Certification, individuals must have 2 years of previous COR experience and complete 60 hours of training; which includes the 40-hour Advance COR Workshop and the 20-hour Program Management Basics course, available via CSOD.

(d) Continuing Education. CORs must maintain their skills currency through continuing education:

(1) To maintain Level I FAC-COR Certification, CORs are required to earn 8 hours of continuous learning points (CLPs), within the common two-year continuous learning period.

(2) To maintain Level II FAC-COR Certification, CORs are required to earn 40 CLPs, within the common two-year continuous learning period.

(3) To maintain Level III FAC-COR Certification, CORs are required to earn 40 CLPs, within the common two-year continuous learning period.

(e) Supervisors remain responsible for working with CORs to identify those activities and opportunities of greatest benefit to the professional development of an individual. The training, professional activities, education and experience that are used to meet the continuing education requirements must be job related.

(1) ACM approved training is available under NASA Shared Service Center's Agency-wide COR Training BPA, and via CSOD.

(2) The FAI FAC-COR website provides additional guidance on training that will meet CLP training requirements.

(f) A FAC-COR certification will expire if the continuing education requirements are not met and the individual will no longer be eligible to be a COR.

(g) FAC-COR training, both basic and continuous, will be tracked in CSOD. CORs are responsible for ensuring they meet the continuous learning requirement and that their learning history is accurate.

1801.45 Selection, Appointment, and Termination of appointment.

(a) The NASA Administrator delegates the authority to appoint contracting officers, contracting officer representatives, and other procurement officials to the Assistant Administrator for Procurement, who redelegates this authority to the procurement officer on a non-delegable basis, except for the appointment of the contracting officer representative. The appointment of contracting officer representatives is delegated to the contracting officer, unless otherwise stated.

(b) For all appointments the appointing official must confirm that there is a valid organizational need for the appointment.

(c) Procurement officers must use the agency-wide CO Appointment Termination procurement template for all terminations.

1801.46 Selection.

(a) In selecting contracting officers, the appointing official must consider the complexity and dollar value of the acquisitions to be assigned and the candidate's experience, training, education, business acumen, judgment, character, and reputation.

(1) Examples of selection criteria include-

(i) Experience in Government contracting and administration, commercial purchasing, or related fields;

(ii) Education or special training in business administration, law, accounting, engineering, or related fields;

(iii) Knowledge of acquisition policies and procedures, including this and other applicable regulations;

(iv) Specialized knowledge in the particular assigned field of contracting; and

(v) Satisfactory completion of acquisition training courses.

1801.47 Appointment.

(a) Delegations of procurement authority to other than GS-1102 and GS-1105 personnel must be in accordance with the NASA Procurement Career Development and Training Policy.

(b) Contracting officers must be appointed in accordance with Appendix D of the NASA Procurement Career Development and Training Program Policy Handbook.

(c) The procurement officer must submit requests for approval to appoint an individual as a contracting officer in occupational job series other than GS-1102 and GS-1105 using the "Enterprise Contracting Officer Warrant Nomination (Non-GS-1102/1105)" template to the Acquisition Career Manager for approval by the Assistant Administrator for Procurement prior to appointment.

1801.5 Determinations and Findings

Contracting officers must use the applicable agency-wide "Determination and Findings" procurement template. The HQs Coordination and Approval Matrix (See Appendix B) provides the review and signatory authorities for D&Fs.

NASA Federal Acquisition Regulation Supplement (NFS)
Companion Guide (CG)

NFS CG 1802
DEFINITIONS OF WORDS AND TERMS

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1802.2 **DEFINITIONS**
Definitions.

1802.1 Scope.

The definitions of commonly used words and terms used in the NASA acquisition process are listed within NFS CG 1802. Other sections of the NFS CG include prescribed definitions based on the application of the word or term within the specific NFS CG Part.

1802.2—Definitions

Definitions.

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

"Chief of Contracting Office" means the person having direct responsibility for the operation of a contracting office as defined in FAR 2.1. This person also has procurement authorities assigned by the Federal Acquisition Regulation and its supplements, serves as a business advisor to the Head of the Contracting Activity (HCA), and performs contracting authorities as delegated by the HCA or Senior Procurement Executive.

"Contracting activity" in NASA includes the NASA Headquarters installation, the NASA Shared Services Center, the NASA Management Office, Information Technology Procurement Office, and the following field installations: Ames Research Center, Armstrong Flight Research Center, John H. Glenn Research Center at Lewis Field, Goddard Space Flight Center, Lyndon B. Johnson Space Center, John F. Kennedy Space Center, Langley Research Center, George C. Marshall Space Flight Center, and John C. Stennis Space Center. A major program that may have contracts at multiple field centers may also be considered a "contracting activity."

"Contract effective date" means the date agreed upon by the parties for beginning the period of performance under the contract. In no case must the effective date precede the date on which the contracting officer or designated higher approval authority signs the document. Costs incurred before the contract effective date are unallowable unless they qualify as precontract costs (see FAR 31.205-32 and NFS Part 31 for guidance**)**.

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

"Head of the contracting activity (HCA)" means the procurement officer of the buying location, except in the following situations:

Procurement Activity	Assigned HCA*
NASA Office of JPL Management and Oversight (NOJMO) contracts	Office of Procurement (OP) Deputy Assistant Administrator
Human Spaceflight Mission Directorate (HSMD)	OP Deputy Assistant Administrator

Procurement officers must coordinate HCA activities with designated individuals within the Office of the Center Director in accordance with field installation procedures. *The assigned HCA will coordinate HCA activities with HSMD.

* HCA Functions for major programs can be delegated as part of the ASM process.

"Procurement officer" means the senior contracting official and head of contracting activity (HCA).

"Senior Procurement Executive" means the Assistant Administrator or Deputy Assistant Administrator for Procurement, Office of Procurement, NASA Headquarters.

NFS CG 1803
IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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NFS CG 1803
IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1803.1—Safeguards

1803.11 General.

The statutory Federal conflict of interest prohibitions codified at 18 U.S.C. section 208 and their application to NASA personnel are discussed in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Parts 2635, Subpart D, and 2540. All NASA personnel involved in acquisitions must become familiar with these statutory prohibitions. In addition to criminal penalties, the statutes provide that transactions entered into in violation of these prohibitions are voidable (18 U.S.C. section 218). The regulatory impartiality restrictions issued by the U.S. Office of Government Ethics (OGE) are provided in 5 CFR Part 2635, Subpart E. All NASA personnel involved in acquisitions must become familiar with these regulatory restrictions.

1803.12 Solicitation and acceptance of gratuities by Government personnel.

Any suspected violations must be reported promptly to the Center's Office of Inspector General.

1803.13 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

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

(i) Personnel participating in source evaluation board (SEB) procedures (see NFS 1815 and NFS CG 1815) or personnel evaluating an offeror's or bidder's technical or cost proposal under other competitive procedures.

(ii) Personnel assigned to the contracting office.

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

(iv) Small business specialists.

(v) Personnel assigned to counsel's office.

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

(vii) Personnel responsible for the review and approval of documents in accordance with NASA's Enterprise Acquisition Repository procedures in NFS CG 1804.

(viii) Other Government employees authorized by the contracting officer.

(ix) Supervisors, at any level, of the personnel listed in paragraphs (a)(i) through (viii) above.

(x) Duly designated ombudsman.

(b)(i) The originator of information that may be source selection information must consult with the contracting officer or the procurement officer, who must determine whether the information

is source selection information. NASA personnel responsible for preparing source selection information as defined in FAR 2.101 must assure that the material is marked with the legend in FAR 3.104-4(c) at the time the material is prepared.

(ii) Unless marked with the legend "SOURCE SELECTION INFORMATION — SEE FAR 2.101 and 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.

1803.14 Violations or possible violations.

(a) The procurement officer is the individual designated to receive the contracting officer's report of violations.

(b) The head of the contracting activity (HCA) or designee must refer all information describing an actual or possible violation to the Center Counsel, Inspector General staff, and to the Senior Procurement Executive.

(c) 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 must submit a copy of the determination to the Senior Procurement Executive simultaneous with transmittal to the Administrator.

1803.15 Restrictions on NASA personnel participating in proposal evaluations or selection decisions.

For acquisitions of any dollar value, an employee may not participate in procurement planning or the formulation of a procurement strategy or in a proposal evaluation or selection decision if the employee would not be in compliance with statutory U.S. Government ethics requirements, the impartiality regulations issued by U.S. Office of Government Ethics (OGE) at 5 CFR 2635, Subpart E, or any other applicable U.S. Government ethics requirements. Participants should contact a NASA ethics official in their Center Office of the Chief Counsel, or in the case of NASA Headquarters an ethics official in the Headquarters Office of the General Counsel, for advice on the application of these provisions.

1803.2—Contract or Gratuities to Government Personnel

1803.21 Reporting suspected violations of the Gratuities clause.

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

1803.3—Reports of Suspected Antitrust Violations

1803.31 Reporting suspected antitrust violations.

(a) When offers are received that, in the opinion of the contracting officer, may indicate that offers may not have arrived at independently raising concerns of possible antitrust violations, the contracting officer must inform the Headquarters Office of General Counsel through the Headquarters Office of Procurement. These reports must be submitted with conformed copies of bids or proposals, contract documents, and other supporting data, and must set forth—

(i) The noncompetitive pattern or situation under consideration;

(ii) 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;

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

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

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

(vi) Any other pertinent information.

(vii) Evidence of practices that, in the opinion of the General Counsel, NASA Headquarters, may violate the antitrust laws must be forwarded to the Attorney General of the United States (see FAR 3.303).

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

1803.5—Other Improper Business Practices

1803.51 Subcontractor kickbacks.

(a) Contracting officers must report suspected violations of the Anti-Kickback Act . Each report must be coordinated with the Center Chief Counsel and include substantially the following information, if available:

(i) Name and address of the contractor.

(ii) Names of the principal officers, partners, owners, or managers.

(iii) All known affiliates, subsidiaries, or parent firms, and the nature of the affiliation.

(iv) A description of the contract or contracts concerned, including the contract number and office identifying numbers or symbols, the amount of each contract, the amounts paid the contractor and still due, and the percentage of work completed and to be completed.

(v) The status of vouchers.

(vi) Whether the contract has been assigned pursuant to the Assignment of Claims Act, and, if so, the name and address of the assignee and a copy of the assignment.

(vii) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, their amount, whether they are assigned pursuant to the Assignment of Claims Act, and the amounts paid or due on them.

(viii) A complete summary of all pertinent evidence. If a request for debarment or suspension is based on an indictment or a conviction, provide the evidence upon which the indictment or conviction is based.

(ix) An estimate of any damage sustained by the Government as a result of the contractor's action, including an explanation of the method used in making the estimate.

(x) Recommendation as to (1) whether the contractor should be suspended or debarred, (2) whether any limitations should be applied to such action, (3) whether current contracts should be terminated, and (4) the period of any debarment.

(xi) As an enclosure, a copy of the contract(s) or pertinent excerpts, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation.

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

1803.61 Exceptions.

The Senior Procurement Executive has delegated the authority to authorize an exception to the policy in FAR 3.601. The Senior Procurement Executive 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 must be forwarded to the Senior Procurement Executive for approval.

1803.7—Voiding and Rescinding Contracts

1803.71 Policy.

The Senior Procurement Executive has been delegated authority to void or rescind contracts when there is a final conviction for violation of 18 U.S.C. chapter 11, 201-224 (Bribery, Graft and Conflicts of Interest) relating to them.

1803.72 Procedures.

Procurement officers must make reports to the Senior Procurement Executive. The Senior Procurement Executive is responsible for the actions, notices, and decisions required by FAR 3.705(c), (d), and (e).

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

1803.81 Policy.

(a) Procurement officers must forward one copy of each Disclosure of Lobbying Activities (SF-LLL) furnished pursuant to FAR 3.803 to the Headquarters Office of Procurement. The original must be retained in the contract file. Forms must 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.

(b) The Senior Procurement Executive is the designated official to whom suspected violations of the Act must be referred. The suspected violations should be reported through the cognizant Procurement Analyst in Headquarters' Office of Procurement.

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1804.1—Presolicitation

1804.11 NASA Contract Writing System.

(a) The NASA Contract Writing System (NCWS) is NASA's legacy comprehensive agency tool that supports contract writing and administration, workload management and data reporting.

(b) NASA has deployed the NASA Contract Management System (NCMS) as a replacement to NCWS. Contracting officers must use NCMS for new solicitations, and any new contract, grant, and cooperative agreement awards above the micro purchase threshold including any purchase orders, and any task or delivery order issued against an indefinite delivery vehicle (IDV) established in NCMS.

(c) Contracting officers must use either NCWS to administer legacy contracts or NCMS except for: (1) BPA orders and purchase orders where purchase card is the paying mechanism, (2) training expenditures made using Standard Form (SF) 182, (3) emergency acquisitions in accordance with FAR Part 18, and (4) interagency acquisitions that use the U.S. Treasury G-invoicing system. For those items identified in (1) through (3) of this section, any necessary contract administration and closeout for that award must be performed in NASA's Core Financial module (CF).

1804.12 Contract Files.

(a) In accordance with FAR 4.101 the official contract file must contain records of all contractual actions. All official contract files (including, but not limited to, all documents whether they originated from the Government or the contractor) must be stored as follows:

(1) All new awards issued on or after October 1, 2024, must be stored electronically in NASA's Enterprise Acquisition Repository (NEAR).

(2) Awards prior to October 1, 2024, may continue to be stored in the system (e.g., SharePoint, Folders Management) in which they were originally stored.

1804.13 Format and File Structure.

(a) For actions executed on or after October 1, 2024, contracting officers must store contract file content in accordance with the file element folder structure established in NEAR.

(b) For actions executed prior to October 1, 2024, the file content structure may remain consistent with the file structure which was in effect at the time the procurement was executed (e.g., NASA Form (NF) 1098, Checklist for Contract Award File Content.

1804.2—Solicitation, Evaluation, and Award

1804.21 Identifying the PIID and supplementary PIID.

(a) Modifications to letter contracts must be numbered in accordance with FAR 4.201(c)(2). Except for termination notices, modifications must be effected by the use of Standard Form 30, Amendment of Solicitation/Modification of Contract.

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

1804.22 Procedures.

(a) All PIIDs for all new NASA awards must be 13 digits in length. Letter contracts must be numbered in accordance with the requirements for the definitive contract, expected to result from the letter contract.

(1) For intragovernmental transactions, NASA must use the letter, "T" for the ninth digit of the PIID. Intragovernmental transactions are, for example, requests to other Government agencies to furnish supplies or services. Intragovernmental transactions do not include awards by NASA to fulfill requests from other agencies. For Broad Agency Announcements (BAAs), NASA Research Announcements (NRAs), and Announcement of Opportunities (AOs), NASA must use the letter, "N" for the ninth digit of the PIID.

(2) NCWS/NCMS automatically assigns the 10th digit for all transactions processed in NCWS/NCMS. However, some transactions are not processed in NCWS/NCMS. It is necessary to ensure differentiation between PIIDs assigned to transactions processed in NCWS/NCMS and PIIDs assigned to transactions processed outside of NCWS to meet Federal Procurement Data System (FPDS) reporting requirements. If NCWS/NCMS automatically assigns the PIID to these transactions, use of letters in the 10th digit is not required. When transactions are processed outside of NCWS/NCMS, the following letters must be used in the 10th digit of the PIID:

E – Emergency acquisitions made in accordance with FAR Part 18, Emergency Acquisitions.

H – Training expenditures made using the Standard Form 182, Authorization, Agreement and Certification of Training.

W – Procurement actions using the purchase card as the method of payment.

(3) Illustration of PIID. The following illustrates two properly configured NASA PIIDs:

(i) PIID 80GSFC17C0001 would be a GSFC action signed in FY17. It would be the first one issued at the Center, and the action type would be a contract.

80	GSFC	17	C	0001
NASA	GSFC	FY17	Contract	Serial No. 1

(ii) PIID 80MSFC17PW001 would be a MSFC action signed in FY17. This action would be the first one issued at the Center, and the action type would be a purchase order, done outside of NCWS/NCMS using the purchase card as a method of payment. Had the purchase order (with or without the purchase card as a method of payment) been prepared within NCWS, the last four digits would have been 0001 instead of W001.

80	MSFC	17	P	W	001
NASA	MSFC	FY17	Purch Order	Purch Card Payment	Serial No. 1

1804.23 Uniform Use of Line Items

The contracting officer should coordinate with Agency, Center, other program offices, and finance offices, as appropriate, when structuring the contract line item(s).

1804.24 Taxpayer identification information.

Instead of using the last page of the contract to provide the information listed in FAR 4.203(a), NASA installations may allow contracting officers to use a different distribution method, such as annotating the cover page of the payment office copy of the contract.

1804.3— Post-award

1804.31 Contract Reporting Responsibilities.

(a) All reportable Center actions must be entered in Federal Procurement Data System (FPDS). The process for reporting contract actions to FPDS must be completed via the contract writing system.

(b) Data in FPDS is stored indefinitely and is electronically retrievable. Therefore, the contracting officer may reference the contract action report (CAR) approval date in the associated Government contract file instead of including an electronic copy of the electronically submitted CAR in the file. Such reference satisfies the requirements of FAR 4.301(f)(2)(i).

(c) On an annual and quarterly basis, each Center must certify its annual and quarterly certification and data validation results for the preceding fiscal period in accordance with the NASA Data Improvement Plan requirements at NASA Data Improvement Plan.

1804.32 Closeout of contract files.

See the Enterprise Contract Closeout Procedures.

1804.8—Transfer of Contracting Office Responsibility

1804.81 Scope of subpart.

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

1804.82 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.

1804.83 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 must be submitted by the director of the transferring installation after receiving the concurrence of the director of the receiving installation. Concurrence of the NASA Associate Deputy Administrator 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.

(c) Approval of the transfer of institutional related services above the simplified acquisition threshold has been obtained through Mission Support Future Architecture Program (MAP) Office of Procurement and Office of Small Business Program Transformation Project MSC decisions.

1804.84 Responsibilities of the contracting officer of the transferring installation.

1804.85 Coordination.

The contracting officer of the transferring installation must 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 by 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.

(8) E-Business Systems Office to ensure procurement systems are updated correctly.

1804.86 File inventory.

The contracting officer of the transferring installation must prepare an inventory of the contract file. This inventory must 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 to the administration agency for the services yet to be performed for each requested function. Copies of this inventory must be provided to the contracting officer of the receiving installation.

1804.87 Notifications.

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

1804.88 Transfer.

(a) Upon completion of the actions described in NFS CG 1804.84 through 1804.87, the contracting officer of the transferring installation must issue a letter to the contractor, agencies performing contract administration functions, contracting officer representatives, and the contracting officer of the receiving installation. This letter must 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 letter in NFS CG 1804.88 (a) the contracting officer of the transferring installation must send the contract file to the contracting officer of the receiving installation with a letter transferring contract responsibility. This letter must contain a provision for acceptance of the responsibility for the contract and its related files by the contracting officer of the receiving installation.

1804.89 Retention documentation.

The contracting officer of the transferring installation must retain for permanent file a copy of the approvals and concurrences required by NFS CG 1804.83, 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.

1804.891 Responsibilities of the contracting officer of the receiving installation.

1804.892 Pre-transfer file review.

The contracting officer of the receiving installation must review the contract, letters of request, actions in process, and other related files and 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.

1804.893 Post-transfer actions.

The contracting officer of the receiving installation must—

(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.

1804.9—Release or Posting of Documents

1804.91 Policy.

It is the responsibility of all involved in the acquisition process, who have access to contractor proprietary or otherwise sensitive non-public data to handle such data in an appropriate manner to prevent the unauthorized disclosure of sensitive and/or proprietary contractor information or data.

1804.92 General.

Contractor proprietary or other sensitive non-public data can be inappropriately released by mistakenly providing a contractor's financial or technical proprietary data to another contractor, inadvertently exposing or allowing access to sensitive internal agency information or export-controlled data, or releasing documents which contain metadata during a competitive procurement. Because of the potential negative impact of these inadvertent disclosures of contractor proprietary or otherwise sensitive non-public data on the integrity of the procurement process, great care must be taken in the handling of this data to prevent the unintentional disclosure of contractor proprietary or other sensitive non-public data.

1804.93 Procedures.

Contracting officers must complete the electronic document posting checklist prior to any documents or files being uploaded, released, transmitted, or posted to an internet accessible location. Exempted documents include Agency level directives posted to the NODIS library or other policy documents available through the Federal Register.

1804.10—NASA's Enterprise Acquisition Repository

1804.101 Policy.

(a) Effective October 1, 2024, NASA's Enterprise Acquisition Repository (NEAR) is the mandatory contract filing repository. Contracting officers must use NEAR to file contract documentation, capture data, enter required Procurement Administrative Lead Time (PALT) milestones (referred to as NEAR milestones), and route contract, grant, and cooperative agreement documents for review and approval.

(b) Section 878 of the National Defense Authorization Act (NDAA) of 2019 defined Procurement Administrative Lead Time (PALT) as the amount of time between the date on which an initial solicitation for a contract or order is issued to the date of award of the contract or order. PALT submissions are tracked and managed through NEAR. NEAR provides information on planned acquisitions and visibility into PALT timelines providing management insight into acquisitions above the simplified acquisition threshold across NASA programs. NEAR milestone data is used to support other Agency planning activities, including the monthly Baseline Performance Review (BPR).

1804.102 Applicability.

(a) NEAR Milestone Entry applies to:

(1) New contract actions, task orders, delivery orders, purchase orders, letter contracts, interagency acquisitions, blanket purchase agreements, and all Broad Agency Announcements (BAAs) to include, Announcement of Opportunities (AOs), NASA Research Announcements (NRAs), Cooperative Agreement announcements (CANs), and other forms of announcements (see 1835.016(a)(i)) where the dollar value, including the aggregate amount of

options, or later phases of multi-phase acquisitions, is expected to equal or exceed the simplified acquisition threshold.

(2) All undefinitized contract actions.

(3) Supplemental agreements containing new work, a debit change order, or a credit change order, or any combination/consolidation thereof with an absolute value of $50 million or greater (e.g., adding $30 million of new work and deleting $30 million of work is $60 million in absolute value, and is therefore subject to NEAR Milestone Entry).

(b) NEAR Milestone Entry does not apply to incremental funding actions or the exercising of options.

(c) All milestone dates associated with Requirements Development Teams and Source Evaluation Boards are required to be entered in NEAR as of October 1, 2024.

1804.103 Submission procedures.

(a) Each installation must submit a NEAR milestone entry NEAR for every known acquisition that meets the criteria in NFS CG 1804.102. The NEAR milestone entry must be entered at the earliest stages of "acquisition planning", as defined in FAR 2.101. As such, the record must be created upon issuance of the letter requesting the appointment of the Requirements Development Team (RDT). If an RDT is not required, the record must be created prior to the development of an acquisition plan or strategy or Justification for Other Than Full and Open Competition/Limited Sources Justification. NEAR is a living database and should be updated continually to identify upcoming acquisitions.

(b) Installations are required to maintain current status information for all NEAR milestone entries until the actual award or definitization date data is entered into NEAR site and the protest period has expired.

(c) If a protest is received, the CO must complete and maintain the protest status entry in NEAR until closure.

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PUBLICIZING CONTRACT ACTIONS

1805.1—Presolicitation

1805.10 Request for Information Requirements.

(a) Requests for information (RFI) must be issued within 30 days of concept approval. Requirements package must be completed within 60 days of RFI closure. When execution of these actions is delayed beyond 14 days from the agreed schedule, leadership engagement is mandatory. Delays without escalation are unacceptable.

(b) Contracting officers must use the governmentwide point of entry (GPE) templates for posting opportunities in the GPE, also known as SAM.gov, when necessary to meet the requirements of FAR Part 5.

1805.11 Special situations.

For proposed contract actions equal to or greater than $50 million, a Sources Sought Notice must be issued in the Governmentwide Point of Entry for a minimum of 10 business days to identify potential small businesses and emerging industry entities capable of supporting NASA's mission. These feedback mechanisms support a deeper understanding of marketplace capabilities, emerging technologies, pricing trends, and available sources, leading to more informed acquisition decisions and improved outcomes.

1805.12 Preparation and transmittal of presolicitation notices.

(a) The description of the duration of the contract period must include the basic contract and any option period, including the period permitted by FAR 52.217-8, Option to Extend Services.

(b) Notices for non-competitive solicitations, including non-competitive follow-on actions to contracts initially awarded utilizing full and open competition, must provide sufficient information regarding the proposed requirement to allow potential sources to determine whether they possess the requisite capabilities and to make an informed business decision regarding whether to respond.

1805.13 Notice of Architect-Engineer Services.

(a) *Architect-Engineer Services.*

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

(2) In addition to meeting the requirements of FAR 5.101(4)(i), the project description must—

(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 330, Architect-Engineer Qualifications, Part I – Contract Specific Qualifications, 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.

1805.14 Paid Advertisements

Use of paid advertisements for procurement purposes (except SAM.gov announcements) is not authorized at NASA.

1805.15 Solicitations and Contracts

The contracting officer must include the clause at 1852.215-84, Ombudsman in all competitive acquisition announcements.

1805.2—RESERVED

1805.3—Award

1805.31 Announcement of contract awards.

Agency procedure is to make a public announcement of awards $7 million or greater when the authority of section 8(a) of the Small Business Act is utilized.

1805.32 NASA Notification of Procurement Action (NPA) and Administrator's Notification of Significant Contract Action (ANOSCA)

(a) Contracting officers are required to complete the agency-wide "NPA" procurement template for pre-award notices, award notices, and public announcements when the contract action is valued at or greater than $7million but less than $30 million.

(b) The ANOSCA application is required for contract actions with an estimated value equal to or above $30M, or deemed of significant interest (at any value). The ANOSCA application must be used for pre-award notices (includes, but not limited to request for information, sources sought, industry day, solicitations, or other special notices, etc.), award notices, and other actions of significant interest that require Agency Leadership review, concurrence, or approval, regardless of procurement phase.

(1) Procurement officers will determine if an item is deemed of significant interest after consulting with the cognizant HQs Procurement Analyst and the Deputy Assistant Administrator for Procurement.

(2) Every action marked as significant interest must include a reason for its significance in the ANOSCA application.

(3) There is no defined list of "high visibility" or "significant interest" actions. These are typically agency programs/projects of significant political importance (e.g., human space flight, telescope, programs/projects with significant public interest). Other examples of potentially significant actions may include:

(i) Terminations
(ii) Contract modifications
(iii) Issuance of stop work orders
(iv) Classified actions
(v) Cost overruns

(4) Contracting officers must ensure the following has occurred prior to entry in the ANOSCA application:

(i) Coordination with the Center Procurement Officer
(ii) Coordination with the Center Office of Communications (OCOMM)
(iii) Coordination with the Center Office of Legislative and International Affairs (OLIA)
(iv) Confirmation received of Center Director acknowledgement
(v) Source Selection Statement has been signed
(vi) All coordinations and confirmations documented and entered with the NEAR file element

(5) Center Procurement Offices should budget from 10 days - 3 weeks of review and approval time following the transmittal of the ANOSCA application entry to the cognizant HQs Procurement Analyst into their procurement schedules.

(6) For small business set-aside awards, the contracting officer will forward the entry to the HQ's Procurement Analyst once the five- business- day period for filing a size standard protest has elapsed.

(7) Contract actions requiring an ANOSCA must not be released outside NASA or communicated as final until the Administrator has approved the release.

(8) For sole-source contract actions, the contracting officer may share a draft contract with the prospective awardee prior to ANOSCA approval, provided the document is clearly marked, "DRAFT- NOT FINAL- SUBJECT TO HQS APPROVAL."

(9) NASA HQ's OLIA will coordinate the timing for notifying offerors with the CO such that the offerors are notified prior to Congress, and Congress is notified prior to public announcement.

(10) Centers may proceed with award and local release of the information after HQ's OCOMM either:

(i) makes the public announcement, which occurs at 5:00 PM ET on the agreed upon date, consistent with FAR 5.302, or

(ii) emails that they will not be making an announcement.

(c) The following actions do not require an ANOSCA or NPA:

(i) Incremental funding (obligations/deobligations) on existing instruments.
(ii) Administrative modifications and no-cost changes, unless tied to a significant interest action.
(iii) Task orders or Blanket Purchase Agreements under an IDIQ, unless they fall under "significant interest."

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NFS CG 1806
COMPETITION REQUIREMENTS

1806.0—Advocates for Competition

1806.01 Advocates for Competition.

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

(b) The designated individual competition advocate at each NASA installation is identified in the Procurement Ombudsman / Competition Advocate Points of Contact listing.

(c) Competition advocates at each installation must ensure they are monitoring and tracking compliance with:

(1) Opportunities and actions taken to acquire commercial products and commercial services to meet the needs of the agency;

(1) Opportunities and actions taken to achieve full and open competition in the contracting operations of the agency;

(4) Actions taken to challenge requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics;

(5) Any condition or action that has the effect of unnecessarily restricting the acquisition of commercial products or commercial services or unnecessarily restricting competition in the contract actions of the agency.

(d) The competition advocates should also ensure that the following are being considered throughout their acquisition portfolios:

(1) New initiatives required to increase the acquisition of commercial products and commercial services;
(2) New initiatives required to increase competition;

(3) New initiatives to ensure requirements are stated in terms of functions to be performed, performance required or essential physical characteristics;
(4) Any barriers to the acquisition of commercial products, commercial services, or competition that remain;
(5) Other ways in which the agency has emphasized the acquisition of commercial products, commercial services, and competition in areas such as acquisition training and research; and

(6) Initiatives that ensure task and delivery orders over $1.5 million issued under multiple award contracts are properly planned, issued, and comply with FAR 8.401 and 16.507.

(e) Installation competition advocates should report to the Agency DCA any new initiatives to increase competition or reduced barriers to competition on an ongoing basis.

(f) The Agency Deputy Competition Advocate (DCA), in coordination with the Enterprise Business Systems Office, will run a report to identify negative trends (a decrease of 10% or more from historical data). The Agency DCA will discuss the trends with the relevant installation competition advocate to gather additional context, which will then be used to prepare a final report for the Senior Procurement Executive (SPE) and Chief Acquisition Office (CAO).

1806.1 —Presolicitation

1806.11 Establishing or maintaining alternative sources.

(a) The authority of FAR 6.102-1 may be used to totally or partially exclude a particular source.

(b) The Senior Procurement Executive is the designated official to approve the determination and findings required by FAR 6.102-1.

(c) The contracting officer must use the agency-wide "Determination and Findings Authority to Exclude a Source" procurement template to document the file for all actions excluding a particular source under the authority of FAR 6.102-1.

1806.12 Use of unusual and compelling urgency authority.

(a) When using the authority of FAR 6.103-2, the justification must describe and provide rationale as to the extent and nature of the harm to the Government by:

(i) quantifying the serious injury;

(ii) estimating the cost and describing the basis for the estimate of the financial injury.

(iii) describing the circumstances behind the potential injury/loss, whether personal injury or loss of life or any other injury is probable, and why no other action could avert these conditions. Include a chronological explanation of events that caused the urgent situation.

(b) If the authority at FAR 6.103-2 is used for extending the performance period of an existing services contract, the justification must contain the information required by FAR 6.104-1 and;

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

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

1806.13 International agreement.

The procurement officer must sign a Memorandum for the Record that describes the specific terms of the international agreement or treaty that limit acquisitions in support of, or because of,

the agreement or treaty to less than full and open competition. The MFR must be placed in the contract file.

1806.14 Public interest.

(a) The contracting officer must prepare the determination required by FAR 6.103-7 in any format that clearly documents the determination and the supporting findings. The CO must notify the cognizant HQs Procurement Analyst NASA once the approved Determination is in the NASA Enterprise Acquisition Repository (NEAR).

(b) NASA HQs Office of Procurement must request a notification to Congress be made immediately upon approval of a Determination and must advise the contracting activity of the date upon which the notification period ends.

(c) NASA HQs Office of Legislative and Intergovernmental Affairs is responsible for submitting the notification to Congress.

1806.15 Justification Content.

(a) The contracting officer must use the agency-wide "Justification for Other than Full and Open Competition (JOFOC)" procurement template to document the file for Justification for Other than Full and Open Competition actions using the authorities under FAR Part 6. If an unusual and compelling urgency arises in support of the Artemis Campaign the CO must use the agency-wide "JOFOC for Unusual and Compelling Urgency" procurement template.

(b) Justifications for using other than full and open competition must 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.

1806.16 Approval of the justification.

Contracting officers must obtain concurrences and approvals for justifications. Additionally, if there are any changes to the requirements, basis for the justification, market conditions, or significant increases in the estimated value of the proposed action occur at any time prior to award, the contracting officer must re-obtain the required concurrences and approvals via a revised justification. Concurrences and approvals for justifications of contract actions must be obtained consistent with the dollar values identified in FAR 6.104-2. The HQs CAM identifies required HQs concurrences and approvals (See Appendix B). Required concurrences and approvals are also identified in the agency-wide JOFOC procurement template signature page.

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NFS CG 1807
ACQUISITION PLANNING

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NFS CG 1807
ACQUISITION PLANNING

1807.01- Acquisition Strategy Meeting (ASM)

1807.02 Policy.

(a) NASA Policy Directive (NPD) 1000.5, *Policy for NASA Acquisition,* provides the overall policy framework for NASA's strategic acquisition process. The NASA Associate Administrator (AA) serves as the convening authority for Pre-ASMs and ASMs for acquisitions identified in NPD 1000.5, subsection 5.b.(2), and for Pre-ASMs and ASMs convened at the discretion of the AA.

(b) Contracting officers must use the agency-wide "Determination that an Acquisition Strategy Meeting (ASM) is not Conducted" procurement template to document the NASA AA's determination that an AS will not be conducted for an acquisition that may otherwise meet any of the conditions described in 5.b.(2) of NPD 1000.5. The AA may also make such a determination when a pre-ASM is convened and the AA decides the Pre-ASM to be of adequate maturity and ASM requirements have been substantively met and could proceed directly to a Procurement Strategy Meeting (PSM), or for other reasons at his/her discretion.

(c) The agency-wide "Determination that an Acquisition Strategy Meeting (ASM) is not Conducted" procurement template must also be used to develop the contract file memorandum when a NASA Mission Directorate Associate Administrator serves as the convening authority for the acquisition as described in NPD 1000.5, subsection 5.m.(9).

1807.03 Make vs. Buy: Preserving NASA's Core Competencies

At NASA, we never undertake these endeavors alone. We work alongside industry to build, buy, or acquire capabilities as-a-service that enable NASA's world-changing mission. Given the high consequences of space exploration, both for human life and national priorities, as well as the infrequent production quantities involved in exquisite hardware, it is imperative to select the appropriate acquisition strategy and implement the controls necessary to ensure mission success.

NASA must evaluate and determine where it is appropriate to retain data rights, tools, and infrastructure to meet our most pressing national objectives. Trusted and proven partners are essential to the mission, but they do not replace NASA's technical autonomy.

As such, NASA will secure, as appropriate, data rights, repair rights, interface control, and access to tooling and software necessary to perform repairs and track vendor performance to meet America's Space Superiority policy. NASA will maintain the flexibility necessary to on-ramp additional providers where competitive dynamics can improve capabilities and reduce costs. Commercial services will always be leveraged where a market exists, and outcomes can be reasonably assured.

1807.1—Acquisition Plans

1807.11 Agency-head responsibilities.

(a) Written acquisition plans must be developed and documented using the agency-wide "Procurement Strategy Meeting (PSM) Executive Presentation" procurement template.

(b) Approval authorities for the PSM Executive Presentation are as follows:

(1) Acquisitions for human space flight end item(s), significant radioactive materials (defined as levels of radioactive material onboard spacecraft and/or launch vehicle that require nuclear launch authorization by the Administrator or Executive Office of the President as described in NPR 8715.26), or with a total estimated dollar value of $2 Billion or greater including Broad Agency Announcements, the PSM Executive Presentation must be concurred by the SPE or designee and approved by the Chief Acquisition Officer (CAO) or designee.

(2) Acquisitions with a total estimated dollar value of $1 billion or more, the PSM Executive Presentation must be approved by the SPE, or designee.

(3) Acquisitions with a total estimated dollar value below $1 billion, the PSM Executive Presentation must be approved by the head of the contracting activity (HCA), who may delegate this approval authority no lower than one level above the contracting officer for acquisitions with a total estimated dollar value of $50 million or less.

(c) If determined necessary by the SPE, the agency-wide "Written Acquisition Plan" procurement template must be used instead of the agency-wide " PSM Executive Presentation" procurement template.

(d) For PSMs that are approved by NASA Headquarters Office of Procurement, the agency-wide "PSM Signature Template for Contracts" must be used to obtain stakeholder concurrences.

(e) For acquisitions not expected to exceed $10 million, acquisition plans should be prepared and documented in accordance with Center procedures. A written acquisition plan is required when the conditions in FAR 7.102(d) apply unless an exception in paragraph (g) of this section is met.

(f) The total estimated dollar value of the acquisition must include the values of multiple awards, all options and all phases of a phased acquisition.

(g) Written acquisition plans are not required for the following:

(i) Orders issued against a NASA enterprise contract.

(ii) Broad agency announcements (unless meets the criteria under (a)(1) of this section) or unsolicited proposals.

(iii) Basic research from nonprofit organizations.

(iv) Utility services available from only one source.

(v) Industrial facilities required in support of related contracts.

(vi) Acquisitions from any of the mandatory Government sources listed at FAR 8.101, 8.102, and 8.103.

(h) Acquisition plans may be prepared on a program or system basis when practical. In such cases, the plan should fully address all component acquisitions of the program or system. (See FAR 7.106)

(i) Acquisition plans must be approved before soliciting proposals in accordance with paragraph (a) of this section.

(j) Approval of an acquisition plan does not constitute approval of any special conditions, or special clauses that may be required unless the plan specifies, and the individual having approval authority is a signatory of the plan. Contracting officers must ensure all deviations are approved in accordance with the procedures described in FAR subpart 1.3 and NFS CG 1801.

(k) A single acquisition plan may be used for all phases of a phased acquisition provided the plan fully addresses each phase, and no significant changes occur after plan approval to invalidate the description of the phases. If such significant changes do occur, the plan must be amended and approved at the same level as the original plan.

(l) Significant changes to an approved acquisition plan must be documented by an addendum to the approved plan using the agency-wide "Addendum Outlining Significant Changes to Approved PSMs-Written Acquisition Plans" procurement template.

(1) "Significant" changes may include, but are not limited to, impacts to contract line-item structure, contract type, fee structure, increases or decreases of 50 percent of the estimated cost or price, evaluation criteria at the factor/subfactor level, changes that invalidate the description of phases in phased acquisitions or changes resulting from action items associated with the Acquisition Strategy Meeting (ASM).

(2) Significant changes to Headquarters' approved acquisition plans must be approved by the HCA. Prior to approving significant changes, the HCA must obtain concurrence from the Director of the Enterprise Procurement Integration and Excellence (EPIX) Office.

(3) Significant changes to Center approved acquisition plans must be approved at the same level as the original acquisition plan.

(m) All other changes should be documented in the contract file.

(n) When an oral acquisition plan is conducted, meeting minutes and decisions must be documented, at minimum, through an executive summary, including key decisions and next steps agreed to during the collaborative session. The summary must be signed by the approving official and contracting officer to confirm that the oral acquisition plan has considered the necessary elements.

1807.12 General procedures.

(a) The acquisition planning team must coordinate with the center offices responsible for the following areas to ensure all acquisitions comply with NASA policies (See NPR 8715.3, NASA General Safety Program Requirements; NPR 7120.5, NASA Space Flight Program and Project Management Requirements; NPR 4500.1 Administration of Property in the Custody of Contractors; NPR 2810.1, Security of Information Technology, NPR 1600.1, NASA Security Program Procedural Requirements, and Small Business Act 15 U.S.C. §644(k) and The National Aeronautics and Space Act 51 U.S.C. §20113(e)):

(1) Safety and Mission Assurance
(2) Occupational Health
(3) Environmental protection
(4) Information Technology
(5) Export Control
(6) Earned Value Management
(7) Small Business
(8) Security

As part of this coordination, the team must recommend any appropriate solicitation or contract requirements for addressing each of these areas.

(b) For an acquisition of $50 million or greater, the acquisition planning team must obtain input from the cognizant Headquarters' Office of Procurement, Procurement Analyst relative to the key concepts and issues of the procurement strategy, for example the topics summarized within the executive summary portion of the charts for the procurement strategy meeting, for acquisition plans prepared in accordance NFS CG 1807.11.

(c) The Small Business Act (15 U.S.C. §644(k)(11)) requires the Assistant Administrator, NASA Office of Small Business Programs (OSBP), to review and advise on any NASA decision to convert an activity performed under contract by a small business concern to an activity performed by a NASA or other Federal employee. Accordingly, the contracting officer must coordinate any such change in acquisition strategy with the AA OSBP or their designee.

1807.13 Procurement Strategy Meeting (PSM).

(a) The PSM is an acquisition plan conducted through a meeting attended by all interested NASA offices. The PSM is not a requirements definition meeting but a meeting to seek approval for the proposed acquisition approach for requirements previously defined and agreed to by the cognizant offices.

(b) *Headquarter approved PSMs.* Headquarters PSMs will be chaired by the Senior Procurement Executive or designee. The Guide for Successful Headquarters Procurement Strategy Meetings (PSMs) should be followed for Headquarter approved PSMs. All Headquarters PSM attendees are required to read and sign the Agency's Self -Clearance procurement template to attend the PSM. For Headquarters PSMs, the charts should be submitted to the cognizant Headquarters' Office of Procurement, Procurement Analyst, at least 10 working days prior to the scheduled meeting date.

(1) At the meeting, the acquisition plan topics, including rationale for proposed deviations and any determination and findings, specified in the agency-wide "PSM Executive

Summary" procurement template must be structured and presented in briefing format in accordance with the template.

(2) Deviations and determination and findings addressed in the proposed acquisition plan should be submitted to the cognizant Headquarters' Office of Procurement, Procurement Analyst and allow for a minimum of 10 working days for review.

(3) The cognizant Headquarters' Office of Procurement, Procurement Analyst, will prepare the formal written minutes summarizing the decisions, actions, and conclusions of the PSM members and distribute the minutes for review, as appropriate, prior to approval by the PSM chairperson.

(4) The approved minutes, along with the approved briefing charts, must be included in the contract file to document completion of the acquisition plan.

(c) *Center approved PSMs.* Meetings and meeting minutes must be held and approved in accordance with Center procedures. Acquisition plan templates must be used in accordance with NFS CG 1807.1.1.

(d) PSM minutes must be approved prior to releasing a Draft request for proposal (RFP), or Final RFP if no Draft RFP is issued.

1807.14 Contents of acquisition plans.

(a) Acquisition plans must address each topic listed in this section and the required agency-wide acquisition plan procurement templates. Structure plans using the italicized topic headings and subheadings in the sequence presented.

(b) *Acquisition background and objectives.*

(1) *Statement of Need.* Describe in nontechnical terms the supplies or services to be acquired. Include quantities. Provide a technical and contractual history of the acquisition that includes the knowledge gained and lessons learned from the prior or predecessor contract(s) to further refine acquisition requirements, strategies, and mitigate issues, if any, in the follow-on acquisition. Include a discussion regarding small business participation, or lack thereof, in prior acquisitions. Address feasible acquisition alternatives, such as greater use of performance-based acquisitions for services.

(2) *Applicable Conditions.* For acquisition involving programs or projects subject to NPR 7120.5, NASA Space Flight Program and Project Management Requirements, the acquisition plan must address the following:

(i) Applicability – State whether NPR 7120.5 applies. If it does not, explicitly document this in the acquisition plan.

(ii) Documentation Status – If NPR 7120.5 applies, confirm whether all required documentation is current and approved. If not, describe the approach for obtaining approval or the authority to proceed prior to release of draft or final solicitations.

(iii) Solicitation Identification - All draft or final solicitations subject to, or directly or substantially supporting, an NPR 7120.5 program or project must clearly identify the associated program or project.

(3) *Cost/Price.* Provide the independent government cost estimate (IGCE). The IGCE should identify the estimated cost and describe the estimating methodology, to include detailed cost estimates with sources of cost estimates, assumptions, and supporting rationale. For complex or mission-specific acquisitions, address life-cycle cost, design-to-cost objectives, application of should-cost analysis (FAR 15.105-6), and trade-offs.

(4) *Capability or Performance.* Identify the type of work statement/specification planned. Address applicability of performance work statements, availability of commercial sources, and whether bundling or consolidation is involved.

(5) *Delivery or Performance-Period Requirements.* Specify the delivery or performance period requirements separately by the basic contract, each option, and the total. Provide supporting rationale, which describes the relationship between the technical requirements and the proposed period of performance, including the basis for the decision regarding duration and the appropriateness of the inclusion of options.

(6) *Risks.* (A) The acquisition plan must include a comprehensive risk discussion in accordance with NPR 7120.5. At a minimum, address the following risk areas where applicable:

(i) Technical, Schedule, and Cost/Price
(ii)Funding and Resource – including the availability and expertise of NASA personnel needed to manage the program/project
(iii)Safety and Health
(iv) Security – including personnel, facilities, and property
(v) Information Technology (IT) Security
(vi) Export Control and Unauthorized Technology Transfer – including the need for foreign sources (contractor and/or governmental) (see NPD 2190 and Export Control Program)
(vii) Organizational Conflicts of Interest. For each identified risk, the discussion must:
(i) Quantify the magnitude – rate as High, Medium, or Low
(ii) Describe mitigation actions – explain how the acquisition is structured to manage the risk throughout the acquisition process
(iii) Address risk decisions – document decisions to accept, mitigate, track, and/or research each risk factor

(7) *Acquisition Streamlining.* Streamlining applies to all NASA acquisitions. Describe all planned streamlining procedures.

(c) *Plan of action*.

(1) *Sources.* Discuss considerations, in coordination with Agency and Center CFO, CIO, OSBP, or other program offices as necessary, given to the use of-

(A) OFPP's "required use" contracts or BPAs (See FAR 8.104 and NFS CG 1808.13)

(B) Enterprise procurement strategies.

(C) Existing NASA contracts identified as available for use by other Centers on the NASA Office of Procurement Strategic Sourcing Repository (SSR).

(C) Annual forecasted contracts which can be found at the NASA's Acquisition Forecast website.

(D) Existing governmentwide contracting opportunities, such as Best in Class (BIC) solutions or Shared Services solutions.

If use of a source other than the above is planned, address why none of the contracting opportunities identified in (A) – (D) are suitable for the acquisition.

(2) *Small business, including small business subcontracting*. Discuss small business considerations including –

(A) The outcome of NF 1787 coordination with NASA OSBP, including OSBP recommendations and whether they were accepted.

(B) The status and outcome of coordination with the U.S. Small Business Administration, if applicable.

(C) Actions taken to maximize small business participation as prime contractors and/or their participation as subcontractors or suppliers.

(D) Small business subcontracting and subcontracting plan goals, including any applicable subcontracting history associated with previous contracts for the same or similar requirements.

(E) For acquisitions involving consolidation or bundling, the contents and outcome of the written determination required in FAR 7.107-1(b) and the status of the required notifications in FAR 7.107-3.

(F) How SB utilization and participation or subcontracting will be evaluated in all cases, in particular for competitive RFPs that are not set aside for small business concerns, involving consolidation or bundling (FAR 15.104(c)).

(3) *Made in America.* Describe the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirements, including the timing of the research and conclusions reached on the availability of sources (e.g., sources are available but cannot offer sufficient quantity; sources are available but cannot offer sufficient quality; no sources can be identified).

(4) *Competition.* Discuss how competition will be sought, promoted, and sustained throughout the course of the acquisition. If full and open competition is not contemplated, identify the source(s), cite the authority, and provide the rationale/justification for the application of that authority.

(5) *Contract Type Selection.* Document the contract type selection in accordance with FAR 16.103.

(6) *Source Selection Approach.* The acquisition plan must identify and justify the source selection approach and evaluation methodology, demonstrating how each will achieve best value to NASA. Address the following (See FAR 15.103 and NFS CG 1815.13.):

(A) Source Selection Approach – Identify and justify the selected approach (Full Tradeoff, LPTA, PPTO, or a combination) and explain how it achieves best value.

(B) Rating Method – Identify and justify the rating method (numerical scoring, acceptable/unacceptable, or adjectival ratings) and explain how it achieves best value.

(C) Evaluation Factors – List all evaluation factors, their relative importance to one another, and the relative importance of any subfactors within each factor.

(D) Cost Realism – Describe how cost realism will be evaluated.

(E) Enterprise Procurement Strategy – Address any applicable enterprise procurement strategy source selection approaches.

(7) *Acquisition Considerations.*

(A) Address any applicable special contracting considerations, including:

(i) Multiyear contracting, options, or other special contracting methods (see Part 17)

(ii) Special clauses, solicitation provisions, or FAR deviations required (see subpart 1.3);

(iii) Use of sealed bidding or negotiation, and justification for the approach

(iv) Equipment acquired by lease or purchase and justification for the approach (see subpart 7.4)

(v) Any other contracting considerations.

(B) Discuss whether the acquisitions will include any IT systems, including artificial intelligence (AI) systems and large language models, and address the information and communication (ICT) accessibility standards required by FAR 39.104. (See NPR 2810.1).

(8) *Budgeting and Funding.*

(A) Identify the estimated cost separately by the basic contract, each option and total amount.

(B) Identify the funding by Government fiscal year and NASA Structure Management project number.

(C) Discuss planned approaches to eliminate funding shortfalls (vs. the estimated cost).

(D) Discuss relevant severability issues consistent with the program/project budget plan, to include identifying type of appropriation and funding of the severable or non-severable services (e.g., annual or multi-year appropriations; fully funded or incremental funding at the contract level, task level, or by contract line-item number (CLIN).)

(9) *Product or Service Descriptions.* Explain the choice of product or service description types (including performance-based acquisition descriptions) to be used in the acquisition. If a services procurement, state if the Service Contract Labor Standards (SCLS) statute (formerly known as Service Contract Act) (FAR 22.10) applies and identify the applicable Wage Determination.

(10) *Management Information Requirements.* As appropriate, identify the management system(s) that will be utilized to monitor contractor's performance. Identify how earned value data, reports, reviews, and deliverables (e.g., data requirements descriptions (DRDs)) will be used to monitor contractor's performance.

(11) *Contract Administration.* Address contract administration issues, including —

(A) Planned delegations of administrative functions.

(B) When contract changes are anticipated, discuss the plan to manage such changes and the specific measures that will be taken to minimize the issuance of undefinitized contract actions.

(C) (1) If a follow-on award is anticipated for similar efforts under a noncommercial, fee-bearing, cost-reimbursement contract, discuss the potential impacts of an award delay (e.g., due to protest) on the successful completion of agency requirements. The discussion must address potential costs to the agency resulting from:

(i) Delays in implementing new mission critical requirements

(ii) Delays in achieving critical path milestones

(iii) Increased costs that impact the agency's ability to complete new requirements.

(2) If it is determined that the follow-on award would be adversely impacted by a delay, contracting officers must contact the Director, Enterprise Procurement Integration and Excellence (EPIX) Office for further guidance.

(D) Consideration of on-ramp provisions and off-ramp of non-responsive vendors, enabling additional contractors to be added in the future, if a multiple award contract is contemplated.

(E) Identify and list all applicable agency-wide data requirements, descriptions and requirement statements.

(12) *Milestone Schedule.* Provide a milestone schedule. If the period between release of solicitation to contract award is more than 120 calendar days (180 days for formal source selection competitions), explain why that goal cannot be met.

1807.15 Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling.

1807.16 General.

(a) All determination and findings (D&F)s for consolidation or bundling, must be coordinated with the Office of Small Business Programs (OSBP). Pursuant to 15 U.S.C. §644(k)(5), the contracting officer must consider recommendations by the NASA Assistant Administrator OSBP or their designee to increase the probability of small business participation in the procurement.

(b) The contracting officer must use the agency-wide "Determination and Findings (D&F) for Consolidation of Requirements" procurement template when a written determination is required for acquisitions that meet the requirements in FAR 7.107-1(b)(1).

(c) The contracting officer must use the agency-wide "Determination and Findings (D&F) for Bundled Requirements" procurement template when a written determination is required for acquisitions meeting the requirements in FAR 7.107-1(b)(2) and (3)(ii).

(d) The requirements for justification, review, and approval of bundling and consolidation of contract requirements apply to an order from a Federal Supply Schedule contract or other indefinite-delivery contract awarded by another agency if the requirements meet the definition of "bundling" or "consolidation" or consolidated requirement" at FAR 2.101.

1807.17 Policy.

(a) The Senior Procurement Executive (SPE) must approve any D&F prepared pursuant to FAR 7.107-1(b).

(b) When the conditions in FAR 7.107-2(e) are met for a proposed consolidation or bundling acquisition, the Associate Administrator for the Mission Support Directorate must approve the D&F for consolidation or bundling requirements.

(c) D&Fs for consolidation or bundling must be routed to the cognizant Headquarters' Office of Procurement, Procurement Analyst via NASA's Enterprise Acquisition Repository (NEAR) to coordinate applicable reviews, concurrences, and approvals. Contracting officer must provide the appropriate D&F to the cognizant Procurement Analysts and allow for a minimum of 10 working days for review.

1807.18 Notifications.

(a) At least 30 calendar days before releasing a solicitation for consolidated or bundled requirements, in coordination with the OSBP Small Business Specialist (SBS), contracting officers must notify all current small business contractors of NASA's intent using the agency-wide "Letter Notification to SB of NASA's intent to consolidate or bundle" procurement template to provide the information required by FAR 7.107-3(a).

(b) Within 7 calendar days of D&F approval, contracting officers must:

(i) Publish notice on the GPE that consolidation or bundling is necessary and justified;

(ii) Wait 7 days minimum before publicizing the solicitation; and

(iii) Consult with the Office of General Counsel and use the "Electronic Document Posting Checklist" procurement template to redact source selection sensitive or business proprietary information from the approved D&F before posting with the solicitation

(c) *Follow-on consolidated or bundled requirements.* At least 30 calendar days before releasing a solicitation for follow-on consolidated or bundled requirements, contracting officers must, in coordination with the OSBP SBS, notify the SBA PCR using the agency-wide "Notification to SBA of follow-on consolidated or bundled requirements" procurement template to provide the information required by FAR 7.107-3(c).

(d) Throughout the life of the award, the contracting officer that awarded a contract involving consolidation or bundling must track and be prepared to accurately report the information required for the Annual Report on Bundled or Consolidated Contracts pursuant to 15 U.S.C. §644(p)(4) using the agency-wide, "Annual Report on Bundled or Consolidated Contracts" procurement excel template. The contracting officer must maintain accurate information and respond promptly to any NASA Office of Procurement (OP) or NASA Office of Small Business Programs (OSBP) data call to support this requirement.

1807.5—Inherently Governmental Functions

1807.51 Policy.

The Center requirements office must provide the contracting officer the written determination that none of the statement of work tasks are inherently governmental. Disagreements regarding the determination must be resolved in accordance with Center procedures.

1807.70—Acquisition Forecasting

1807.701 Definitions.

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

Contract opportunity means proposed contract actions anticipated to be publicized in the government-wide point of entry in accordance with Federal Acquisition Regulation (FAR) subpart 5.2 requirements that are expected to exceed the simplified acquisition threshold (SAT).

1807.702 Responsibilities.

(a) NASA procurement officers must provide the data required by NFS CG 1807.703 to the Headquarters Office of Procurement, Enterprise Service and Analysis Division on a quarterly basis as follows:

Quarter 1: Not later than September 1
Quarter 2: Not later than December 1
Quarter 3: Not later than March 1
Quarter 4: Not later than June 1

(b) Prior to submitting the data to the HQs Office of Procurement, the procurement officers must coordinate with the Office of Small Business Programs related to potential small business set aside type preferences. Along with this data, NASA procurement officers must include a statement that a review was conducted of the existing NASA contracts that are available for other Centers to use as identified on the Office of Procurement Strategic Sourcing Searchable Repository. See NFS CG 1808 for information on use of other sources.

1807.703 Forecast data.

(a) The acquisition forecast must identify all known contract opportunities that exceed the simplified acquisition threshold. Each such action should be identified as one of the four broad categories of acquisitions: Construction (including A&E), Research and Development, Services, or Supplies (including equipment) and must include the elements outlined on the NASA Acquisition Forecast web page under data definitions.

(b) Quarterly submissions must provide new contract opportunities and updates on previously published contract opportunities if more current information becomes available to better inform prospective vendors.

(c) Acquisitions for IT goods and services (excluding SEWP and GSA orders) that fall outside the scope of existing Center and Enterprise contracts with estimated values above the simplified acquisition threshold (SAT) need to be included on the acquisition forecast with the IT Procurement Office (ITPO) as the buying location. In addition, hardware that requires special software to operate the equipment and is above the SAT, will be procured by the ITPO. The ITPO will also be responsible for Enterprise IT Contracts covering End-User IT services, Cybersecurity, Communications, and Application services and any Center IT contracts covering a wide breadth of Center-unique IT services. NSSC buys software below the SAT if it is a standalone order.

1807.71—Purchase Requests

1807.711 General.

(a) NASA Form (NF) 1707, Special Approvals and Affirmations for Requisitions, documents information pertaining to a specific acquisition and coordination among NASA offices. The technical representative initiating the acquisition is responsible for completing NF 1707, obtaining necessary coordination, and ensuring it is approved and dated. The completed NF 1707 must be provided to the procurement office as early as possible as it contains information needed to effectively process an acquisition. The contracting officer must include a copy of the completed NF 1707 and any additional special approvals or affirmations in the appropriate NEAR file element folder. The NF 1707 is not required for within scope actions for which special approvals and affirmations have previously been obtained.

(b) A purchase requisition (PR) is developed in NASA's System Analysis Program Development (SAP) Enterprise Resource Planning (ERP) Central Component (ECC) Core Financial Module (CF). If the NF 1707 for a specific acquisition has not been previously provided to the procurement office, it must accompany the PR.

(c) Except in unusual circumstances, the contracting officer must not issue solicitations until the contracting officer receives an approved certification that funds are available. However, the contracting office may take necessary actions, up to the point of obligation of funds, before the acceptance of the approved certification that funds are available only when—

(1) Such action is necessary to meet critical program schedules;
(2) Program authority has been issued and funds to cover the acquisition will be available prior to the date set for contract award or contract modification;
(3)The procurement officer authorizes such action in writing before solicitation issuance; and
(4) The solicitation includes the clause at FAR 52.232-18, Availability of Funds. The clause must be deleted from the resultant contract.

(d) Prior to submitting a purchase request, the requiring activity must review the existing NASA contracts that available for use by other Centers as identified on the Office of Procurement Strategic Sourcing Searchable Repository to determine if the requirement is available through the NASA Strategic Sourcing Initiative.

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REQUIRED SOURCES OF SUPPLIES AND SERVICES

1808.1—Presolicitation

1808.11 Mandatory sources for specific supplies and services.

(a) Unless otherwise required by law or FAR 8.101, 8.102, 8.103, or 8.104, contracting officer must procure supplies or services in the following order to obtain favorable terms and while supporting achievement of NASA's small business and strategic sourcing goals:

(1) Enterprise procurement strategy contracts;
(2) Existing NASA contracts identified as available for use by other Centers on the NASA Office of Procurement Strategic Sourcing Repository (SSR);
(3) Best in Class (BIC) solutions or Shared Services solutions.

1808.12 Mandatory sources of supplies.

In addition to the sources identified in FAR 8.103(a)(2), information on availability of NASA excess property is maintained by the Center Property Disposal Officer.

1808.13 Use of existing contracts.

(a) For commercial products and commercial services, including those that can be modified to meet NASA's needs, requirement owners and contracting officers must follow FAR 8.104 requirements. In accordance with FAR Companion (FC) 8.104, there are not any required use contracts or BPAs. Therefore, contracting officers should document this as the exception to using the OFPP's list of required use contracts or BPAs until OFPP populates the contract listing.

(b) The use of enterprise procurement strategy contracts is mandatory. For situations (e.g., immediacy of need, availability of better pricing elsewhere, etc.) that do not warrant the use of the contracts designated as mandatory by the enterprise procurement strategies for satisfying requirements within the scope of those contracts, the contracting officer must obtain concurrence from the applicable Enterprise Requirement Manager (ERM); and from the cognizant Procurement Officers at both the buying and requiring Centers (See Enterprise Procurement Strategies, A-101).

(c) Requirement owners must review the existing NASA contracts available for use by other Centers as identified on the Office of Procurement Strategic Sourcing Repository (SSR) to determine if the requirement is available through the NASA Strategic Sourcing Initiative. The use of NASA contracts that are available for use by other Centers allows NASA to obtain favorable terms and pricing for supplies and services.

1808.14 NASA Strategic Sourcing Repository.

The NASA Office of Procurement Strategic Sourcing Repository (SSR) is a searchable tool used to identify existing NASA contracts available for Centers to use to fulfill emerging needs. In

order to keep the repository up-to-date, the contracting officer must complete and submit the information specified on the Office of Procurement Strategic Sourcing Publicizing Instructions webpage not later than thirty days after award of an Agency-wide contract, Multi-Center contract, or Center-wide contract. The definitions for Agency-wide, Multi-Center, and Center-wide contract on the SSR webpage.

1808.15 Acquisition of radioactive material.

Any acquisition that involves or may involve the procurement of radioactive material must coordinate with the cognizant Center Radiation Safety Officer.

1808.16 Acquisition of helium, hydrogen, nitrogen, oxygen, other propellants and aerospace fluids.

See Enterprise Procurement Strategies for policy related to the acquisition of helium, hydrogen, nitrogen, oxygen, other propellants and aerospace fluids.

1808.17 Acquisition of mercury.

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

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

1808.18 Contractor permitted use of Government supply sources.

(a) In order for a contractor to use Government supply sources, contracting officers are required to issue a specific authorization to the contractor(s) as described in FAR 8.105. Upon deciding to authorize a contractor to use Government supply sources, the CO must request the necessary activity address codes by following the procedures found in NASA Procedural Requirement (NPR) 4100.1, *NASA Supply Support and Material Management*. After receiving the activity address code, the CO must notify and provide the authorization letter to the appropriate Government Supply Source.

(b) Use the agency-wide "Authorization to Use Government Supply Sources" procurement template for letters authorizing contractor use of Government supply sources.

1808.19 Contractor use of GSA Fleet.

(a) NASA procedures for leasing motor vehicles from GSA or commercial sources are contained in NPD 6000.1, *Transportation Management*.

(b) In accordance with NPR 6200.1, *NASA Transportation and General Traffic Management*, the contracting officer must confirm that the procurement request initiator has received concurrence from the Center Transportation Officer/Traffic Manager before authorizing a contractor to obtain Government-owned or -leased vehicles and related services.

1808.2—Acquisition From AbilityOne Participating Nonprofit Agencies

1808.21 General.

(a) The Federal Standard Requisitioning and Issue Procedure (FEDSTRIP) must be used to obtain nonprofit agency-produced supplies from GSA supply distribution facilities. The FEDSTRIP Operating Guide is available here.

(b) Contracting officers must consider AbilityOne during the market research phase of acquisition planning. As early as possible, contracting officers must initiate coordination with Ability One using the agency-wide “AbilityOne Coordination" procurement template and copy the NASA AbilityOne representative on the initial coordination email.

(c) Where indicated in Enterprise Procurement Strategies mandatory contracts, use of AbilityOne is an allowable exception to the enterprise procurement strategies detailed therein.

(d) For the AbilityOne service requirements, listed by North American Industry Classification System (NAICS), located at AbilityOne Product and Services the contracting officer must perform the following steps:

(1) Contact the AbilityOne Program at opportunity@abilityone.org to discuss the feasibility of adding the requirement to the Procurement List. Use the completed agency-wide “AbilityOne Coordination" procurement template in the correspondence.

(2) Under 41 CFR § 51-2.4, the Committee must determine whether a commodity or service is suitable for the Procurement List, including assessing impact on the current contractor. An AbilityOne Certified Nonprofit Agency (CNA) will conduct a preliminary impact assessment to determine if the requirement can transition to AbilityOne without severe adverse impact.

(3) If a requirement is determined not suitable for AbilityOne due to severe adverse impact or the comprehensive nature of the requirement (i.e., AbilityOne can only perform a portion of the requirement), contracting officers must consider including AbilityOne subcontracting goals in the resultant solicitation for the requirement.

(4) If the preliminary impact assessment indicates AbilityOne can perform the requirement without causing severe adverse impact to the incumbent, the CNA will coordinate a formal capability presentation to NASA. If requested, the CNA can also coordinate a capability presentation(s) by one or more NPAs. The contracting officer must ensure appropriate representatives from the Center Office of Procurement, the requiring/technical activity, and the NASA AbilityOne Representative (ABOR) to attend. During the presentation, the CNA or NPA(s) will demonstrate their understanding of the technical requirements and demonstrate past success in meeting similar requirements on schedule.

(5) If the capability presentation demonstrates that AbilityOne can perform the requirement, the contracting officer must provide a solicitation/draft contract and negotiate price and other terms and conditions with the NPA and the CNA. Following agreement on a fair market price/cost, the CNA will coordinate adding the requirement to the Procurement List (PL) through the AbilityOne Commission. The contracting officer may award the contract upon CNA confirmation of the PL addition.

1808.3—Acquisitions from Federal Prison Industries, Inc

1808.31 General.

When using a general or blanket waiver, do not attach a copy of the waiver to the purchase orders or contract. However, the waiver number must be cited on both purchase order or contract and the initial voucher. A copy of the waiver certificate must be attached to the initial voucher.

1808.32 Evaluation and Award.

When disputes occur, the contracting officer must refer the matter to the Senior Procurement Executive through the cognizant Headquarters' Office of Procurement, Procurement Analyst for review and action. The referral must include a complete statement of all attempts made to resolve the dispute.

1808.4—Ordering under the Federal Supply Schedule (FSS)

1808.41 Placing FSS orders and establishing FSS Blanket Purchase Agreements (BPAs).

Use the agency-wide "Determination and Findings Commercial Time and Materials or Labor Hour Contract-Order" procurement template to comply with FAR 12.104(b) pursuant to GSA ordering procedures 538.7102-2(b)(3).

1808.42 Blanket purchase agreements (BPAs).

(a) Use the agency-wide "Blanket Purchase Agreement (BPA) Annual Review" procurement template to document the written determination required by GSA ordering procedures 538.7104-1(c).

(b) The limitations in NFS CG 1812 on the individuals authorized to purchase under a BPA apply to BPAs established under Federal Supply Schedule contracts.

1808.43 Sole source justifications.

(a) Use the agency-wide "Limited Sources Justification (LSJ) General Services Administration (GSA) Federal Supply Schedule (FSS)" procurement template to document the file for proposed orders or BPAs—

(1) estimated to exceed the simplified acquisition threshold on a sole source basis (see GSA ordering procedure 538.7104-3); or

(2) restricting consideration to an item peculiar to one manufacturer (see GSA ordering procedure 538.7104-4).

1808.5—Acquisitions of Government printing and related supplies

1808.51 Policy.

(a) NASA must follow the guidance outlined in Title 44 of the U.S Code - Production and Procurement of Printing and Binding, 44 U.S.C. §§501-517. This law prohibits the use of Government-appropriated funds for the acquisition of printing and duplicating services and products unless it is through the Government Publishing Office (GPO) or an authorized NASA Center in-house duplicating facility.

(b) Requests for approval of contracts for printing supplies or services must follow NPD1490.1, *NASA Printing, Duplicating, and Copying Management*.

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CONTRACTOR QUALIFICATIONS

1809.1—Responsible Prospective Contractors

1809.11 Certification Regarding Responsibility Matters.

(a) If the offeror indicates that it currently is or has been indicted, charged, convicted, or had a civil judgment rendered against it, or has a Federal tax delinquency in an amount that exceeds $10,000, or has been suspended, proposed for debarment, or has entered into an administrative agreement to resolve a suspension or debarment proceeding, or when information in FAR 9.104-6 indicates cause for concern, the contracting officer must immediately notify the Director, Headquarters Acquisition Integrity Program (AIP) and Procurement Analyst, providing details as known. The Office of General Counsel Acquisition Integrity Program is responsible for working with the contracting officer to ensure that the package is complete.

Information provided should include—

(i) Copy of the offeror's certification.
(ii) Specific company name or division.
(iii) Purpose and description of the pending acquisition and
(iv) Extent of competition on the pending procurement.

The contracting officer must await a response before awarding the contract.

(b) If the offeror discloses information that indicates a need for a debarment or suspension determination, the contracting officer must report the facts to the Director, Headquarters AIP and Headquarters Procurement Analyst, in accordance with NFS CG 1809.45 and NFS CG 1809.46.

1809.12 Obtaining Information.

(a) NASA's most significant contracts for design and development programs and projects, with a lifecycle cost of $500 million or more, or otherwise designated by the NASA Associate Administrator, require a financial capability assessment prior to award. The financial capability assessment will be conducted by the NASA Headquarters Office of the Chief Financial Officer (HQ OCFO) and provided to the contracting officer for consideration as part of the responsibility determination required by FAR 9.104. Contracting officers must not make award until the financial capability assessment is completed and considered as part of the responsibility determination.

(b) Proposal Instructions. Contracting officers must include the Financial Capability Assessment statement (*located in NCMS*) in solicitation instructions related to a significant contract for design and development programs and projects, with a lifecycle cost of $500 million or more, or otherwise designated by the NASA Associate Administrator.

(c) Upon release of a solicitation for a significant contract for design and development programs and projects, with a lifecycle cost of $500 million or more, or that has been otherwise designated by the NASA Associate Administrator, the contracting officer must provide the

following information to the HQ OCFO Financial Capability Assessment Team at HQ-DL-OCFO-FCA:

(1) Solicitation number,
(2) Solicitation name,
(3) Brief description of the work to be performed under the contract,
(4) The estimated value of the contract,
(5) The anticipated number of proposals expected to be received, and
(6) The proposal due date.

(d) Upon receipt of the proposals, the contracting officer must provide the HQ OCFO Financial Capability Assessment Team with a list of the offerors, assure all OCFO financial capability assessment team members are cleared to perform the review, and then provide financial assessment information provided by each offeror to the team.

1809.2—Qualifications Requirements

1809.21 Policy.

(a) Authority regarding agency head actions under FAR 9.202(a) is delegated to the cognizant requirements office with approval by the installation's competition advocate.

(b) The approval authority of FAR 9.202(e) is delegated to the installation's competition advocate. Requests to proceed with the procurement must be prepared by the cognizant requirements office and submitted via the procurement officer.

1809.22 Waiver of qualification requirements.

When acquiring a product under a specification that includes qualification requirements (e.g., QPL's, QML's, QBL's, etc.) either for the end item or for components of the end item, the NASA installation conducting the acquisition can waive the qualification requirements. Directing a waiver of the end item qualification requirement constitutes adequate authorization for waiver of product qualification requirements. When a waiver has been granted, the solicitation must specifically indicate that the qualification requirement is inapplicable. Such information must also be included in any notices issued pertaining to the acquisition (see FAR Subpart 5.2).

1809.23 Acquisitions subject to qualification requirements.

(a) The authority to determine that an emergency exists is delegated to the installation's competition advocate. Requests for determination must be prepared by the cognizant requirements office and submitted through the procurement officer.

(b) Requests not to enforce a qualification requirement in a nonemergency situation must be prepared by the cognizant requirements office and approved by the Headquarters Office of Safety and Mission Assurance.

(c) If an offeror seeks to demonstrate its capability, both the product and the producer must meet the established standards.

1809.4—Debarment, Suspension, and Ineligibility

1809.41 System for Award Management (SAM) Exclusions in the System for Award Management (SAM).

The Director, Headquarters Acquisition Integrity Program (AIP Director) is responsible for taking the actions listed in FAR 9.404(c).

1809.42 Effect of listing.

(a) The NASA Chief Acquisition Officer (CAO) is the NASA official responsible for determining that a compelling reason exists for NASA to conduct business with a contractor that is debarred, suspended, or proposed for debarment. If it is believed that a new contract or subcontract must be awarded to a firm listed in SAM Exclusions, the procurement officer must prepare a request for a determination, including the rationale for why the action should be taken, together with all necessary supporting information, and forward it to the Headquarters Procurement Analyst, and the AIP Director.

(b) The OGC (both AIP and Contracts & Acquisition Integrity Practice Group (CAIPG)), is responsible for evaluating the request and coordinating with Procurement to determine whether the facts support a recommendation for the CAO to approve award to solicit offers from award contracts to, or consent to subcontracts with contractors that are listed in SAM Exclusions. The Headquarters Procurement Analyst is also responsible for preparing the headquarters documentation and providing it to the CAO for approval.

1809.43 Continuation of current contracts.

The responsibilities of the Agency head under FAR 9.405-1 are delegated to the CAO. Approvals must be requested in accordance with the procedures in NFS CG 1809.42.

1809.44 Restrictions on subcontracting.

The responsibilities of the Agency head under FAR 9.405-2(a) are delegated to the CAO. Approval of consent to subcontract must be requested in accordance with the procedures in NFS 1809.405.

1809.45 Debarment Procedures.

(a) Any person may refer a matter to the Suspending and Debarring official (SDO) when there is information indicating that a contractor may lack business integrity or business honesty. The information should be referred promptly to the SDO, through the AIP Director, for consideration. The referral should contain the information which supports a lack of business integrity or business honesty.

(1) Use the following format when referring a matter to the SDO for consideration. To the extent practicable, provide all specified information.

(A) Name, address and telephone number of the point of contact for the activity making the report.

(B) Name, contractor and Government entity (CAGE) code, DUNS number, and address of the contractor.

(C) Name and addresses of the members of the board, principal officers, partners, owners, and managers.

(D) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship.

(E) For each contract affected by the conduct being reported—

(i) The contract number;

(ii) All office identifying numbers or symbols;

(iii) Description of supplies or services;

(iv) The amount;

(v) The percentage of completion;

(vi) The amount paid to the contractor and any amounts due;

(vii) Status of invoices or vouchers;

(viii) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(ix) The contract fund citations involved, to expedite accurate return of funds to open accounts and commands, as appropriate.

(F) For any other contracts with the contractor or any of its affiliates—

(i) The contract number;

(ii) The amount;

(iii) The amounts paid the contractor;

(iv) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(v) The amount due to the contractor.

(G) A complete summary of the facts, including all pertinent evidence and the status of any legal proceedings involving the contractor.

(H) An estimate of any damage sustained by the Government as a result of the contractor's action (explain how the estimate was calculated).

(I) If a contracting office initiates the report, the comments and recommendations of the contracting officer and of each higher-level contracting review authority regarding—

(i) Whether to suspend or debar the contractor;

(ii) Whether to apply limitations to the suspension or debarment;

(iii) The period of any recommended debarment; and

(iv) Whether to continue any current contracts with the contractor (or explain why a recommendation regarding current contracts is not included).

(J) When appropriate, as an enclosure to the report—

(i) A copy or pertinent extracts of each pertinent contract;

(ii) Witness statements or affidavits;

(iii) Copies of investigative reports when authorized by the investigative agency actions;

(iv) Certified copies of indictments, judgments, and sentencing

(v) A copy of any available determinations of nonresponsibility in accordance with FAR 9.105-2(a)(1);

(vi) A copy of the information from the Federal Awardee Performance and Integrity Information System (FAPIIS) database; and

(vii) Any other appropriate exhibits or documentation.

(K) To the extent that information is available through FPDS-NG, provide a list

of other agencies that hold current contracts with the subjects.

(L) The Contracting Officer is responsible for gathering the information required and preparing the report.

(M) The AIP Center Attorney (AIP-C) is responsible for assisting the contracting officer in preparing the report and performing a legal sufficiency review. The AIP-C must sign the report indicating that the review has been performed.

(N) The report must be signed by the Contracting Officer and submitted by the procurement officer. Procurement officers are encouraged to advise the Center Director, as appropriate, of debarment recommendations provided to the SDO.

(O) Address the recommendation to the SDO, indicating OGC (AIP) on the 'Attention' line, and send two copies of the complete report, including enclosures to OGC (AIP). One copy of the recommendation, without enclosures, should be provided to the Enterprise Procurement Integration and Excellence (EPIX) Office.

(P) If a referral lacks sufficient evidence of a cause for debarment, the SDO may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(b) Decision-making process.

(1) The agency SDO may initiate the debarment process by issuing a notice of proposed debarment in accordance with FAR 9.406-3(c) when the SDO finds that the administrative record contains sufficient evidence of one or more of the causes for debarment stated in FAR 9.406-2.

(i) The absence of a referral in accordance with 1809.406-3(a), or the absence of any information specified in the report format at 1809.406-3(a)(1), will not preclude the SDO from making such a finding.

(ii) The signature of the SDO on the notice of proposed debarment is sufficient evidence that the SDO has made such a finding.

(2) The SDO must use the decision-making process stated in FAR 9.406-3(b), and any agency-specific procedures that were provided to the contractor in advance of the decision.

(3) Nature of proceeding. There are two distinct proceedings which may be involved in the suspension or debarment process. The first is the presentation of matters in opposition to the suspension or proposed debarment by the contractor. The second is fact-finding which occurs only in cases in which the contractor's presentation of matters in opposition raises a genuine dispute over one or more material facts. In a suspension action based upon an indictment or in a proposed debarment action based upon a conviction or civil judgment, there will be no fact-finding proceeding concerning the matters alleged in the indictment, or the facts underlying the convictions or civil judgment. However, to the extent that the proposed action stems from the contractor's affiliation with an individual or firm indicted or convicted, or the subject of a civil judgment, fact-finding is permitted if a genuine dispute of fact is raised as to the question of affiliation as defined in FAR 9.403.

(4) Presentation of matters in opposition. In accordance with FAR 9.406-3(c) and 9.407-3(c), matters in opposition may be presented in person, in writing, or through a representative. Matters in opposition may be presented through any combination of the foregoing methods, but if a contractor desires to present matters in person or through a representative, any written material should be delivered at least five working days in advance of the presentation. Usually, all matters in opposition are presented in a single proceeding. A contractor who becomes aware of a pending indictment or allegations of wrongdoing that the contractor believes

may lead to suspension or debarment action may contact the SDO or designee to provide information as to the contractor's present responsibility.

(i) An in-person presentation is an informal meeting, non-adversarial in nature. The SDO and/or other Agency representatives may ask questions of the contractor or its representative making the presentation. The contractor may select the individuals who will attend the meeting on the SDO and contractor's behalf; individual respondents or principals of a business firm respondent may attend and speak for themselves.

(ii) In accordance with FAR 9.406-3(c) and 9.407-3(c), the contractor may submit matters in opposition within 30 days from receipt of the notice of suspension or proposed debarment.

(iii) The opportunity to present matters in opposition to debarment includes the opportunity to present matters concerning the duration of the debarment.

(5) Fact-finding.

(i) The SDO will determine whether the contractor's presentation has raised a genuine dispute of material fact(s). If the SDO has decided against continued suspension or debarment, or the provisions of FAR 9.4 preclude fact-finding, no fact-finding will be conducted. if the SDO has determined a genuine dispute of material fact(s) exists, a designated fact-finder will conduct the fact-finding proceeding. The proceeding before the fact-finder will be limited to a finding of the facts in dispute as determined by the SDO.

(ii) The designated fact-finder will establish the date for a fact-finding proceeding, normally to be held within 45 working days of the contractor's presentation of matters in opposition. An official record will be made of the fact-finding proceeding.

(iii) The Government's representative and the contractor will have an opportunity to present evidence relevant to the facts at issue. The contractor may appear in person or through a representative in the fact-finding proceeding.

(iv) Neither the Federal Rules of Evidence nor the Federal Rules of Civil Procedure governs fact-finding. Hearsay evidence may be presented and will be given appropriate weight by the fact-finder.

(v) Witnesses may testify in-person. Witnesses will be reminded of the official nature of the proceeding and that any false testimony given is subject to criminal prosecution. Witnesses are subject to cross-examination.

(6) Timing requirements. All timing requirements set forth in these procedures may be extended by the SDO for good cause.

(c) Notice of Proposal to Debar.

(1) Notification. Contractors will be notified of the proposed suspension or debarment in accordance with FAR 9.406-3 or 9.407-3. A copy of the record which formed the basis for the decision by the SDO will be made available to the contractor. If there is a reason to withhold from the contractor any portion of the record, the contractor will be informed of what is withheld and the reasons for such withholding.

(2) Written findings of fact will be prepared by the fact-finder as mandated by FAR 9.406-3(d)(2)(i) and 9.407-3(d)(2)(i).

(3) The fact-finder will determine the disputed fact(s) by a preponderance of the evidence. A copy of the findings of fact will be provided to the SDO, the Government's representative, and the contractor.

(4) The SDO will determine whether to continue the suspension or to debar the contractor based upon the entire administrative record, including the findings of fact.

(5) Prompt written notice of the SDO's decision will be sent to the contractor and

any affiliates involved, in compliance with FAR 9.406-3(e) and 9.407-3(d)(4).

1809.47 Suspension Procedures.

(a) Any person may refer a matter to the SDO. Refer all matters appropriate for consideration by the SDO as soon as practicable. Use the format and procedures at 1809.406-3(a)(1) when referring a matter to the agency SDO for consideration. To the extent practicable, provide all specified information.

(i) If a referral lacks sufficient evidence of a cause for suspension, the SDO may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(b) Decision-making process.

(1) The agency SDO may initiate the suspension process by issuing a notice of suspension in accordance with FAR 9.407-3(c) when the SDO finds that the administrative record contains sufficient evidence of one or more of the causes for suspension stated in FAR 9.407-2. The SDO should coordinate with appropriate agency offices to assess the impact of suspension or debarment on agency mission.

(i) The absence of a referral in accordance with NFS CG 1809.45(a), or the absence of any information specified in the report format at NFS CG 1809.45(a)(1), will not preclude the SDO from making such a finding.

(ii) The signature of the SDO on the notice of suspension is sufficient evidence that the SDO has made such a finding.

(2) In deciding whether to terminate a suspension following a submission of matters in opposition, the agency SDO must use the decision-making process stated in FAR 9.407-3(b), and any agency-specific procedures that were provided to the contractor in advance of the decision.

(3) The SDO must follow the procedures in NFS CG 1809.45(b) and 1809.45(c).

1809.48 Content of debarment or suspension reports.

(a) Each report must be coordinated with Center counsel and must include substantially the following information, if available:

(i) Name and address of the contractor.

(ii) Names of the principal officers, partners, owners, or managers.

(iii) All known affiliates, subsidiaries, or parent firms, and the nature of the affiliation.

(iv) A description of the contract or contracts concerned, including the contract number and office identifying numbers or symbols, the amount of each contract, the amounts paid the contractor and still due, and the percentage of work completed and to be completed.

(v) The status of vouchers.

(vi) Whether the contract has been assigned pursuant to the Assignment of Claims Act, and, if so, the name and address of the assignee and a copy of the assignment.

(vii) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, their amount, whether they are assigned pursuant to the Assignment of Claims Act, and the amounts paid or due on them.

(viii) A complete summary of all pertinent evidence. If a request for debarment or suspension is based on an indictment or a conviction, provide the evidence upon which the indictment or conviction is based.

(ix) An estimate of any damages sustained by the Government as a result of the contractor's action, including an explanation of the method used in making the estimate.

(x) Recommendation as to (1) whether the contractor should be suspended or debarred, (2) whether any limitations should be applied to such action, (3) whether current contracts should be terminated, and (4) the period of any debarment.

(xi) As an enclosure, a copy of the contract(s) or pertinent excerpts, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation.

1809.5—Organizational and Consultant Conflicts of Interest

1809.51 Scope of subpart.

The NASA Organizational Conflict of Interest (OCI) Guide provides agency-wide guidance on implementing the requirements in FAR subpart 9.5 and provides tools to identify and resolve OCIs.

1809.52 Waiver.

The Administrator has designated the Senior Procurement Executive as the approval authority for waivers under FAR 9.503. The procurement officer must forward requests for waivers under FAR 9.503 through the Headquarters Procurement Analyst to the Senior Procurement Executive for action.

1809.53 Procedures.

(a) Contracting Officers must use the agency-wide “Organizational Conflicts of Interest – Limitation of Future Contracting Memo” procurement template when taking the actions described in FAR 9.506 (b). The approving official is the procurement officer when the installation has source selection authority and the Senior Procurement Executive when NASA Headquarters has that authority. The procurement officer must forward request for approval by the Senior Procurement Executive to the Headquarters Procurement Analyst.

(b) Contracting officers must use the appropriate contract provisions and clauses. When applicable, include the Notice of Potential Organizational Conflicts of Interest and/or Prospective Contractor Responsibility and Eligibility Standards solicitation instructions (*located in NCMS*). When requesting an organizational conflicts of interest (OCI) plan from prospective contractors, contracting officers must include the agency-wide OCI plan data requirements description in solicitations and contracts. Contracting officers must use the agency-wide “OCI Determination

Memorandum and Checklist" procurement template when considering additional information provided by prospective contractors.

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NFS CG 1810
MARKET RESEARCH

1810.1 - Agency Market Research Requirements

1810.11 Policy

(a) Use the results of market research to determine:
(i) whether consolidation is necessary and justified.
(ii) whether bundling is necessary and justified.
(iii) whether the acquisition should utilize any of the small business programs within FAR 19 to assure a fair proportion of the goods and services are awarded to small businesses.

(b) Market Research is used to maximize small business participation, increase the industrial base, maintain supply chain capabilities, and support the achievement of agency small business goals.

(c) If an agency contemplates consolidation or bundling the CO must:

(1) Consult with the agency's Small Business Specialist and the Small Business Administration (SBA) procurement center representative (PCR) during market research.

(2) Notify any affected incumbent small business concerns of the Government's intention to bundle the requirement and how small business concerns may contact the appropriate SBA PCR (FAR 7.107-5(a)).

1810.12 Procedures

(a) Market research must be assessed to determine whether small business concerns are capable and qualified to fulfill the Government's requirements at a fair market price.

(b) The contracting officer must apply FAR Part 19 if market research shows a sufficient number of small businesses are capable and qualified to meet the Government's requirements at a fair market price, appropriate to the size and complexity of the procurement.

(c) Small businesses coordination and review:

(1) For procurements exceeding $2 million, the contracting officer must document market research results utilizing NASA Form (NF) 1787A – Market Research Report. The NF 1787A must accompany the NF 1787, Small Business Coordination, as required by NFS CG 1819.11.

(2) For procurements under $2 million, use of the NF 1787A is optional. However, market research, appropriate to the size and complexity of the procurement, must be documented.

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NFS CG 1811
DESCRIBING AGENCY NEEDS

1811.1—Policy

1811.11 Policy.

(a) The Requirements Development Team (RDT) plays a critical role in setting the course for the acquisition. The RDT is responsible for completing key milestones to advance the acquisition from benchmarking to completion of a complete requirements package. The RDT will work together with the Center procurement office and/or Source Evaluation Board (SEB) to prepare the procurement strategy and finalize other required documentation supporting the acquisition.

(b) The RDT will:

(i) define minimum viable capability where appropriate;

(ii) write to outcomes, interfaces, and performance;

(iii) tailor assurance rigor to mission class and risk;

(iv) avoid one-size-fits-all process layering' and utilize industry standards that meet the intent of NASA standards;

(v) For early capability demonstrations, requirements must be intentionally limited to accelerate learning over a phased, iterative process and enable competition.

(c) The agency-wide "Requirements Development Team Request & Appointment Letters" procurement template must be used for the formal appointment of the RDT, for new acquisitions and re-competes, with estimated values of $50 million or more. The use of these templates is optional for other acquisitions.

(d) Contracting officers must include all applicable data requirements descriptions (DRD) and requirement statements in solicitations and contracts. COs should consult with the RDT or requiring activity to determine the applicable DRDs and requirements statements for inclusion in the solicitation and contract.

1811.12 Requirements.

(a) For implementation of the Metric Conversion Act of 1975, as amended, it must also be in accordance with NPD 7120.4, NASA Engineering and Program/Project Management Policy.

(b) For Space Flight and Ground Support Programs and Projects, the Program or Project Technical Authority(ies) (See NPR 7120.5) must certify that the Technical Standards and Specifications cited in any solicitation or award are: 1) the most recent version, 2) tailored to the needs of the project and its elements, and 3) registered with the NASA Technical Standards System. Exceptions must be approved by the Technical Authorities. Program or Project Authority certifications may be obtained and documented through the procurement request process using the NF 1707.

(c) For procurements that include Space Communications and Navigation (SCaN) capabilities, the Program or Project Technical Authorities (See NPD 8074) must certify that the requirement has been coordinated with the SCaN Office in the Space Operations Mission Directorate (SOMD). Program or Project Authority certifications may be obtained and documented through the procurement request process using NF 1707 (See NFS CG 1807).

(d) For procurements that include information technology items capable of using Internet Protocol to communicate, the requirement for Internet Protocol Version Six (IPv6) compliance must be documented by the requiring activity as part of acquisition planning via the OCIO IT authorization process using the NF1707.

(e) Contracting officers must include all applicable data requirements descriptions and requirements statements in solicitations and contracts (see NFS CG 1811.25 and 1811.26).

1811.2—Selecting and Developing Requirements Documents

1811.21 Order of precedence for requirements documents.

(a) Safeguards to ensure safety, security, and environmental protection must be included, as applicable, in requirements documents.

(b) Requirements for the use of energy efficient motor vehicles will be established in accordance with NPR 6200.1, “NASA Transportation and General Traffic Management”.

(c) Requirements for the use of environmentally preferable products will be established in accordance with NPR 8530.1, “Sustainable Acquisition.” Requirements for the use of energy and water efficient products and the use of renewable energy technology will be established in accordance with NPR 8570.1, “NASA Energy Management Program.”

1811.22 Procedures.

When contracting officers are notified by an offeror that any contract specifications do not comply with providing full feature functionality for IPv6, contracting officers must ensure that an IPv6 Compliance Procurement Waiver using NF 1835 is obtained or the requirement modified prior to award.

1811.23 Standardization program.

See the Office of Procurement Strategic Sourcing Website for additional guidance on standardization of requirements.

1811.24 Solicitation information.

(a) NASA uses the categorical method to report its use of voluntary consensus standards. Contracting officers must include in draft RFPs (DRFPs) the information required by NFS CG 1815.

(b) Contracting officers must include in solicitations any instructions that apply to the specific acquisition. The complete listing of agency-wide solicitation instructions to offers can be found on the agency-wide procurement template site and in the NASA Contract Writing System (NCMS).

1811.25 Data Requirements Descriptions

(a) General.

(1) Agency-wide data requirements descriptions (DRDs) issued and maintained by the HQs Office of Procurement that define specific documentation requirements are to be provided by NASA contractors during contract performance. Contracting officers must include DRDs in solicitations and contracts that apply to the specific acquisition. The complete listing of agency-wide Office of Procurement DRDs can be found on the agency-wide procurement template site.

(i) The data requirements descriptions provide a standardized process and format for contractor data deliverables for use in solicitations and contracts.

(b) Data Types.

(1) As used in this guidance, "Data Type Description", each DRD is classified by data type as defined below:

(i) *Type 1* - All submittals of and interim changes to Type 1 DRDs require written approval from the contracting officer before formal release for use or implementation (e.g., Organizational Conflicts of Interest Plan).

(ii) *Type 2* - NASA reserves a time-limited right to disapprove in writing any submittal of and interim changes to Type 2 DRDs. The contractor must submit the required data to NASA for review within the time period established in the DRD prior to its release for use. The contractor must clearly identify the release target date. If the data is unacceptable, the contracting officer will notify the contractor within the time period established in the DRD from the date of submission, regardless of the intended release date. The contractor must resubmit the information for reevaluation if disapproved. The submittal is considered approved if the contractor does not receive disapproval or an extension request from the contracting officer within the time period established in the DRD (e.g., Government Property Plan).

(iii) *Type 3* – Type 3 DRDs must be delivered by the contractor as required by the contract and do not require NASA approval.

1811.26 Requirements Statements

Requirements statements are supplemental to statements of work or performance work statement requirements for use in solicitations and contracts. COs must include in solicitations and contracts any requirements statements that apply to the specific acquisition. The complete listing

of agency-wide requirements statements can be found on the agency-wide procurement template site and in NCMS.

1811.5—Priorities and Allocations

1811.51 General.

The Department of Defense is the "Delegate Agency" for NASA. The Enterprise Procurement Integration and Excellence (EPIX) Office must coordinate with the Department of Defense (DOD), as necessary, to ensure that any DOD requirements are met.

1811.52 Procedures.

(a) The Senior Procurement Executive is responsible for ensuring compliance with Defense Priorities and Allocations System (DPAS).

(b) NASA may use rated orders only as provided in Section 700.17 of the DPAS (15 CFR 700.17) and subject to the limitations provided in Section 700.18 of the DPAS (15 CFR 700.18). The contracting officer is assigned the ability to place priority ratings on individual contracts and purchase orders after proper determination.

(1) NASA rated orders may only be assigned a DO rating, unless NASA has obtained a DX rating from the DOD.

(i) The following program identification symbols may be used on NASA rated contracts and purchase orders for equipment and services that support authorized programs (see Schedule I of the DPAS):

A1 - Aircraft
A2 - Missiles
A3 - Ships
A5 - Weapons
A6 - Ammunition
A7 - Electronic and Communications Equipment
B1 - Military Building Supplies
B8 - Production Equipment (For Contractor's Account)
B9 - Production Equipment (Government-Owned)
C2 - Construction
C3 - Maintenance, Repair, and Operating Supplies for Facilities
C9 - Miscellaneous/Other

(c) Requests for assistance must be directed to the EPIX Office.

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NFS CG 1812
ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

1812.1—PRESOLICITATION

1812.11 Contract type.

The Contracting officer must use the agency-wide "Determination and Findings Competitive Commercial Time and Materials (T&M) and Labor Hour (L&H) Contract/Order" procurement template for commercial services that are procured on a competitive basis, if the services are commonly sold to the general public using these types of contracts (see FAR 12.104).

1812.12 Quality requirements.

In acquisitions under the Simplified Acquisition Threshold specified in FAR Part 13, Contracting officer's must not require any express warranty other than the offeror's commercial warranty.

1812.13 Unacceptable commercial products and commercial services terms and conditions.

When procuring commercial software or other commercial products, contracting officers must follow the guidance in the commercial items terms and conditions chart to preclude inclusion of unacceptable terms and conditions in the contract or order. The following chart lists commercial terms and conditions that are commonly found in software manufacturers' unmodified commercial supplier agreements that are either inconsistent with Federal law or with requirements of the FAR. This list is not all-inclusive. In the event a commercial supplier proposes terms and conditions that may be unacceptable consultation with the legal office is advised.

Terms and conditions	**Problem/recommendation**
Definition of contracting parties	The licensee or customer must be reflected as the specific agency or other federal entity that placed the order under which the license is provided. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
Automatic contract formation via shrink-wrap/click-wrap/browse-wrap/web-wrap (e.g. using, downloading, clicking "I Agree"), or a provision purporting to bind the Government to a set of terms incorporated by reference (e.g., posted at a specified URL).	Under FAR 1.402-1(a), in an acquisition involving the use of appropriated funds, an agreement binding on the Government may only be entered into by a duly warranted contracting officer in writing. Under FAR 43.202, the same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included

	within the contract signed by the Government. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Customer indemnities: the customer commits to indemnify the vendor for various things, e.g., in connection with claimed infringement of intellectual property rights.	This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 USC 1341 and 41 USC 6301), because it commits the Government to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Contractor indemnities. Under these clauses, the contractor typically commits to pay damages and to "defend" the Government in various types of lawsuits, typically IP-related, on condition that the Government gives the contractor "sole control" over the conduct of such proceedings	Contractor indemnities are very desirable, especially in IT acquisitions. However, the undertaking to "defend" and the concept of "sole control" in litigation are contrary to the jurisdictional statute of the DOJ (28 USC 516) which vests the right to defend the Government and to exercise sole control in litigation, solely in the DOJ. Indemnification clauses should be retained in the agreement but revised. The DOJ must represent or "defend" the Government; however, the clause may provide for appropriate consultation with the contractor and its right to intervene in the proceedings at its own expense through legal counsel of its choice.
Automatic renewals: term-limited products or services (e.g., term licenses for software, or maintenance) renew automatically, and renewal charges fall due automatically, unless the customer takes action to opt out or terminate	Anti-deficiency violation. These types of contractor terms and conditions should be excluded from Government contracts and orders. For term-limited products or services, every subsequent term must be purchased separately.
Unspecified future fees or penalties. These fees and penalties can take a number of forms, such as the following: • Contractor's unilateral right to raise prices or to change from awarded contract prices	Anti-deficiency violation. These types of contractor terms and conditions should be excluded from Government contracts and orders. Generally, the Government should pay only the awarded contract price; any change to the contract price requires the

to "then-current" commercial catalog prices. • Travel costs. • Various surcharges. • Various penalties, e.g., for late payment (including interest), for late shipment of defective part for repair, or for hiring a contractor's employee. • Liquidated damages. • Audit costs. • Maintenance reinstatement fees. • Government payment of contractor's attorney fees.	contracting officer's approval and, specifically in Schedule contracts, is further limited as to frequency and amount. Applicable federal travel regulations govern travel costs. Late payment interest is governed by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315. Attorney fees are available only under limited circumstances to certain small business claimants as set forth in the Equal Access to Justice Act (5 USC 504).
Taxes	FAR 52.212-4(k) provides that the contract price includes all applicable Federal, state and local taxes and duties. Under a line of GAO (U.S. Government Accountability Office) cases based on the Supremacy Clause of the US Constitution, the Government is exempt from state and local taxes whose "legal incidence" falls on the Federal Government. The applicability of a particular tax (e.g. “excise tax”) to the Government is a case by case determination for the contracting officer. Accordingly, contractor terms and conditions attempting to place responsibility for taxes on the Government customer should be excluded from Government contracts or orders. This includes terms and conditions which purport to accept the manufacturers or contractors corporate income tax. If the vendor believes any charge is payable by the Government, the vendor should be instructed to submit such charge to the contracting officer for review.
Third-party terms: where the vendor's offering includes components provided by other manufacturers, or where the contractor is a dealer or reseller of other manufacturers' products, the agreement will often say that the customer agrees to be bound by the terms and conditions established by such manufacturer, without an opportunity for the customer to object to or negotiate the terms. The vendor or reseller is not a party to the third-party terms	This also introduces potentially unacceptable terms and removes the Government's ability to control what terms it is bound by. These types of contractor terms and conditions should be excluded from Government contracts and orders. Contractor indemnities do not constitute effective mitigation.

and disclaims all responsibility, while the manufacturer may become a third-party beneficiary of the contract.	
Contract to be governed by state/foreign law, litigated in state/foreign courts, or arbitrated; contractual limitation on actions	These types of contractor terms and conditions should be excluded from Government contracts and orders. All contracts to which the Federal Government is a party must be governed by Federal law under principles of sovereign immunity. Depending on the cause of action (e.g., tort, breach of contract, infringement of copyright or patent), both venue and the statute of limitations are usually mandated by applicable Federal law (e.g., the Federal Tort Claims Act, 28 USC 1346(b); the Contract Disputes Act, 41 USC 7101 et seq; the Tucker Act, 28 USC 1346(a)(1)). NASA has not issued agency wide approval for use of binding arbitration agreements which can only be implemented by the head of the agency when promulgated via administrative rulemaking (5 USC 575(c)). As such, requests to enter into binding arbitration are considered on a case-by-case basis at the time of the dispute. Such requests may also require the approval of the Department of Justice. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Equitable remedies, injunctions	A sovereign immunity issue. Equitable remedies are generally not available against the Government under Federal statutes. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Unilateral termination by contractor for breach	Inconsistent with FAR 52.233-1, which requires the contractor to submit a claim to the contracting officer if it believes the Government to be in breach, and to continue performance during the pendency of the claim. In commercial product and commercial services contracts, the FAR also

	specifies the procedures for Government termination for breach or convenience. Under FAR 12.205(b)(1)(ii), the FAR provisions dealing with dispute and continued performance cannot be changed by the contracting officer. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Unilateral modification: the vendor reserves the right to unilaterally change the license terms or terms of service, with or without notice to the customer	This clause violates the contract formation rules of FAR 1.402-1(a) and 43.202. This allows the vendor to introduce unacceptable terms in the future and removes the Government's ability to control what terms it is bound by. These types of contractor terms and conditions should be excluded from Government contracts and orders.
Confidential Information: the vendor requires that the Government keep confidential certain information, including pricing and the terms of an order.	The clause must recognize that courts of competent jurisdiction may require certain information to be released. For example, the Freedom of Information Act (FOIA) (5 USC 552) requires that information that does not fall under certain exceptions must be released when requested. Such confidential clauses must be modified to recognize that federal agencies are subject to FOIA and some information may be released despite being characterized as "confidential" by the vendor.
Assignment without express Government approval	FAR 42.9 governs novation agreements or assignment of contracts while FAR 52.232-23 governs the Assignment of Claims. Contractor terms and conditions inconsistent with these FAR clauses should be excluded from Government contracts and orders.

1812.2—SOLICITATION, EVALUATION, AND AWARD

1812.21 Waivers and deviations.

(a) The Head of Contracting Activity is the approval authority to waive the use or tailor a provision or clause for use in a commercial products or services acquisition. Requests for approval must include a justification to substantiate tailoring of a provision or clause. The approved request must be included in the contract file.

(b) Contracting officers must not use other provisions and clauses prescribed in the NFS or center documents in acquisitions of commercial products and commercial services, except as permitted by NFS 1812.205-70.

1812.22 Blanket Purchase Agreements (BPAs).

(a) Individuals, other than warranted contracting officers, authorized to purchase under a BPA must not be authorized to place individual BPA orders in an amount greater than $15,000, unless the center procurement officer has authorized, on a nondelegable basis and in writing, a higher limit not to exceed the simplified acquisition threshold. Written authorization must delineate the qualifications and training of individuals authorized to place BPA orders greater than $15,000. For sole source BPA orders above the micro-purchase threshold, a contracting officer's determination is required in accordance with FAR 12.201-1(3)(iii) and FAR 12.102(b).

(b) The annual BPA review will be part of the Center's self-assessment process.

(c) The contracting officer must conduct an annual review of each BPA in accordance with FAR 12.201-1(3)(v) using the agency-wide "BPA Annual Review" procurement template.

1812.23 Forms.

(a) Installations may use locally prescribed forms or the OF 347.

(b) The SF 44 may be used for purchases of aviation fuel and oil valued at $15,000 or less.

1812.4—PRODUCTS AND SERVICES UNDER THE SIMPLIFIED ACQUISITION THRESHOLD (SAT)

1812.41 General.

(a) The NASA Shared Services Center (NSSC) is designated as the Agency's sole purchasing activity for the acquisition of all commercial and non-commercial supplies and services valued at or below the simplified acquisition threshold (SAT), except for the following:

(1) Purchases made using the Government purchase card, unless the purchase card function has been delegated to the NSSC.

(2) Indefinite delivery, indefinite quantity (IDIQ) contracts or blanket purchase agreements (BPAs) that permit the award of orders with a potential value over the SAT.

(3) Orders, regardless of value, awarded against IDIQ contracts or BPAs that have been retained by the center. This does not include orders issued against any of the Solutions for Enterprise-Wide Procurement (SEWP) contracts.

(4) Interagency Agreements.

(5) Orders for construction, facility repair or architect & engineering (A&E) services (Material Groups: C1, C2, Y, and Z).

(6) SAT purchases made by institutional support contractors on behalf of the Agency, and

(7) Real Property Leases.

(b) Agency requiring activities must use the Simplified Acquisition Customer Portal (SACP) to submit SAT requests to the NSSC for processing, tracking and award. The SACP is assessable via the NASA Enterprise Service Desk. Materials pertaining to the use of the SACP, and other NSSC SAT guidance and procedures are located on the NSSC SAT webpage.

(c) A purchase request, which NSSC needs to obligate funds, must be created and approved within the SAP system when a SAT request is entered in the SACP. The requiring activity must be responsible for obtaining all necessary center reviews/approvals (*e.g.,* organizational management, safety & health, quality assurance, property and information technology).

(d) In accordance with Mission Support Council (MSC) Decision Memorandum MSC-2011-12-001a, Eliminating Extraneous Promotional & Personal Use Items, all purchases of promotional and personal use items using appropriated funds are explicitly prohibited, except for only the following:

(i). Printed materials
(ii). Stickers
(iii). Lapel pins
(iv). Mission patches
(v). Flown flags
(vi). Inexpensive recyclable bags to facilitate the distribution of materials

(1) Should prohibited items be purchased, the responsible party will be required to reimburse appropriated funds and be subject to appropriate disciplinary actions. The Decision Memo provides additional guidance and a framework for analyzing promotional and personal use item expenditures.

1812.42 Micro purchases.

(a) The Governmentwide commercial purchase card is authorized for use in making and/or paying for purchases of supplies and services. The NASA purchase card must be used for micro-purchase threshold transactions, and for other eligible purchases, to the maximum extent practicable. (See FAR Part 2 for the current micro-purchase threshold.)

(b) For purchases above the micro-purchase threshold, purchase cards may be used by cardholders, with the appropriate delegation of procurement authority, to make payments against contracts, purchase orders, or orders under blanket purchasing agreements (BPA). (See NFS CG 1812.22(a) for guidance on the use of purchase card for placing individual orders under blanket purchase agreements.) The NASA purchase cards may be used as a payment mechanism up to the simplified acquisition threshold on established orders or contracts.

(c) Use of the NASA purchase card on orders above the micro-purchase threshold does not relieve the cardholder from complying with all applicable statutory and regulatory requirements, including, but not limited to, soliciting competitive quotations, verifying price reasonableness, reserving for small businesses, including the appropriate terms and conditions, and reporting to the Federal Procurement Data System–Next Generation (FPDS-NG).

(d) NASA Policy Directive (NPD) 5104.1, Government Charge Cards, establishes policy, responsibilities and appropriate safeguards and internal controls for the management, use and continuous evaluation of NASA charge cards, which include travel, purchase, fleet charge cards, and the Department of Defense (DoD) Aviation Into-plan Reimbursement (AIR) Card program and the Ships Easy Acquisition (SEA) Card program. The NPD also implements the Office of Management and Budget's (OMB) Circular A-123, Appendix B, and consolidates other charge card requirements issued by OMB, the General Services Administration (GSA), the Department of Treasury, DoD, and other Federal agencies.

(1) The Senior Procurement Executive—

(i) Serves as NASA's lead for maintaining Agency-wide policy and regulations pertaining to the NASA purchase card program, as carried out by the NASA Shared Services Center (NSSC); and

(ii) Conducts procurement management surveys within the Agency, including review of purchase card process controls to ensure that they are designed appropriately and operate effectively to safeguard against fraud, waste, abuse, and mismanagement.

(2) The Executive Director of the NSSC oversees the—

(i) Implementation, use and management of the NASA purchase card program; and

(ii) Activities of the Agency Program Coordinator for the NASA purchase card program and the contracting officer for the Agency's charge card task order against the GSA SmartPay Master contract.

(e) The Agency Program Coordinator, located at the NSSC, serves as the Agency's lead and subject matter expert for the management of the NASA purchase card program.

(f) The *NASA Purchase Card Procedures and Instructions,* maintained by NASA HQs Office of Procurement, contains specific policy, procedures and instructions pertaining to the use of the NASA purchase card and is located, along with other guidance, on the NASA purchase card website at: https://www.nssc.nasa.gov/purchasecard. NASA purchase cardholders must follow the policy and procedures outlined in NPD 5104.1 and the NASA Purchase Card Procedures and Instructions.

1812.5— Ensuring Commercial, Cost-Effective Solutions in Federal Contracts

Executive Order (E.O.) 14271, "Ensuring Commercial, Cost-Effective Solutions In Federal Contracts", reinforces the mandatory prioritization of commercially available products and services, including those that can be modified to meet agency needs, to the maximum extent practicable pursuant to the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, as amended) (FASA).

1812.51 Commercial "As-a-service"

(a) Commercial solutions will be preferred when they meet mission and security requirements. NASA will use commercial "as-a-service" models when:

(i) A real, sustainable market exists or is highly likely to exist and NASA is one of multiple customers

(ii) Mature high technology readiness level (TRL) capabilities that would be procured routinely or is otherwise necessary for continuous operations

(iii) Transition costs are reasonable

(iv) Pricing is competitive with ownership alternatives

(b) NASA will not use commercial "as-a-service" models to:

(i) Artificially support an uneconomic business case

(ii) Conceal capital costs inside recurring unit pricing

(iii) Relinquish architectural control or continuity of unproven but no-fail operation

1812.52 Other than Commercial

(a) In accordance with E.O. 14271 and Office of Management and Budget (OMB) Memo M-26-12, *"Increasing the Acquisition of Commercial Products and Services"* agencies are to take steps to significantly increase the acquisition of commercial products and services. The acquisition of other than commercial products or services requires agency level-approval. The Senior Procurement Executive (SPE) may consult with OMB for input, upon consultation with the NASA Chief Acquisition Officer, when contemplating the solicitation of a non-commercial product or service.

(b) When other-than-commercial product or service procurement, including custom development, is contemplated whether on an individual or class basis, the Contracting officer must seek the SPE's approval using the agency-wide "Request to Solicit a Non-Commercial Product or Service" procurement template.

(1) Contracting officers must submit the request and market research analysis documentation in the NASA Enterprise Acquisition Repository (NEAR), file element 9 *"competition requirement,"* to the cognizant Head of Contracting Activity (HCA) for approval then route to the HQs Procurement Analyst (PA). The HQs PA will review, coordinate and resolve any concerns with the CO, and route through HQs for SPE approval.

(2) In cases where the Deputy Assistant Administrator (DAA) for the Office of Procurement serves as the HCA, the CO must submit the request in NEAR to the HQs PA (instead of the HCA). The HQs PA will review, coordinate and resolve any concerns with the CO, and route through HQs for DAA and SPE approval.

(3) Class requests must follow the procedures in steps (1) and (2) above. Each request must specify the defined category, validity period, and expiration date. The HCA is responsible for tracking all procurements conducted under the approved class request and provide summary-level reporting when requested by HQs.

Contracting officers must not post any pre-solicitation notice, solicitation, or sole source notice soliciting a non-commercial product or service prior to the SPE's approval.

(d) The requirement at (b) above is not applicable for the following:

(i) Simplified acquisitions.

(ii) Leases (which are neither a product nor service).

(iii) Construction contracts.

(iv) Small Business Innovation Research (SBIR) which support commercialization of innovations derived from small business research and development.

(v) Existing contracts and orders, including modifications.

(vi) Orders placed and Blanket Purchase Agreements established against Federal Supply Schedule (FSS) contracts.

(vii) Procurements by NASA on behalf of other agencies where the requesting agency has already provided EO 14271 approval.

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NFS CG 1813
SIMPLIFIED PROCEDURES FOR NONCOMMERCIAL ACQUISITIONS

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NFS CG 1813
SIMPLIFIED PROCEDURES FOR NONCOMMERCIAL ACQUISITIONS

1813.001 Policy.

Acquisitions under simplified acquisition procedures must be firm-fixed-price.

1813.1—Procedures

1813.11 Soliciting competition, evaluation of quotations or offers, award and documentation.

1813.12 Award and documentation.

For purchases up to $50,000, documentation must be limited to a brief notation in the file indicating the rationale for selecting other than the lowest priced offer.

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NFS CG 1814
SEALED BIDDING

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NFS CG 1814
SEALED BIDDING

1814.2—Uniform Contract Format

1814.21 Part IV-Representations and instructions.

(a) Section M, Evaluation factors for award.

(i) The contracting officer must state if award is to be made in the aggregate (all-or-none basis) or by specified groups of items.

(ii) If bidders are required to have special technical qualifications because of the complexity of the equipment being purchased or for some other reason, the contracting officer must state those qualifications.

1814.3—Evaluation and Award

1814.31 Other mistakes disclosed before award.

Procurement officers are authorized to make the determinations under FAR 14.304-3(a), (b), (c) and (d).

1814.32 Cancellation of invitations after opening.

(a) The authority to make the determination at FAR 14.305(b)-is delegated to the contracting officer, except as provided in paragraph (b) of this subsection.

(b) The determination required by FAR 14.305(e)(1) that includes an authorization to complete the acquisition through negotiation must be made by the procurement officer, in consultation with the Office of Chief Counsel for Center acquisitions and Office of the General Counsel for Headquarters acquisitions.

1814.4—Postaward

1814.42 Award.

(a) A notice of award as a specific document is used when the contracting officer needs to inform a responsible bidder that its offer was determined to be the most advantageous to the Government (considering only price and price-related factors) and that the formal award will be made upon satisfaction of specified pre-performance conditions.

(i) The notice of award is not a contractual instrument. It does not authorize the successful bidder to perform and, in itself, does not obligate the Government to award a contractual document. Its limited purpose is to provide evidence of the Government's selection of the successful bidder; instruction to that bidder to satisfy specified pre-performance conditions; and a statement that the Government intends to award the contract to the successful bidder upon satisfaction of these conditions.

(ii) Use of a notice of award is optional. The contracting officer may issue the award document itself without first issuing a notice of award. However, there are instances when a notice of award should be considered, for example, in construction contracts where performance or payment bonds are required. In such cases, the most cost-effective technique is to require only the successful bidder to provide the necessary bonds. The notice of award advises the successful

bidder to provide the bonds, and it also serves as formal evidence from the Government of the impending award if such evidence is required to secure the bonds.

(iii) The notice of award must not be issued unless bids have been evaluated and a selection made, and a definitive contract document is ready for execution upon satisfaction of the conditions specified in the notice. Upon satisfaction of these conditions, the approved and executed contract instrument must be provided to the successful bidder.

(iv) Since the notice of award is not a contractual document authorizing performance, the period of performance of the resultant contract must not be based on the date of issuance or receipt of the notice of award. The period of performance specified in the contract must be based on some other reference point, such as the date the contract is provided to the successful bidder, a mutually agreeable effective date or a later authorization to proceed date.

(v) The notice of award can be issued by the contracting officer using any formal written means to include letter or other electronic means. The notice should be substantially the same as the following format.

Format

Subject: Notice of Award--Invitation for Bids (IFB) (insert IFB number and title). This notice is to advise you that your bid (insert bid identification) in response to the subject IFB has been determined to be the most advantageous to the Government (considering only price and price related factors). It is the Government's intention to award you a contract in the amount of (insert award price) for this effort pending satisfaction of the following pre-performance conditions:

(insert performance conditions e.g. any required payment and performance bonds)

Evidence (insert evidence description e.g. the actual payment and performance bonds) of satisfaction of these conditions must be provided to the contracting officer by (insert due date for submittal of evidence). In the event these conditions are not satisfied by this date, the Government reserves the right to award the contract to the bidder who submitted the next most advantageous bid.

Please note that this notice of award is not a contractual document. It does not obligate the Government to award you, or any other bidder, a contract relative to the subject IFB, and it does not authorize you to proceed with contract performance or incur costs pursuant to such performance. Any costs incurred for contract performance prior to your receipt of a fully executed contract document are at your own risk and are not recoverable under any Government contract should the Government fail, for whatever reason, to award you a contract in response to the subject IFB.

If a contract is awarded after evidence of satisfaction of the pre-performance conditions listed above is provided to the contracting officer by the specified due date, the date of commencement of work will be provided with the formal award. This date will be based on (identify basis for date of commencement of performance).

1814.43 Mistakes after award.

All determinations, under this section of the FAR and NFS, must be made by the procurement officer.

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NFS CG 1815
CONTRACTING BY NEGOTIATION

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NFS CG 1815
CONTRACTING BY NEGOTIATION

1815.01— Types of negotiated acquisition.

Noncompetitive acquisitions. Contracting officers must use the agency-wide "Request for Proposal (RFP) for Non-Competitive New Awards" procurement template to communicate Government requirements to a prospective contractor and to solicit proposals. Letter RFPs may be used in sole source acquisitions; however, the use of a letter RFP does not relieve the contracting officer from complying with all pre-solicitation FAR and NFS acquisition planning and procurement and solicitation development documentation requirements. The CO must include only those enclosures that are applicable to the acquisition, edit each enclosure to reflect proposal instructions pertinent to the specific acquisition, and insert the latest referenced provisions or provision dates, as required.

1815.1—Presolicitation and Solicitation

1815.11 Early exchanges with industry.

(a) Contracting officers (COs) must issue draft requests for proposals (DRFPs) for competitive negotiated acquisitions expected to exceed $10,000,000 (including all options and future phases), except for acquisitions described in NFS CG 1815.21(b).

(b) The CO may waive DRFP requirement with written determination that the expected benefits will not be realized given the nature of the supply or service being acquired. Waivers for inadequate planning are not permitted.

(c) COs must use the agency-wide "Draft Request for Proposal (DRFP) Cover Letter" procurement template for competitive negotiation acquisitions. The template is written primarily for services acquisitions and will need to be modified for an end-item/hardware acquisition.

(d) *DRFP Content*. When considered appropriate, the statement of work or the specifications may be issued in advance of other solicitation sections. DRFPs must-

(1) Invite comments on all solicitation aspects: requirements, schedules, proposal instructions and evaluation approaches.

(2) Request identification of unnecessary or inefficient requirements.

(3) For Government-unique standards, invite alternative voluntary consensus standards in accordance with FAR 11.201 and OMB Circular A-119.

(4) Solicit feedback on potential risks (safety, occupational health, security, IT security, environmental, export control, and other programmatic concerns).

(e) *Schedule planning.* COs must plan the acquisition schedule to include adequate time for issuance of the DRFP, potential offeror review and comment, and NASA evaluation and disposition of the comments. Within 60 days of receiving a complete requirement package, the

CO must issue either the Draft RFP or, if a Draft RFP is not used, the Final RFP. If a Draft RFP is used, the Final RFP must be issued within 45 days after all Draft RFP comments have been dispositioned. Contract award must be made within 120 days of proposal receipt. Schedule delays beyond 14 days require leadership engagement. Delays without escalation are unacceptable.

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

(g) *DRFP Comments.* Whenever feasible, COs should include a summary of the disposition of significant DRFP comments with the final RFP.

(h) *Performance-based payments.* If performance-based payments are planned to be used in a competitively negotiated acquisition, the DRFP must request potential offerors to suggest terms, including performance events or payment criteria. COs must use that information to establish a common set of performance-based payments parameters in the final RFP when practicable.

(i) *Blackout Notice.* Upon releasing the final RFP or solicitation, the COs must issue a "blackout notice" directing all personnel associated with the acquisition to cease communications with potential offerors and refer all inquiries regarding the acquisition to the cognizant CO. This procedure is known as the "blackout period" and must not be imposed before release of the final RFP. COs must-

(1) Use the agency-wide "Blackout Notice" procurement template to draft the "blackout notice" and issue in the appropriate format (i.e., letter or electronic) to the complexity of the acquisition.

(2) Ensure the blackout notice is widely distributed throughout the Centers and Headquarters, as appropriate, unless an Agency-wide "backout notice" has been distributed by Headquarters as described below:

(i) For Agency-wide or Multiple Center-wide acquisitions, submit the "Blackout Notice" to the Headquarters Office of Procurement Analyst via NASA's Enterprise Acquisition Repository (NEAR) prior to releasing the final RFP. Blackout notice will be distributed by the Office of Communications via an Agency-wide communication to all NASA civil service employees after release of the final RFP.

(3) Be the primary point of contact and should continue to provide information if it does not create an unfair competitive advantage or reveal proprietary data. Blackout notices are not intended to terminate all communication with offerors but to ensure controlled communication.

1815.12 Request for Proposals (RFPs).

(a) All RFPs requiring a technical proposal must instruct offerors to identify, discuss, and address risk factors and issues throughout their proposal, along with their approach to managing those risks. Within 60 days of receiving a complete requirement package, the CO must issue the

Final RFP if a Draft RFP is not used. If a Draft RFP is used, the Final RFP must be issued within 45 days after the Draft RFP closes. Contract award must be made within 120 days of proposal receipt. Schedule delays beyond 14 days require leadership engagement.

(b) Contracting officers must use the agency-wide "Final Request for Proposal (RFP) Cover Letter" procurement template when issuing a final RFP for a competitive negotiated acquisition. The template is written primarily for onsite service acquisitions and will need to be modified for off-site service or end-item/hardware acquisitions.

(c) *RFP Reviews.*

(1) *NASA Center Reviews.* Centers must establish procedures to review all requests for proposals (RFPs) before release.

(i) The levels of management review should be commensurate with the dollar value and complexity of the acquisition.

(ii) For complex acquisitions or those involving multiple reviewing offices, Centers should consider holding a Solicitation Review Board (SRB) — a single meeting where all offices with review and approval responsibilities discuss the solicitation and their concerns — as a streamlined alternative to sequential coordination. Attendance should be limited to key senior personnel and offices with review and approval responsibilities. All assigned actions and required changes must be documented in writing by the SRB.

(2) *Headquarter RFP reviews*. For RFPs requiring Headquarters review and approval, the CO must route the RFP to cognizant Headquarters' Office of Procurement Analyst via the NASA Enterprise Acquisition Repository (NEAR).

(3) When source evaluation board (SEB) procedures are used in accordance with NFS CG 1815.27, the SEB must review the RFP prior to issuance.

(4) When LPTA, PPTO, or other source selection procedures are used in accordance with NFS CG 1815.21(a)(2), the evaluation team, per FAR 15.201(b)(1), must review the RFP prior to issuance.

1815.13 Developing a competitive source selection approach.

(a) When a written acquisition plan is not required by NFS CG 1807, the CO must document the following in the contract file:

(1) Source Selection Approach – Identify the approach to be used, such as:

(A) Full tradeoff (mission suitability, cost/price, and past performance)
(B) Lowest Price Technically Acceptable (LPTA), per FAR 15.103-1
(C) Price Performance Tradeoff (PPTO)
(D) A combination of approaches

(2) Rating Method – Identify the rating method to be used (e.g., numerical scoring, acceptable/unacceptable, or adjectival ratings and definitions), how it will be applied, and how it will result in best value to the Government.

(3) Evaluation Factors – Identify all evaluation factors, their relative importance to one another, and how non-cost factors relate to the cost factor. If subfactors are used, the solicitation must also identify each subfactor's relative importance within its evaluation factor.

1815.14 NASA competitive evaluation factors.

(a) NASA typically establishes three evaluation factors: Mission Suitability, Cost/Price, and Past Performance. Small Business Participation may be used as a factor or subfactor. These factors are developed by the source selection evaluation team and approved by the SSA and may be further defined by subfactors. Subfactors should identify significant discriminators essential to the source selection decision, be clearly defined to avoid overlap and redundancy, and be limited in number to support effective evaluation. Further subdivision below the subfactor level is prohibited.

(b) *Mission Suitability factor*, if used.

(1) Mission Suitability reflects the merit or excellence of the work or product to be delivered, encompassing technical, management, small business subfactors as appropriate. This factor must be numerically weighted and scored on a 1,000-point scale.

(2) The Mission Suitability factor may include up to five weighted and scored subfactors. Each subfactor's point score is determined by applying the adjectival rating percentages in NFS CG 1815.23(b)(1) to its assigned weight. All subfactors and their weights must be identified in the RFP.

(A) For cost reimbursement acquisitions, Mission Suitability must evaluate the adequacy of the offeror's proposed approach and the appropriateness of proposed resources. The solicitation must notify offerors that a lack of resource realism may adversely affect their Mission Suitability scores and result in cost realism adjustments under the cost factor.

(c) *Small Business Participation* may be used as a factor or subfactor. Small Business participation must be evaluated as a standalone source selection factor/subfactor, except for NFS CG 1815.14 (c)(7), and evaluated by the SSA.

(1) To ensure small businesses have the maximum practicable opportunities as required by the Small Business Act 15 U.S.C. §637 and §644 and National Aeronautics and Space Administration 51 U.S.C. §20113, the offeror’s Small Business Participation will be evaluated to include proposed small business utilization (FAR 52.219-8) and Small Business Subcontracting Plan (SBSP) (52.219-9) .

(2) The Contracting Office must consult with the Office of Small Business Programs (OSBP) for appropriate small business acquisition strategy and evaluation of the elements within this section. (FAR 19.206-3(d)(7)).

(3) The evaluation must assess two key areas:

(A) Small Business Utilization: The offeror's commitment to maximizing utilization across all designated small business categories including SB, Economically Disadvantaged, HUBZone, VOSB, SDVOSB, and WOSB; and

(B) Small Business Subcontracting Plan (SBSP) : Whether the offeror's proposed small business goals are at levels the Government can reasonably expect to be achieve through good-faith efforts (FAR 19.206-3(c) & NFS CG 1815.14(c)(2)).

(4) Examples of Small Business Utilization (SBU) (52.219-8) evaluation criteria include, but not limited to:

(A) The extent to which the offeror demonstrates commitment to small business firms, such as through letters of commitment, teaming agreements, or other binding commitments *(which will become enforceable contractual requirements).*

(B) The extent to which the offeror demonstrates use of small business subcontractors performing meaningful work, including high-technology work, as evidenced by binding commitments *(which will become enforceable contractual requirements).*

(C) Current or planned participation as a mentor via a mentor-protégé agreement under the NASA Small Business Supplier Development Program (NFS 1852.219-77).

(D) Proposed participation in NASA small business outreach initiatives.

(E) Utilization of existing NASA Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) awardees for contract performance, where appropriate.

(5) Small Business Subcontracting Plan (SBSP) (52.219-9)

(A) For solicitations that include FAR 52.219-9 and when the anticipated total value of the contract, including options, will exceed $100 million, the contracting officer, in collaboration with the OSBP Small Business Specialist (SBS), must specify baseline small business subcontracting goal targets , unless an exception in paragraph (b)(2) applies. Goals must be based on market research, historical data, or other relevant data. Refer to 1819.13(b)(1) Small Business Subcontracting Plans.

(B) A determination whether the offeror's proposed goals are attainable through a review of market research, historical data, or other relevant sources as required by FAR 19.206-3(d)(2) and 15 U.S.C. §637(d)(4)(F)(iii).

(C) Prior to award, obtain the SBA Procurement Center Representative's (PCR) advisory review of the apparent awardee's Small Business Subcontracting Plan (SBSP). (FAR 19.206-3(d)(2))

(6) Bundling and Consolidation. For acquisitions involving bundling or consolidation, the contracting officer must include the following as standalone evaluation factors (FAR 15.104(c)):

(A) Small Business Participation Past Performance Factor

(B) Proposed Small Business Participation Factor

(7) Commercial Acquisitions exceeding the Simplified Acquisition Procedures (SAP) Threshold. If the acquisition is commercial and exceeds the SAP ceiling, Small Business Participation evaluation is required (FAR 12.201-2).

(A) To streamline Small Business Utilization (SBU) evaluations for commercial acquisitions, the contracting officer may incorporate SBU criteria into any evaluation factor (FAR 52.219-8).

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

(e) *Past Performance factor.*

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

(2) The RFP must include instructions for offerors to submit past performance data (including data from relevant Federal, State, and local governments and private contracts). Typically, the RFP will require:

(A) A contract list - Similar in size, content, and complexity to the current acquisition, including contract number, contract type, a brief work description, and a point of contact from the organization that placed the contract. Contracts are generally limited to those awarded within the last three years, though this period should be tailored for acquisitions requiring longer timeframes to demonstrate performance quality (e.g., hardware development).

(B) Performance issues - Identification and explanation of any cost overruns or underruns, completion delays, performance problems, and terminations.

(3) The CO may collect past performance data prior to proposal receipt by requesting early submission of past performance information or by including a past performance questionnaire for offerors to distribute to their customers for return to the Government. Failure by the offeror to submit early or by customers to return completed questionnaires must not be grounds for proposal rejection or negatively affect the past performance evaluation.

(4) When relevant to the requirement, the CO must evaluate the offeror's past performance in occupational health, security, safety, small business, and mission success (e.g., mishap rates and hardware/software failures resulting in mishaps).

1815.15 Appointing non-Government evaluators as special Government employees.

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

(1) Proposals submitted in response to broad agency announcements such as Announcements of Opportunity and NASA Research Announcements;

(2) Unsolicited proposals; and

(3) SBIR and STTR proposals.

(b) See NFS 1815.108-72 for when non-Government evaluators must be appointed as special Government employees.

1815.16 Uniform contract format.

(a) *Part I – The Schedule.* To the maximum extent practicable, requirements should be articulated as performance-based specifications and performance work statements that focus on required outcomes or results.

(b) *Part IV – Representations and instructions.* The information required in proposals should be kept to the minimum necessary for the source selection decision.

1815.17 Page limitations.

(a) Technical and contracting personnel will agree on page limitations for their respective portions of an RFP. Unless approved in writing by the procurement officer, the page limitation for the contracting portion of an RFP (all sections except Section C, Description/ specifications/work statement) must not exceed 150 pages, and the page limitation for the technical portion (Section C) must not exceed 200 pages. Attachments to the RFP count as part of the section to which they relate.

(b) In determining page counts, a page is defined as one side of a sheet, 8 1/2" x 11", with at least one-inch margins on all sides, using not smaller than 12-point type. Use by offerors of smaller font sizes for non-standard text (e.g. graphics, tables, charts, figures, captions) is permitted, if appropriate. However, such fonts must be no smaller than 8-point, must be used only where appropriate, and must not be used to circumvent RFP proposal page limitations. Foldouts count as an equivalent number of 8 1/2" x 11" pages. The metric standard format most closely approximating the described standard 8 1/2" x 11" size may also be used.

(c) Page limitations must be established in solicitations for proposals submitted in all competitive acquisitions. Accordingly, technical and contracting personnel will agree on page limitations for each portion of the proposal. Unless a different limitation is approved in writing by the procurement officer, the total initial proposal, excluding title pages, tables of content, and cost/price information, must not exceed 500 pages using the page definition of paragraph (b) above.

(d) Page limitations must also be established for final proposal revisions. The appropriate page limitations for final proposal revisions should be determined by considering the complexity

of the acquisition and the extent of any discussions. The same page limitations must apply to all offerors.

(e) Pages submitted exceeding the specified limitations will not be evaluated by the Government. The CO must return one copy of the excess pages removed from the proposal to the offeror, advising the offeror that they were over the limit and will not be evaluated. The CO must retain one copy of each offeror's proposal in the official contract file and document which excess proposal pages were not evaluated and returned to the offeror.

1815.18 NASA Solicitation Instructions.

(a) Insert the solicitation instruction *(located in NCMS)* "Electronic Submission of Proposals – Proposal Marking and Delivery Through NASA's EFSS Box" in solicitations when submission of electronic proposals is required. See contracting officer instructions for accessing and setting up EFSS Box.

(b) Insert the solicitation instruction *(located in NCMS)* "Section L.1.1 – Notice of Potential Organizational Conflicts of Interest" in solicitations when the CO, in consultation with the CO's representative and legal counsel, has determined the acquisition may give rise to a potential OCI.

(c) Insert the solicitation instruction *(located in NCMS)* "Section M.1.1 – Prospective Contractor Responsibility and Eligibility Standards" in solicitations when the CO needs to inform prospective contractors of additional requirements to determine its eligibility. The contracting officer must consider the contractor's compliance with the subcontracting plans submitted on previous subcontracting plans submitted on previous contracts (FAR 19.206-3(e)(1)).

(d) Insert the solicitation instruction *(located in NCMS)* "L.1 Factor I - Mission Suitability Volume Instructions" when describing the Government's Mission Suitability volume requirements specific to each subfactor. The solicitation instruction is recommended for competitive source selection activities over $50M which require the submission of a Mission Suitability volume. However, the template may be also used for actions below this threshold which also require submission of this volume.

(e) Insert the solicitation instruction *(located in NCMS)* "M.1 Factor I – Mission Suitability Volume Evaluation" describing the approach for evaluating the offeror's Mission Suitability volume requirements.

1815.2—Evaluation and Award

1815.21 Applicability.

(a) Except as indicated in paragraph (b) of this section, NASA competitive negotiated acquisitions must be conducted in accordance with FAR 15.2 and this subpart as follows:

(1) When acquiring complex services, hardware development, or research and development that include technically complex requirements, COs should use a mission suitability factor, numerically score the proposals, and use the SEB procedures in NFS CG 1815.27.

(2) When acquiring routine, non-complex, repetitive follow-on services, non-developmental hardware, or non-research and development supplies or services, COs may use other source selection procedures such as LPTA, as described in FAR 15.103-2, where there is no tradeoff, PPTO, or other source selection approach except those at NFS CG 1815.27.

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

(b) FAR 15.2 and this subpart are not applicable to acquisitions conducted under the following procedures:

(1) Announcement of Opportunity (AO) (NFS CG 1872).
(2) NASA Research Announcement (NRA) (see NFS 1835.102-71).
(3) The SBIR and the STTR programs under the authority of the Small Business Act (15 U.S.C. 638).
(4) Architect and Engineering (A&E) services (see FAR 36.202 and NFS CG 1836.24).
(5) PPTO procedures for construction projects when the following applies: the Government develops and provides the design specifications in the solicitation; the offerors are not required to submit technical proposals; and selection is based solely upon price and past performance factors.

1815.22 Source selection responsibilities.

(a) The NASA Administrator delegates the authority to appoint source selection officials, to the Assistant Administrator for Procurement, who redelegates this authority to the procurement officer on a non-delegable basis. However, for procurement actions with estimated values of $500 million or greater or otherwise designated by the Senior Procurement Executive (SPE), the SPE retains the authority to appoint the source selection official.

(b) The agency-wide “Source Selection Authority Appointment Letter” procurement template must be used to appoint a Source Selection Authority (SSA).

(c) The SSA must be established at the lowest reasonable level for each acquisition and documented in the acquisition plan or procurement strategy meeting (PSM) presentation. The SSA will be appointed by the SPE prior to the PSM.

(d) The SSA is the Agency official responsible for proper and efficient conduct of the source selection process and for making the final source selection decision. The SSA has the following responsibilities in addition to those listed in FAR 15.201(b):

(1) Using the agency-wide “Source Evaluation Team (non-Source Evaluation Board Procedures) Membership Appointment Memorandum” or “Source Evaluation Board (SEB) Membership Appointment Memorandum” procurement template, as applicable, appoint the source selection evaluation team. However, when the Administrator serves as the SSA, the official-in-charge of the cognizant Headquarters Program Office will appoint the team.

(2) Approve the source selection approach, rating method, evaluation factors, subfactors, and the weight of the evaluation factors and subfactors when used before release of the final RFP or delegate this authority to appropriate management personnel.

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

(4) See 1803.103-15 for restrictions on participating in evaluation or selection of proposals.

(e) Approval authorities for acquisition plans and PSMs are in accordance with NFS 1807 Companion Guide.

1815.23 Evaluating competitive proposals

(a) *General.* The source selection evaluation team must evaluate each proposal to—

(1) Identify and document all significant strengths, strengths, deficiencies, weaknesses, and significant weaknesses. These findings must include a description of how each strength, deficiency, and weakness will impact performance in terms of benefit or risk statements;

(2) Identify and document the numerical score and/or adjectival rating of each Mission Suitability subfactor, if applicable;

(3) Document the cost or price analysis performed and, if conducted, the cost realism analysis performed;

(4) Identify and document the past performance evaluation findings and the rationale for the assigned level of confidence rating; and

(5) Document any programmatic risk to mission success, e.g., technical, schedule, cost, safety, occupational health, security, export control, or environmental. Risks may result from the offeror's technical approach, manufacturing plan, selection of materials, processes, equipment, or as a result of the cost, schedule, and performance impacts associated with its approach. Risk evaluations must consider the probability of risk occurring, the impact and severity of the risk, the timeframe when the risk should be addressed, and the alternatives available to meet the requirements. Risk assessments must be captured as part of strengths, weaknesses, and deficiencies, as applicable. Identified risks and the potential for cost impact must be considered in the cost or price evaluation.

(b) *Technical Evaluation*.

(1) Mission Suitability subfactors, when used, must be evaluated using the following adjectival ratings, definitions, and percentile ranges.

ADJECTIVAL RATING	DEFINITIONS	PERCENTILE RANGE

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

(2) When contracting on a cost reimbursement basis, a cost realism analysis must be performed consistently with FAR 15.404-3.

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

(c) *Small Business Participation.*

(1) The Contracting officer must use the standardized Small Business (SB) Subcontracting Evaluation criteria in the Instructions and Evaluation sections of the solicitation. The standardized language is found in the NASA Source Selection Guide.

(2) Previous Small Business Subcontracting performance will be rated as part of the Past Performance factor (FAR 19.206-3(d)).

(3) The Small Business Utilization (SBU) factor or subfactor must be evaluated using the following adjectival ratings, definitions, and percentile range.

Small Business Participation Evaluation Rating Table

ADJECTIVAL RATING	DEFINITIONS	PERCENTILE RANGE
Excellent	Proposal demonstrates substantial and meaningful small business participation relative to total SB subcontract value and/or total contract value. Workshare is clearly defined, mission-relevant, and includes technically significant or critical path functions. Named small business partners with documented commitment (e.g., LOIs or teaming agreements). No deficiency or significant weakness exists.	91-100
Very Good	Proposal demonstrates meaningful small business participation relative to total SB subcontract value and/or total contract value with defined roles and measurable workshare. Small businesses perform important but not necessarily critical path functions. Named or clearly identifiable partners. The plan has no deficiency and demonstrates overall competence. One or more significant strengths have been found, and strengths outbalance any weaknesses that exist.	71–90
Good	Proposal includes small business participation with generally defined workshare, but scope or technical significance is limited. Roles may be support-oriented rather than core requirements. The proposal has no deficiency and shows a reasonably sound response. There may be strengths or weaknesses, or both. As a whole, weaknesses not off set by strengths do not significantly detract from the offeror's response	51-70
Fair	Proposal includes minimal or nominal small business participation. Workshare lacks technical depth, value clarity, or defined deliverables. The proposal lacks documented commitments, defined work allocation, or measurable participation controls necessary to support	31-50

	execution. The proposal has no deficiency and has one or more weaknesses. Weaknesses outbalance any strengths.	
Poor	Proposal fails to demonstrate meaningful small business participation. Workshare undefined, nominal, or not credibly integrated into performance. Significant weaknesses or deficiencies in participation approach. High likelihood of non-achievement. No evidence of SBU. Major proposal revision required to become acceptable. The proposal has one or more deficiencies or significant weaknesses that demonstrate a lack of overall competence or would require a major proposal revision to correct.	0-30

(d) *Past performance evaluation*.

(1) The Past Performance evaluation assesses the contractor's performance under previously awarded contracts. The past performance evaluation must be in accordance with FAR 15.202(c) and this section. When applying the definitions below to arrive at a confidence rating, the evaluation team must consider and clearly document each offeror's relevant past performance (e.g. currency/recency, size, content and complexity) to assess the offeror's past performance data and assign an overall confidence rating. The past performance evaluation is an assessment of the Government's confidence in the offeror's ability to perform the solicitation requirements. At the source selection evaluation team's discretion, strengths and weaknesses may be assigned. Past Performance must be evaluated for each offeror using the following levels of confidence ratings:

Very High Level of Confidence
The offeror's relevant past performance is of exceptional merit and is very highly pertinent to this acquisition, indicates exemplary performance in a timely, efficient, and economical manner and very minor (if any) problems with no adverse effect on overall performance. Based on the offeror's performance record, there is a very high level of confidence that the offeror will successfully perform the required effort. (One or more significant strengths exist. No significant weaknesses exist.)

High Level of Confidence
The offeror's relevant past performance is highly pertinent to this acquisition; demonstrating very effective performance that would be fully responsive to contract requirements. Offeror's past performance indicates that contract requirements were accomplished in a timely, efficient, and economical manner for the most part, with only minor problems that had little identifiable effect on overall performance. Based on the offeror's performance record, there is a high level of

confidence that the offeror will successfully perform the required effort. (One or more significant strengths exist. Strengths outbalance any weakness.)

Moderate Level of Confidence
The offeror's relevant past performance is pertinent to this acquisition, and it demonstrates effective performance. Performance was fully responsive to contract requirements; there may have been reportable problems, but with little identifiable effect on overall performance. Based on the offeror's performance record, there is a moderate level of confidence that the offeror will successfully perform the required effort. (There may be strengths or weaknesses, or both.)

Low Level of Confidence
The offeror's relevant past performance is at least somewhat pertinent to this acquisition, and it meets or slightly exceeds minimum acceptable standards. Offeror achieved adequate results; there may have been reportable problems with identifiable, but not substantial, effects on overall performance. Based on the offeror's performance record, there is a low level of confidence that the offeror will successfully perform the required effort. Changes to the offeror's existing processes may be necessary to achieve contract requirements. (One or more weaknesses exist. Weaknesses outbalance strengths.)

Very Low Level of Confidence
The offeror's relevant past performance does not meet minimum acceptable standards in one or more areas; remedial action was required in one or more areas. Performance problems occurred in one or more areas which adversely affected overall performance. Based on the offeror's performance record, there is a very low level of confidence that the offeror will successfully perform the required effort. (One or more deficiencies or significant weaknesses exist.)

Neutral
In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance (see FAR 15.202(c)(1)).

(2) The evaluation may be limited to specific areas of past performance considered most germane for the instant acquisition. It may include any or all the items listed in FAR 42.1101, and/or any other aspects of past performance considered pertinent to the solicitation requirements or challenges. Regardless of the areas of past performance selected for evaluation, the same areas must be evaluated for all offerors.

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

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

(e) *Cost or price evaluation*.

(1) When contracting on a basis other than firm-fixed-price, the CO must perform price and cost realism analysis to assess the reasonableness and realism of the proposed costs. A cost realism analysis will determine the costs in an offeror's proposal:

(A) Are realistic for the work to be performed,
(B) Reflect a clear understanding of the requirements, and
(C) Are consistent with the various elements of the offeror's technical proposal.

(2) The analysis must, to an extent appropriate for the acquisition, include:

(A) The probable cost to the Government of each proposal, including any recommended additions or reductions in materials, equipment, labor hours, direct rates, and indirect rates. Any adjustments in direct and indirect costs, other than minor computation errors, must be fully explained and documented and, where applicable, traceable to the technical evaluation. The probable cost should reflect the Government's best estimate based on cost resulting from the offeror's proposal after all known adjustments have been considered.

(B) The identification of the differences between the probable cost and offeror's proposed costs regarding business methods, operating procedures, and practices as they affect cost.

1815.24 Evaluation of a single proposal.

(a) If only one proposal is received in response to the solicitation, the CO must determine if the solicitation was flawed or unduly restrictive and determine if the single proposal is an acceptable proposal. Based on these findings, the SSA must direct the CO to one of the following:

(1) Award after negotiating an acceptable contract (The requirement for submission of cost or pricing data must be determined in accordance with FAR 15.403-3); or

(2) Reject the proposal and cancel the solicitation.

(b) The procedure in paragraph (a) also applies when the number of proposals equals the number of awards contemplated or when only one acceptable proposal is received.

1815.25 Competitive negotiations.

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

(b) The CO must discuss contract terms and conditions so that a "model" contract can be sent to each offeror with the request for final proposal revisions. If the solicitation allows any proposed technical performance capabilities above those specified in the RFP that have value to the Government and are considered proposal strengths should be discussed with the offeror and proposed for inclusion in that offeror's "model" contract. If the offeror declines to include these strengths in its "model" contract, the Government evaluators should reconsider their characterization as strengths.

(c) *Proposal revision.* The request for final proposal revisions (FPRs) must—

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

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

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

(4) Establish a page limit for FPRs.

(d) Approval of the procurement officer is required to reopen discussions.

(e) Proposals are re-rated and, for mission suitability, re-scored based on FPR evaluations. Scoring or rating changes between initial and FPRs must be clearly traceable.

1815.26 Source selection decision.

(a) A Source Selection Decision (SSD) is a deliberate decision that is documented in the Source Selection Statement, reflecting the thought process behind the selection and representing the independent judgment of the SSA. The SSA has broad discretion in determining the manner and extent to which technical, past performance, and cost evaluation results of the source selection evaluation team are used, subject only to the tests of rationality and consistency with the evaluation criteria identified in the solicitation. The adjectival ratings and numerical scoring presented to the SSA, which represent the source selection evaluation team's relative ranking of proposals within the mission suitability factor, when the mission suitability is included as an evaluation factor cannot be the sole basis for a selection decision. Instead**,** the selection must be based upon a comparative assessment of the relative discriminators that includes a discussion of the benefits or risks/detriments associated with the discriminators of the selected offeror over all other offerors considering all evaluation factors (e.g., past performance factor, cost/price factor, other non-price factors).

(b) All significant evaluation findings must be fully documented and considered in the source selection decision. The source selection decision must document the SSA's rationale supporting the selection. The source selection decision must document the mission suitability subfactor ratings and overall mission suitability score, if applicable. Selection is based on the evaluation criteria established in the RFP.

(c) Before award, the SSA must sign a source selection statement that clearly and succinctly justifies the SSD.

(d) The NASA Source Selection Statement Development Guide provides agency-wide guidance. Source selection statements must describe: the acquisition, the evaluation procedures, the substance of the Mission Suitability evaluation, when used, and the evaluation of the Cost/Price and Past Performance factors.

(e) The source selection statement must-

(1) Address unacceptable proposals, the competitive range determination, late proposals, or any other considerations pertinent to the decision.

(2) Include the successful offeror's overall proposed cost or price (contract award value) as well as the successful offeror's overall evaluated cost or price (probable).

(3) Not disclose the proposed or overall evaluated cost or price for unsuccessful offerors. Instead, the source selection statement must describe the overall proposed and probable cost or price of unsuccessful offerors in relative terms of comparison to the successful offeror's cost or price, e.g. offeror ABC's probable cost or price was minimally or substantially higher or lower than the successful offeror's cost/price.

(4) Not reveal any confidential business information, to include trade secrets and commercial or financial information prohibited from disclosure by FAR 24.202 or exempt from release under the Freedom of Information Act, 5 U.S.C. 552 and the Trade Secrets Act, 18 U.S.C. 1905. Questions about confidential business information, disclosure of such information, and contents of source selection statements must be directed to the Office of the General Counsel.

(5) Be releasable to competing offerors and the general public upon request, except for certain major system acquisition competitions (see NFS 1815.505-70).

(6) Be available to the CO or other Debriefing Official to use in postaward debriefings of unsuccessful offerors and be provided to debriefed offerors upon request.

(f) If the source selection and contract award are not protested or otherwise challenged, the CO must post the source selection statement on the SAM.gov Contract Opportunities web page not later than 10 calendar days after the protest period has expired.

(g) If the source selection or contract award is protested or otherwise challenged, the source selection statement must not be posted and must be controlled as sensitive source selection information until the protest or challenge has been resolved.

(h) The source selection statement must be posted for a period of not less than 30 days.

(i) Once the selection decision is made, the CO may award the contract.

1815.27 NASA source evaluation boards.

(a) The source evaluation board (SEB) procedures must be used for those acquisitions identified in NFS CG 1815.21(a)(1).

(b) The NASA Source Selection Guide provides agency-wide guidance to individuals participating in the Source Evaluation Board (SEB) process. Participants in source selection activities for acquisitions that exceed $50 million must complete the agency-wide "Self-Clearance" procurement template.

(c) (1) The SEB assists the SSA by providing expert analysis of the offeror proposals in relation to the solicitation's evaluation factors and subfactors. In this role, the SEB:

(A) Prepares and presents findings to the SSA without making trade-off judgments among offerors or evaluation factors.

(B) Does not make recommendations for selection to the SSA.

(2) The SSA may seek input from key senior personnel or management during an executive session (if held) following the SEB presentation; however, the source selection decision must reflect the SSA's sole, independent judgment.

(3) All individual participating in an executive session with the SSA must be cleared of any conflict of interest prior to the source selection briefing, consistent with NPR 1900.3 and NPD 1900.9, *Ethics Program Management*.

(d) *Designation.*

(1) SEB members must be fully qualified to identify the strengths, deficiencies, weaknesses, and risks associated with submitted proposals. The SEB must be appointed as early as possible in the acquisition process, i.e., no later than acquisition plan or procurement strategy meeting approval. Early appointments are essential to ensure dedicated, fully engaged resources are available to complete key acquisition milestones, such as defining requirements and developing the acquisition strategy, in a timely manner.

(2) SEB participants are normally drawn from cognizant Center personnel; however, personnel from other NASA Centers or Government agencies may also participate. Any disclosure of proposals (in whole or in part) outside the Government requires prior approval in accordance with 1815.207-70.

(3) When Headquarters retains SSA authority, the cognizant Headquarters Office of Procurement Analyst must concur with the SEB appointments. The following qualifications must be provided for all voting members:

(A) Functional title,
(B) Grade level, and
(C) Related SEB experience.

(e) *Organization*.

(1) SEB organization is tailored to the complexity of the acquisition and can range from a streamlined single-body evaluation (without committees or panels) to a multi-committee structure supported by specialized panels or consultants. Regardless of complexity, the number of committees and panels/consultants must be kept to a minimum.
requirements of the acquisition.

(2) The SEB Chairperson is the principal operating executive of the SEB, responsible for managing the team efficiently while ensuring the validity of the findings presented to the SSA.

(3) The SEB Recorder serves as the principal administrative assistant to the SEB Chairperson, responsible for logistical support and recordkeeping of all SEB activities.

(4) An SEB committee serves as a fact-finding arm of the SEB, typically organized around broad, related disciplines (e.g., technical or management). Each committee is responsible for:

(A) Evaluating assigned proposals in detail against the established evaluation factors and subfactors,

(B) Summarizing findings in a written report to the SEB

(C) Responding SEB-assigned tasks, including further justification or reconsideration of their findings

(5) Committee chairpersons are responsible for managing administrative and procedural matters within the committee.

(6) An SEB panel or consultant serves as a fact-finding arm of the committee in a specialized area, established when a particular area requires deeper analysis than the committee can provide.

(7) The total number of evaluators (non-voting members, committees, panels, consultant etc.; excluding voting members and ex officio members) is limited to a maximum of 25. Requests to exceed this limit must:

(A) Provide detailed written justification.

(B) Be submitted to the cognizant Headquarters Office of Procurement Analyst for approval by the Senior Procurement Executive.

(f) *Voting members*.

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

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

(3) The SEB voting members must review the findings of non-voting members, (e.g., committees, panels, or consultants) and use their own collective judgment to develop the SEB consensus evaluation findings reported to the SSA. All voting members of the SEB must have equal status as rating officials.

(4) SEB membership must be limited to a maximum of seven voting members. Whenever feasible, an assignment to SEB membership as a voting member must be on a full-time basis. When not feasible, SEB membership must take precedence over other duties.

(5) The SEB should be comprised of a multidisciplinary team to ensure comprehensive evaluation of proposals. Voting members should include senior representatives that have expertise in various functional areas specific to the unique acquisition requirements. The following positions must be voting members of all SEBs:

(A) Chairperson.
(B) A senior, key technical representative for the project.
(C) A senior Safety and Mission Assurance (SMA) representative, as required based upon the type of acquisition.
(D) Committee chairpersons (except where this imposes an undue workload).

(g) *Non-voting members and consultants*

(1) Non-voting members include SEB members that review proposals and provide routine input to the evaluation results but are not included in the voting membership. Non-voting members typically provide substantial support that may be full-time or near full-time (e.g., CO and/or procurement representative, cost/price evaluator, past performance evaluator).

(2) Consultants provide limited support in specific areas (e.g., Mission Suitability technical engineering discipline, small business specialist) on a less than full-time basis.

(h) *Ex officio members.*

(1) The number of nonvoting ex officio (advisory) members must be kept as small as possible. Ex officio members must not participate in the actual rating/scoring process. However, the SEB Recorder and/or procurement representative (if not a voting member) should be present during rating sessions. Since their advisory role may require access to highly sensitive SEB material and findings, ex officio membership for people other than those identified in paragraph (h)(2) of this section is discouraged.

(2) The following must be ex officio members on all SEBs:

(A) The procurement officer and assigned procurement staff.
(B) The Office of General Counsel and/or assigned Office of the General Counsel designee of the Center.
(C) The SEB recorder.

(i) *Evaluation.*

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

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

(A) Copies of individual worksheets and supporting comments to the lowest level evaluated consistent with the solicitation evaluation criteria factors and subfactors;

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

(C) The committee findings for each proposal, including documentation of all significant strengths, strengths, deficiencies, weaknesses, and significant weaknesses which significantly affected the evaluation and any reservations or concerns, including supporting rationale, which the committee or any of its members want to bring to the attention of the SEB.

(3) The SEB process must be adequately documented. Clear traceability must exist at all levels of the SEB process. All reports submitted by committees or panels will be retained as part of the SEB records as outlined in paragraph (j) of this section.

(4) Each voting SEB member must thoroughly review each proposal, and any committee reports and findings. The SEB must rate or score the proposals for each evaluation factor and subfactor according to its own collective judgment. The SEB must document the results of rating and scoring of proposals.

(j) *SEB presentation.*

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

(2) The presentation must focus on the significant strengths, deficiencies, and significant weaknesses found in the proposals, the probable cost of each proposal, and any significant issues and problems identified by the SEB. This presentation must explain—

(A) Any applicable special standards of responsibility;
(B) Evaluation factors and subfactors;
(C) The significant strengths and significant weaknesses of the offerors which include a description of the benefits or risks associated with the significant findings;
(D) The Government independent cost estimate, if applicable;
(E) The offerors' proposed cost/price;
(F) The probable cost;
(G) The proposed fee arrangements; and
(H) The final adjectival ratings and scores to the subfactor level.

(3) The presentation to the SSA must include the total mission suitability point score for each offeror’s proposal. An adjectival rating (e.g. excellent, very good) must be assigned for each mission suitability subfactor, but an adjectival rating must <u>not</u> be assigned for the total

mission suitability factor of each offeror's proposal. The SEB must compute the total mission suitability point score by adding all the mission suitability subfactors points assessed, with the maximum possible total mission suitability point score being 1000 points. The total mission suitability point score does not represent a precise measure of the relative merit of any one offeror's proposal, rather it shows an offeror's relative standing by providing the total points each offeror's proposal is assessed out of the possible 1000 points so that the offerors can be compared.

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

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

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

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

(6) For Headquarters selections, the cognizant Headquarters Office of Procurement Analyst will coordinate the presentation, including approval of attendees. When the Administrator is the SSA, a preliminary presentation should be made to the head of the contracting activity and to the Official-in-Charge of the cognizant Headquarters Program Office.

(k) A source selection statement must be prepared in accordance with NFS CG 1815.26 by either the Office of Procurement, or Office of the General Counsel, or as a collaborative effort.

(l) *SEB Records*.

(1) The CO must retain all source selection documentation in the official contract file. Upon completion of SEB activities, the CO must retain the following source selection documents in the official contract file for initial proposals and final proposal revisions (FPR), if applicable:

(A) Each offeror's proposal.

(B) Competitive range determination(s).

(C) Unsuccessful and successful notices sent to offerors.

(D) If committees were used, the committee's evaluation for every evaluation factor, including all identified significant strengths, strengths, significant weaknesses, weaknesses, and deficiencies, with supporting rationale, brought to the SEB's attention.

(E) Documentation of any clarifications and discussions held with offerors during the source selection process.

(F) Initial and final SEB consensus reports, including minority reports.

(G) All SEB presentations to the SSA, including proposal evaluations and ratings

(H) The source selection statement.

(2) Electronic copies of source selection materials must be handled with the same security as hardcopy materials.

(3) Electronic copies of source selection materials must be handled with the same security as hardcopy materials.

1815.28 Preaward notices and debriefings.

(a) The NASA Procurement Debriefing Guide provides agency-wide guidance for preaward debriefings.

(b) *Notice of small business set-aside award.* For small business set-aside competitions, when providing the written notice as required by FAR 15.206-1(b), the contracting officer must use the agency-wide "Set-Aside Preaward Apparent Successful Offeror Notification" procurement template to provide a preaward notice (after selection but prior to award) to each offeror in writing (See FAR 15.206-1(b)(3) regarding 8(a) acquisitions).

1815.29 Award.

(a) *Award to successful offeror.* After notifying the successful offeror by phone, the CO must send the successful offeror(s) a post award notification letter using agency-wide "Postaward Notification Letter to Successful Offeror(s)" procurement template. This letter congratulates the offeror(s) of selection; provides the signed Source Selection Statement; and alerts the offeror(s) that any request for a postaward debriefing must be submitted within three days of receiving the notice. (See FAR 15.301-1 and 15.207-2)

(b) *Award notice.* When providing the written notification required by FAR 15.207-2, COs must use the agency-wide "Postaward Notification Letter to Unsuccessful Offeror(s)" procurement template which ensure the notice complies with the FAR requirements. The notification must identify the successful offeror, include a copy of the signed source selection statement, and alert the offerors that in accordance with FAR 15.301-1, a request for a post award debriefing must be submitted to the contracting officer within three (3) calendar days after receipt of this letter.

1815.3—Postaward

1815.31 Postaward debriefing of offerors.

The NASA Procurement Debriefing Guide provides agency-wide guidance for postaward debriefings.

1815.32 Debriefing of offerors—Major System acquisitions.

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

(b) When Phase B awards are made for alternative system design concepts, the source selection statements must not be released to competing offerors or the general public until the release of the source selection statement for Phase C/D without the approval of the Senior Procurement Executive. Requests for approval should be submitted through the cognizant Headquarters, Office of Procurement Analyst.

1815.4—Contract Pricing

1815.41 Obtaining certified cost or pricing data.

1815.42 Prohibition on obtaining certified cost or pricing data.

Waivers of the requirement for submission of certified cost or pricing data must be prepared in accordance with FAR 1.504. A copy of each waiver must be sent to the cognizant Headquarters Office of Procurement Analyst.

1815.43 Data other than certified cost or pricing data.

(a) *Requirement.*

(1) For sole source procurement actions, when requiring data other than certified cost or pricing data, COs must clearly communicate to the contractor the data that will be needed to determine that the proposed price is fair and reasonable. The CO should allow contractors to submit such data in a format consistent with their disclosed estimating practices and must not require the contractor to use Government price/cost templates, models, or forms.

(2)For competitive procurement actions, when requesting data other than certified cost or pricing data, the use of price/cost templates, models, or forms is authorized in those situations where the CO determines, with the concurrence of the cognizant Enterprise Pricing Office (EPO) cost/price analyst, that price reasonableness or cost realism cannot be determined efficiently without the use of the Government template, model, or form; and that there are demonstrated benefits to utilizing this Government template, model, or form that outweigh the offerors' cost to complete the Government template, model, or form.

(b) *Refusals to submit data.* A contractor that refuses to provide requested data other than certified cost or pricing data may be rendered ineligible for award unless the head of the contracting activity determines otherwise, in accordance with FAR 15.403-1(d). As such, it is important that contractor refusals to provide requested pricing information receive the attention of management at levels higher than the CO, and that CO's document the extent of their efforts to obtain the requested data. In these circumstances, the basis for the agreed-to price may not be an appropriate basis for comparison in determining price reasonableness in future procurements. COs should request the necessary data other than certified cost or pricing data again in future procurements of this item/service and not just rely on the prior price as being a valid basis for determining price reasonableness on future procurements.

(c) *Data when adequate price competition exists.* For other than firm-fixed-price competitions, only data other than certified cost or pricing data necessary to ensure price reasonableness and assess cost realism should be requested. For firm-fixed-price competitions, the CO must not request any cost data, unless cost analysis is warranted, as permitted by FAR 15.404(a)(2). Cost analysis may be warranted in those situations where the price analysis indicated that the requirements may not be fully understood by one or more competing offeror(s) such as when proposed price(s) appear unreasonable or unrealistically low in consideration of the proposed approach(es) giving rise to concerns of poor quality, service shortfalls, or potential default. Under firm-fixed price service contract competitions, labor rate and fringe benefit data may be obtained to be used in future wage determination adjustments under FAR 52.222-41 and FAR 52.222-6. This data, when requested, does not necessarily need to be part of the competition's price evaluation.

1815.44 Certificate of current cost or pricing data.

If a certificate of current cost or pricing data is made applicable as of a date other than the date of price agreement, the agreed date should be as close as practicable to the date when the *price* negotiations were concluded, and the contract price was agreed to.

1815.45 Technical cost or price analysis.

(a) The NASA Technical Evaluation Guide provides agency-wide guidance to individuals performing a technical analysis of a contractor's proposal.

(b) Use of the agency-wide "NASA Technical Evaluation Report" procurement template is required to document the technical assessment of all sole source contractor proposals greater than the simplified acquisition threshold.

(c) Exceptions to the requirement in paragraph (b):

(1) *Research and Analysis (R&A) Awards.* Awards resulting from NASA Research Announcements (NRAs) where the selection statement and peer review document serve as the technical evaluation.

(2) *Flight Programs/Projects.* Contracts or task orders for flight programs and projects that receive a Standing Review Board (SRB) or Center-led Independent Review programmatic assessment that is documented in the approval document.

In both cases, the CO may use this existing documentation as the technical basis determining price reasonableness, in lieu of a separate procurement-specific Technical Evaluation Report. The CO must still perform and document the required cost or price analysis in the contract file.

1815.46 Data to support proposal analysis.

(a) When the required participation of the administrative contracting officer (ACO) involves merely verification of information, COs should obtain this verification from the cognizant Federal agency office. If the offeror is NASA cognizant, the NASA Cognizant Federal

Agency (CFA) office should be contacted. If the offeror is DoD cognizant, then check the Consolidated Business Analysis Repository (CBAR) or contact the DCMA ACO.

(b) When the cost proposal is for a product of a follow-on nature, COs must ensure that the following items, at a minimum are considered: actuals incurred under the previous contract, learning experience, technical and production analysis, and subcontract proposal analysis. This information may be obtained through NASA resources or the cognizant DCMA ACO or DCAA.

(c) Before requesting field pricing support, COs should determine what information can be obtained from NASA resources, to be able to tailor field pricing support requests to the minimum amount of information truly needed to conduct the cost/price analysis. Consult the EPO Coordination and Approval Matrix (CAM) on the EPO website for areas of pricing support by dollar thresholds.

(d) Requests for DCAA audit assistance must be made on NASA Form 1434, Letter of Request for Pricing-Audit-Technical Evaluation Services. DCAA audit requests must be made in accordance with the following:

(1) Audit requests must only be made after the CO performs an analysis and concludes that other resources (DCMA, internal analysis, etc.) will not provide the information necessary to determine that the cost is reasonable and realistic.

(2) Audit requests should not be requested for proposed contracts or modifications in an amount less than $10M for Fixed-Price proposals and $100M for Cost-Type proposals unless there are exceptional circumstances which are explained in the audit request.

(3) Audit requests must not be requested for proposal rate and factor analysis/verification. All such requests should be made through the cognizant NASA CFA office.

(4) Audit requests must be approved and submitted to DCAA only by the NASA Cognizant CFA office.

(5) The NASA CFA office will work with the DCAA Headquarters Financial Liaison Advisor (FLA) to arrange contact with field audit offices and facilitate the audit request, if necessary.

(e) Field pricing support requests to DCMA must be made in accordance with the following:

(1) DCMA field pricing support requests must only be made after the CO performs an analysis and concludes that other resources (e.g. internal analysis) will not provide the information necessary to determine that the cost is reasonable and realistic.

(2) Proposal rate and factor analysis/verification and business system status requests must be requested only by the NASA CFA office who should first check DCMA's Consolidated Business Analysis Repository (CBAR) for this information. If information is not in CBAR, request for this information should be to the cognizant DCMA ACO for your procurement. If cognizant DCMA ACO is unknown, contact the DCMA NASA Support Desk

operated by DCMA NASA Product Operations at email NASA_Support_Desk@dcma.mil or phone 210-295-0121 to obtain contact information for cognizant DCMA ACO.

(3) DCMA pricing support should be requested through the NASA CFA office.

(f) *Use of contractor to perform contract audit services*.

(1) Except as provided under paragraph (f)(2) of this section, the use of a contractor (Independent Audit Firm or CPA Firm) to perform contract audit services is not allowed at contractor locations where DCAA has cognizance. In these situations, the CO should elevate any issues with untimely audit services to the NASA CFA.

(2) In those instances, in which DCAA has audit cognizance for a particular contractor yet DCAA is unable to perform contract audit services, COs should coordinate with the NASA CFA office (Independent Audit Firm or CPA Firm) to perform the required contract audit services in lieu of DCAA.

(A) For proposal, financial capability, and accounting system reviews, interim and final contract billings, contract audit closing statements, requests for equitable adjustments, contract terminations, defective pricing reviews, compliance with Cost Accounting Standards (CAS), earned value management (EVM) systems, and estimating systems reviews.

(B) For incurred cost audit services, purchasing systems, and other internal controls within the contractor's operational environment, if the portion of the current contractor fiscal year work performed for NASA is more than 50 percent of their business base.

1815.47 Profit.

(a) NASA Form (NF) 634, Structured Approach Profit/Fee Objective, must be used in performing the analysis necessary to develop profit or fee objectives as required in this section. COs must complete and document the profit or fee analysis in the contract file in accordance with the instruction sheet attached to the NF 634.

(b) The NASA structured approach for determining profit or fee objectives must be used to determine profit or fee objectives in the negotiation of contracts greater than or equal to the simplified acquisition threshold that use cost analysis and are–

(i) Awarded based on other than full and open competition (see FAR 6.3);
(ii) Awarded under NRAs and AOs; or
(iii) Awarded under the SBIR or the STTR programs.

(c) Although specific agreement on the applied weights or values for individual profit or fee factors must not be attempted, the CO may encourage the contractor to –

(1) Present the details of its proposed profit amounts in the structured approach format or similar structured approach; and

(2) Use the structured approach method in developing profit or fee objectives for negotiated subcontracts.

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

(i) A&E contracts;
(ii) Management contracts for operation and/or maintenance of Government facilities;
(iii) Construction contracts;
(iv) Contracts primarily requiring delivery of materials supplied by subcontractors;
(v) Termination settlements; and
(vi) Contracts having unusual pricing situations when the procurement officer determines in writing that the structured approach is unsuitable.

(e) The NASA structured approach was designed for determining profit or fee objectives for commercial organizations. However, the NASA structured approach must be used as a basis for arriving at profit/fee objectives for nonprofit organizations (FAR 31.7**)**, excluding educational institutions (FAR 31.3), in accordance with paragraph (f) of this section. It is NASA policy not to pay profit or fee on contracts with educational institutions.

(f) For contracts with nonprofit organizations under which profit or fee is involved, an adjustment of up to 3 percent of the costs in Block 13 of NASA Form 634 must be subtracted from the total profit/fee objective. In developing this adjustment, it is necessary to consider the following factors:

(i) Tax position benefits.

(ii) Granting of financing through letters of credit.

(iii) Facility requirements of the nonprofit organization.

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

1815.48 Prenegotiation objectives.

(a) Before conducting negotiations requiring Center or Headquarters review, COs or their representatives must prepare a prenegotiation position memorandum (PPM) using the agency "Pre-negotiation Position Memorandum (PPM)" procurement template. The template is required for all non-competitive actions, including new awards, and modifications to contracts/orders, with values exceeding the simplified acquisition threshold (SAT). Contract modification negotiations must be concluded within 45 days of receipt of a compliant proposal. Contract award must be made within 120 days of proposal receipt. Schedule delays beyond 14 days require leadership engagement.

(b) The PPM documents the Government's initial negotiation objectives as required by FAR 15.408-1, supporting the CO's determination of a fair and reasonable price. The CO must

base these objectives on a thorough analysis of the offeror's proposal, considering all pertinent information, including:

(i) Field pricing assistance

(ii) Audit reports and technical analyses

(iii) Fact-finding results

(iv) Independent Government cost estimates and price histories

(c) The PPM must fully explain both the contractor's proposed position and the Government's objective position and may include a Government maximum position. The scope and depth of analysis must be commensurate with the dollar value, importance, and complexity of the pricing action.

(d) The PPM must:

(1) Provide sufficient context and detail to be understood by a reader unfamiliar with the matter.

(2) Document all significant events from receipt of the action through PPM completion.

(3) Present a clear, logical narrative that allows the reader to independently follow the CO's rationale and understand how prenegotiation objectives and maximums were derived.

(e) When submitting PPMs for review, all proposal and file documents must be filed in accordance with the NASA Enterprise Acquisition Repository (NEAR) File Element Structure.

(f) A PPM is not required for contracts awarded under the competitive negotiated procedures of FAR 15.2 and NFS 1815.2.

(g) Each Center contracting activity must establish procedures to review all PPMs. The scope, management review levels, cost/price analyst involvement (also see EPO CAM), and file documentation requirements must be commensurate with the dollar value and complexity of the acquisition. The primary purpose of these reviews is to ensure the negotiator or negotiation team enters negotiations with a well-conceived, realistic, and fair plan.

1815.49 Documenting the negotiation.

(a) A price negotiation memorandum (PNM) is not required for a contract awarded under competitive negotiated procedures. However, the information required by FAR 15.408-2 must be reflected in the evaluation and selection documentation to the extent applicable.

(b) When the PNM is a "stand-alone" document (i.e., no PPM was prepared), it must contain the information required by the FAR and NFS for both PPMs and PNMs.

(c) The agency-wide "Price Negotiation Memorandum (PNM)" procurement template must be used for all non-competitive acquisitions, including new awards and modifications to contracts/orders, with values greater than the simplified acquisition threshold (SAT).

(d) When a PPM has been prepared, the subsequent PNM needs only address:

(1) Any FAR 15.408-2 information not previously covered in the PPM;

(2) Any changes in the factors affecting cost elements (e.g., revised rates, hours, or subcontractors; wage rate determinations; or the contractor system status).

(e) The PPM must accompany the PNM during the review process.

(f) The PNM documents the final negotiated agreement for a contract action and must:

(1) Clearly explain any differences between the Government's objective and the final negotiated outcome.

(2) Provide a thorough discussion of the negotiation that led to the final negotiated amount.

(3) Include any other pertinent information not previously documented.

(g) The PNM must be written clearly enough that a reader with no prior knowledge of the matter can use it to resolve future issues.

Subpart 1815.5—Unsolicited Proposals

1815.51 Restricting use and disclosure of data.

Only to the extent authorized by, and in accordance with, the procedures prescribed in NFS 1815.108-70, should unsolicited proposals be evaluated by non-government employees.

1815.52 Receipt and initial review of unsolicited proposals.

(a) NASA Headquarters, each NASA Center, and Mission Directorate must designate a technical point of contact (POC) for receiving and coordinating the handling and evaluation of unsolicited proposals.

(b) Each Center must use established procedures and the standardized templates located in the designated electronic Unsolicited Proposal System when handling unsolicited proposals. For unsolicited proposals where a technical POC is not identified, the proposal will be routed to the designated POC at the Mission Directorate and Center Director level. POCs are also responsible for providing guidance to potential offerors regarding the appropriate NASA officials to contact for general mission-related inquiries or other preproposal discussions.

(c) Procurement POCs must keep records of unsolicited proposals received and must provide prompt status information to requesters. These records must include, at a minimum, the

number of unsolicited proposals received, funded, and rejected during the fiscal year; the identity of the offerors; and the office to which each was routed/referred. The numbers must be broken out by source (large business, small business, university, or nonprofit institution).

1815.70—Ombudsman

1815.701 NASA Ombudsman Program.

(a) The Deputy Assistant Administrator for Procurement serves as the Agency Procurement Ombudsman, except when acting as the Agency Senior Procurement Executive. In these situations, the Director of the Enterprise Procurement Integration and Excellence (EPIX) Office will serve as the Agency Procurement Ombudsman.

(b) Designated individuals within the Office of the Center Director at each NASA Center are the procurement ombudsman for program/project contracting activities at their Center. See Procurement Ombudsman / Competition Advocate Points of Contact listing.

(c) The functional owners for institutional programs (e.g. Assistant Administrator for Office of Protective Services) are the procurement ombudsman for their institutional procurement activities. See Procurement Ombudsman / Competition Advocate Points of Contact listing.

(d) Agency and Center Procurement Ombudsman responsibilities:

(1) Facilitate communication between NASA and interested parties (e.g., offerors, potential offerors, contractors, and industry representatives) in the resolution of matters arising during the pre-award and post-award phases of procurement. Additionally, interested parties may provide recommendations on the way NASA can improve its acquisition process. However, interested parties must try to resolve their concerns with the CO before consulting with a Procurement Ombudsman.

(2) Review complaints relative to multiple-award task and delivery order contracts, awarded under FAR 16.507 to ensure that all contractors are afforded a fair opportunity to be considered.

(3) Collect all relevant facts to resolve issues raised by interested parties. Collection of source selection and proprietary information will be coordinated with the CO or, if appropriate, the Source Evaluation Board (SEB) chairperson. Procurement Ombudsmen are granted access to source selection and proprietary information and will comply with the requirements in FAR 3.104-5 and 15.101(d). Information must be obtained from officials responsible for the Freedom of Information Act prior to the release of Agency records.

(4) Agency Procurement Ombudsman handles matters that cannot be resolved at the Center level or those having Agency-wide implications.

(e) The role of the Procurement Ombudsman will not diminish the authority of the CO, Source Evaluation Board, or Source Selection Authority. The Procurement Ombudsman Program does not replace the FAR contract protest or disputes processes. Moreover, communications with

a Procurement Ombudsman do not affect the time limits for filing a protest or appealing a CO's final decision as described in FAR Part 33.

(f) The CO must include the clause at 1852.215-84, Ombudsman in all competitive acquisition announcements (e.g., presolicitation notices).

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NFS CG 1816
TYPES OF CONTRACTS

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1816.01 NASA Definitions

(a) The *Fee-Determining Official (FDO)* and *Term-Determining Official (TDO)* is the head of the contracting activity unless otherwise delegated in writing.

(b) The agency-wide "Fee Determining Official (FDO) Appointment" procurement template must be used when the head of contracting activity (HCA) delegates the FDO or TDO authority to another official.

1816.1—Selecting Contract Types

1816.11 Policies.

Contract structures must align with technical maturity and risk. Where markets are immature, NASA will procure in phases to maintain technical authority and oversight while enabling industry to mature and markets to develop.

1816.12 Factors in selecting contract types.

See FAR Companion for factors to consider in selecting contract types.

1816.13 Contract type for performance-based acquisition (PBA).

(a) Performance-based acquisition (PBA) is NASA's preferred way of contracting for all supplies and services.

(b) PBA is defined in FAR 2.101 and discussed in FAR 37.1. Although FAR Part 37 addresses services contracts, PBA is not limited to these contracts. Generally, when contract performance risk under a PBA specification can be fairly shifted to the contractor to allow for the operation of objective incentives, a contract type with objectively measurable incentives (e.g., FFP, FPIF, or CPIF) is appropriate. However, when contractor performance (e.g., cost control, schedule, or quality/technical) is best evaluated subjectively using quantitative measures, a CPAF contract may be used.

(c) A PBA is a completion form of contract (something is accomplished). Term/level-of-effort, time-and-materials and labor hour contracts should include, when feasible, features that are performance-oriented. However, those contracts may not be characterized as PBA.

1816.14 Executive Order 14402 justification for covered contracts and orders.

(a) For covered contracts and orders that are valued at or above $35 million, the required justification must be submitted to the NASA Administrator for approval using the ANOSCA application. See FAR 16.104(a) for the definition of a covered contract or order and FAR 16.104(e) for exceptions.

(1) The "Contract Type Justification Procedures" within the ANOSCA application provides the step-by-step instructions for creating.

(2) For Blanket Purchase Agreements (BPAs), the decision to apply the justification requirement at the BPA level or the order level will be made on a case-by-case basis. The contracting officer must coordinate the justification requirement with the cognizant, Headquarters, Office of Procurement (OP) Analyst.

(b) The justification must be approved prior to release of the solicitation. Therefore, the justification for selecting a covered contract type must be submitted as early as possible.

(c) When submitting details justifying why a covered contract type must be used, keep the explanations brief and concise. The information and documents required in FAR 16.104(d)(1) should be attached to the ANOSCA entry.

(d) The NASA Administrator or delegee will review and approve ANOSCA entries per the standard process; this approval will serve as the required agency-head approval in writing. Once approved in the system, the CO must convert the approval to a PDF document and retain it within the official contract file.

1816.2—Fixed-Price Contracts

1816.21 Firm-Fixed-Price (FFP) Contracts.

(a) FFP is the default for:
(1) Commercial products and services supported by a robust market
(2) Mature and proven products or capabilities already in operation
(3) Clearly defined high TRL deliverables
(4) Short studies and concepts
(5) High production easily forecasted or recurring procurements

1816.22 Fixed-price contracts with economic price adjustment.

1816.23 Contract clauses

(a) In addition to the determination required by FAR 16.203-3, the contracting officer must coordinate with the NASA Center's Deputy Chief Financial Officer (Finance) before exceeding the ten-percent limit in paragraph (c)(1) of the clauses at FAR 52.216-2 and 52.216-3 and paragraph (c)(4) of the clause at FAR 52.216-4.

(b) Contracting officers must contact the **cognizant Enterprise Pricing Office (EPO) Pricing Liaison Advocate (PLA) within the Headquarters Office of Procurement, Enterprise Services Analysis Division**, for specific guidance on preparing clauses using cost indexes. Such clauses require advance approval by the head of contracting activity. (See FAR 16.203-4(d)(2))

1816.3— Cost-Reimbursement Contracts

1816.31 General.

(a) Cost-Reimbursable contracts are the exception and only appropriate when:
- (1) Requirements are genuinely immature
- (2) Technical risk is high and unknown
- (3) Early-stage low TRL design requires iteration

(b) Cost-Reimbursable efforts must include:
- (1) A defined transition path to fixed price as maturity improves
- (2) Transparent cost reporting
- (3) Incentives aligned with measurable risk reduction

(c) Cost- and Fixed-Price hybrid structures may be appropriate:
- (1) Complex Programs (design, development, test and evaluation)
  - (A) Design maturation
  - (B) Production, modules, or stable phases/operations
  - (C) All cost-reimbursable contracts must include a strategy to transition to FFP as maturity improves
- (2) Institutional Operations
  - (A) Suitable when requirements consist of unknown and known requirements

1816.32 Cost-plus-fixed-fee contracts.

1816.33 Completion and term forms.

Term form contracts should include, when feasible, features that are performance oriented. However, those contracts may not be characterized as PBA.

1816.34 Contract clauses.

(a) In solicitations and contracts containing the clause at FAR 52.216-8, Fixed Fee, the Schedule must include appropriate terms, if any, for provisional billing against fee.

(b) In solicitations and contracts containing the clause at FAR 52.216-10, Incentive Fee, the Schedule must include appropriate terms, if any, for provisional billing against fee.

1816.4— Incentive Contracts

1816.41 General

NASA will implement the following vendor incentive and accountability requirements to ensure performance and protect Government interests:

(a) *Outcome- and Schedule-Driven Incentives.* To the greatest extent possible, NASA will ensure contracting methods and incentives are aligned with intended outcomes. Programs must:

(1) Shift portions of fee associated with predictable or low risk activities into incentive structures that are earned only through verified, mission critical outcomes

(2) On new and existing traditional contracts, seek to incorporate incentives for achievement of major mission outcomes that exceed contract requirements (e.g., achievement for hitting earlier launch date or as a bonus feature for the capability to survive the lunar night)

(3) Focus incentive dollars on meaningful schedule or capability risks

(b) *Prize Based Incentives*. Leveraging the America COMPETES Act, where appropriate, NASA will apply outcome-based prizes to incentivize specific mission results and complement traditional acquisition tools.

(1) Consider pure prize-based challenges for high-risk, high-value outcomes where a single completed result meaningfully advances National Space Policy goals and NASA objectives (e.g., binary, outcome-based incentive awarded for successful completion of an asteroid sample return)

(c) *Contract Execution Requirements.* Contracting officers must ensure the following contract execution requirements are enforced throughout the life of the contract:

(1) Require consideration for all scope changes.
(2) Maintain clear and enforceable delivery and acceptance criteria
(3) Establish automatic review triggers for schedule or cost variances beyond agreed thresholds.
(4) When appropriate, require transparent cost reporting and documented risk reduction activities.

1816.42 Limitations.

(a) The applicable agency-wide determination and findings procurement template must be used for request to use any incentive- or award-fee contract. If a specific agency-wide template does not exist, requests must be prepared in accordance with FAR 1.504. The following agency-wide procurement templates are available for use:

(1) Determination and Findings Authority to Execute a CPIF Contract
(2) Determination and Findings Authority to Execute a FPAF Contract
(3) Determination and Findings Authority to Execute a FPI Contract
(4) Determination and Findings Authority to Execute a CPAF Contract

(b) Use of an incentive fee or award term contract must be approved in accordance with FAR 16.401-2.

1816.43 Award-fee.

(a) See the Award Fee Contracting Guide for additional guidance on the organization and administration of award fee contracts.

(b) When appointing the Performance Evaluation Board (PEB), the agency-wide "Performance Evaluation Board (PEB) Appointment" procurement template must be used.

(c) FAR 16.401-3 requires contracting officers to establish and document award fee evaluation information for Cost-Plus-Award-Fee and Fixed-Price-Award-Fee contracts. As a NASA internal process, contracting officers must record this information in the Award Fee Evaluation System (AFESS) module within the NASA Acquisition Internet Service.

(d) *Award fee evaluation periods.* For NASA's most significant contracts for design and development programs and projects, with a life-cycle cost of $250 million or more, or otherwise designated by the NASA Associate Administrator, the award fee evaluation period must be limited to six months for contracts in the implementation phase (i.e. Phases C and D).

(e) *Award fee evaluations.* Award fee evaluations for NASA's most significant contracts for design and development programs and projects, with a lifecycle cost of $1 billion or more, require a NASA Headquarters, Independent Review Panel (IRP) review prior to the Fee Determining Official (FDO) making a final determination in writing as to the amount of fee to be paid. Contracts with two or more consecutive "Excellent" ratings are exempt from IRP reviews unless the rating drops below "Excellent," at which point reviews must resume.

(1) The IRP, comprised of the NASA Assistant Administrator for Procurement or Deputy, NASA Chief Financial Officer or Deputy, NASA General Counsel or Deputy, a Program Manager (from a different program), and Center Director (from a Center other than where the program is hosted) must review the FDO determination before it is finalized.

(2) The purpose of the IRP is to incorporate a review of the PEB evaluation by agency level management officials who are not involved in daily interface with the contractor and have a broader perspective into the award fee process.

(3) An agency-wide best practice is for the IRP to concurrently attend any FDO briefing.

1816.44 Application of predetermined, formula-type incentives.

When considering the use of quality, performance, or schedule incentive, the following guidance applies:

(a) A positive incentive is generally not appropriate unless—

(1) Performance above the target (or minimum, if there are no negative incentives) level is of significant value to the Government;

(2) The value of the higher level of performance is worth the additional cost/fee;

(3) The attainment of the higher level of performance is clearly within the control of the contractor; and

(4) An upper limit is identified, beyond which no further incentive is earned.

(b) A negative incentive is generally not appropriate unless —

(1) A target level of performance can be established, which the contractor can reasonably be expected to reach with a diligent effort, but a lower level of performance is also minimally acceptable;

(2) The value of the negative incentive is commensurate with the lower level of performance and any additional administrative costs; and

(3) Factors likely to prevent attainment of the target level of performance are clearly within the control of the contractor.

(c) When a negative incentive is used, the contract must indicate a level below which performance is not acceptable.

1816.45 Performance incentives

1816.46 NASA technical performance incentives.

(a) Pursuant to the guidelines in NFS CG 1816.44, NASA has determined that a performance incentive must be included in all contracts that are based on performance-oriented documents (e.g., PWS, SOO), except those awarded under the commercial product and commercial service procedures of FAR Part 12, where the primary deliverable(s) is (are) hardware with a total value (including options) greater than $25 million. Any exception to this requirement must be approved in writing by the head of the contracting activity. Performance incentives may be included in supply and service contracts valued under $25 million, acquired under procedures other than Part 12, at the discretion of the contracting officer upon consideration of the guidelines in NFS CG 1816.44. Performance incentives, which are objective and measure performance after delivery and acceptance, are separate from other incentives, such as cost or delivery incentives.

(b) When a performance incentive is used, it must be structured as both positive and negative based on performance after acceptance, unless the contract type requires complete contractor liability for product performance (e.g., fixed price). In this latter case, a negative incentive is not required. In structuring the incentives, the contract must establish a standard level of performance based on the salient performance requirement. This standard performance level is normally the contract's target level of performance. No performance incentive amount is earned at this standard performance level. Discrete units of measurement based on the same performance parameter must be identified for performance above and, when a negative incentive is used, below the standard. Specific incentive amounts must be associated with each performance level from maximum beneficial performance (maximum positive incentive) to, when a negative incentive is included, minimal beneficial performance or total failure (maximum negative incentive). The relationship between any given incentive, either positive or negative, and its associated unit of measurement should reflect the value to the Government of that level of performance. The contractor should not be rewarded with above-standard performance levels that are of no benefit to the Government.

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

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

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

(1) For a CPFF contract, the sum of the maximum positive performance incentive and fixed fee must not exceed the limitations in FAR 15.404-9(c)(4)(i).

(2) For an award fee contract.

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

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

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

1816.47 Award Term.

To be eligible for an award term, contractors must maintain performance above an acceptable level, as specified in the Award Term Plan (see NFS 1816.402-77 (d) and (i)). The agency-wide "Award Term Determination" procurement template must be used to document the Term-Determining Official's (TDO) decision regarding the contractor's performance rating and award term eligibility.

1816.5— Indefinite-Delivery Contracts

1816.51 Indefinite-quantity contracts.

1816.52 Multiple award preference.

(a) The authority to make the determination to award a task or delivery order contract authorized at FAR 16.504-3(a)(4)(i), is delegated to Senior Procurement Executive.

(b) Contracting officers must use the agency-wide "Determination and Findings Single-Award Indefinite Delivery Indefinite Quantity (IDIQ) Contract Over $150M" procurement template to document the rationale and approval of this determination.

(c) Requests for approval of this determination must be submitted through the cognizant Headquarters' Office of Procurement, Procurement Analyst.

(d) The request for approval must document that the contracting officer, with input from the requiring organization, considered establishing a defined core portion of the requirement in the single award IDIQ contract by following the procedures listed below:

(1) To reduce transactional costs, minimize the number of task orders for similar performance requirements, and reduce the administrative burden to the Government, NASA's policy is that single award IDIQ contracts, to the maximum extent possible, contain a core requirement, in addition to the task order(s) that specify discrete requirements. When considering inclusion of a core requirement—

(i) The requiring organization must identify the known, defined, and recurring requirements anticipated to be awarded under the single award IDIQ contract. If available, the requiring organization must review the predecessor contract information to identify any recurring requirements. If the identified recurring requirements are needed for the duration of the contract, the contracting officer should include these requirements in the core portion of the single award IDIQ contract or justify, with input from the requiring organization, why those requirements cannot be part of the core portion of the IDIQ contract.

(ii) The contracting officer and the requiring organization must analyze the historical staffing levels, labor hours and variations in annual cost of predecessor contract(s). If the staffing levels, labor hours and annual costs were relatively consistent over the previous contract and the requirements are recurring, the contracting officer must include the recurring requirements in the core portion of the single award IDIQ contract or justify, with input from the requiring organization, why those requirements cannot be part of the core portion of the IDIQ contract.

(e) For advisory and assistance services, the head of the contracting activity has authority to determine-

(1) That awarding more than one contract is impracticable because the services are unique, highly specialized, or the tasks are so integrally related (See FAR 16.504-3(b)(1)(i)(A)); or

(2) After the evaluation of offers, only one offeror can provide the services at the level of quality required (See FAR 16.504-3(b)(1)(i)(B)).

(3) That under the contract, advisory and assistance services are necessarily incident to, and not a significant component of the contract.

1816.53 Required content.

IDIQ service contract values and task order values must be expressed only in dollars.

1816.54 Postaward procedures for placement of task and delivery orders.

(a) Task and delivery orders must be issued by the contracting officer. To reduce the administrative burden and transactional costs of issuing numerous task orders, before issuing a task order under a single award IDIQ contract, the contracting officer, in consultation with the contracting officer's representative and resources analyst, as necessary, must consider—

(1) Including the requirements in the core portion of the contract;

(2) Adding the new requirement into an existing task or delivery order if the requirement fits within the scope of an existing task or delivery order;

(3) Avoiding the use of task orders solely to track funding or satisfy financial reporting requirements; and

(4) That all task and delivery orders must have clear milestones and/or deliverables.

1816.55 Additional ordering procedures for multiple-award contracts.

(a) The Agency and procurement ombudsmen designated in accordance with NFS CG 1815 must review complaints from contractors on task order contracts and delivery order contracts.

(b) *Exceptions to fair opportunity*. The contracting officer must use the agency-wide "Fair Opportunity Exception – Brand Name Justification" procurement template when justifying placing an order valued above the micro-purchase threshold (MPT) on a sole source basis in accordance with FAR 16.507-6.

(1) For orders valued above the micro-purchase threshold, but not above the simplified acquisition threshold, the CO should tailor the template to identify the authority for the exception and address the requirements in FAR 16.507-6(d)(1).

(2) See FAR 16.507-6(c) for small business set-aside orders.

(c) *Items peculiar to one manufacturer.* The contracting officer must use the agency-wide "Fair Opportunity Exception – Brand Name Justification" procurement template when justifying a brand-name requirement as described in FAR1.507-7(a).

(1) For orders valued above the micro-purchase threshold, but not above the SAT, the CO should tailor the template to identify the authority for the exception and address the requirements in FAR 15.507-6(d)(1).

(2) See FAR16.507-7(b)(1) and (2) for when the justification requirements do not apply.

(3) See FAR16.507-7(c)(2) when the brand-name requirements only apply to a portion of the acquisition requiring the brand-name item.

(d) *Posting.* Prior to posting a justification, COs must follow the screening requirements in FAR 16.507-6(f)(3) and complete the electronic document posting checklist. For exceptions to the posting requirement, see FAR 16.507-7(f)(4) for fair opportunity justifications or FAR 16.507-7(c)(3) for brand-name justifications.

(e) *Approvals.* For a proposed order valued at above $20 million, but not above $150 million, the justification must be approved by the HCA. See FAR 16.507-6(e) for all other approval authorities.

1816.56 Task ordering.

(a) The contracting officer must, to the maximum extent possible, state task order requirements in terms of functions and the related performance and quality standards such that the standards may be objectively measured.

(b) To the maximum extent possible, contracting officers must solicit contractor task plans to use as the basis for finalizing task order requirements and enable evaluation and pricing of the contractor's proposed work on a performance-based approach as described in NFS 1816.104-70(a).

(c) Task order contract type must be individually determined, based on the nature of each task order's requirements.

(1) Task orders may be grouped by contract type for administrative convenience (e.g., all CPIF orders, all FFP orders, etc.) for contractor progress and cost reporting.

(2) Under multiple awards, solicitations for individual task plans must request the same pricing structure from all offerors.

(d) Any undefinitized task order issued under paragraph (f) of the clause at NFS 1852.216-80, Task Ordering Procedure, must be treated and reported as an undefinitized contract action in accordance with NFS CG 1843.

(e) For Federally Funded Research and Development (FFRDC) Contracts, the contracting officer (CO) issues task orders to authorize work within the contract's scope. The use of NFS 1852.216-80, Task Ordering Procedure, is optional. However, the CO must include task ordering instructions specific to the FFRDC in the contract.

1816.57 Task and delivery order contract ordering period.

(a) 10 U.S.C. 3403 establishes limitations on the ordering period of a task or delivery order contract awarded by NASA. The statute specifies that the ordering period may be for any period up to five years. This period may be subsequently extended for one or more successive periods pursuant to an option or contract modification. In no case may the ordering period exceed a total of ten years unless approved by the Senior Procurement Executive. (See FAR 16.501-2(c)(1))

(b) The deviation requirement at NFS 1817.204(e)(5) applies to a task or delivery contract with an ordering period of more than five years.

(c) Orders under GSA Federal Supply Schedule contracts must comply with the limitations in paragraph (a) of this subsection if the orders provide for the issuance of subsequent task or delivery orders.

(d) The limitations in paragraph (a) of this subsection do not apply to —

(1) Advisory and assistance service task order contracts (authorized by 10 U.S.C. 3405). These contracts are limited by statute to 5 years, with the authority to extend an additional 6 months (see FAR 16.501-2(c)(2));

(2) Definite quantity contracts; and

(3) Multi-agency contracts awarded by agencies other than NASA, DoD, or the Coast Guard.

1816.58 Task and delivery order contract performance periods.

The period of performance of orders placed within the contract ordering period must comply with the bona fide need rule and principles of federal appropriations law.

1816.59 Solicitation provisions and contract clauses.

Contracting officers must insert https://www.hq.nasa.gov/office/procurement/regs/Procurement-Ombuds-Comp-Advocate-Listing.pdf in paragraph (a) of FAR clause 52.216-32, Task-Order and Delivery-Order Ombudsman, and in paragraph (d)(2) when using the Alternate I. The website provides the Agency and procurement ombudsman name, address, telephone number, and email address.

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

1816.61 Time-and-materials contracts.

1816.62 Limitations.

The contracting officer must use the agency-wide Determination and Findings (D&F) Noncommercial Time-and-Materials or Labor-Hour Contract-Order procurement template.

1816.63 Labor-hour contracts.

See NFS CG 1816.62 for agency-wide procurement template requirements that apply to labor-hour contracts.

1816.64 Letter contracts.

1816.65 Application.

Centers must ensure that NASA liabilities and commitments are minimized under letter contracts. When a letter contract is justified and program requirements can be severed into smaller, discrete efforts, the work authorized by the letter contract must be limited to the minimum severable effort required to satisfy the urgent program requirements. The remaining requirements may not be initially included in the letter contract and must be acquired through a separate fully priced and definitized contract action.

1816.66 Limitations.

(a) The head of the contract activity (HCA) is the approval authority:

(1) to issue a letter contract; and

(2) any modification to increase the value of the letter contract.

(b) The HCA approval must be obtained prior to issuing the modification in (a)(2).

(c) The agency-wide "Justification and Approval of Undefinitized Contract Actions (UCAs) and Letter Contracts" procurement template must be used to document the file for all letter contract actions.

NFS CG PART 1817
SPECIAL CONTRACTING METHODS

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NFS CG 1817
SPECIAL CONTRACTING METHODS

1817.1—Multiyear Contracting

1817.11 Policy.

The Senior Procurement Executive is the approval authority for the use of the multiyear contracting technique. Requests for approval must be signed by the procurement officer and must include a description of the acquisition, identification of anticipated contract costs and funding, and a determination, with supporting rationale, that each of the criteria in FAR 17.103-1(b) is met by the proposed use of multiyear contracting.

1817.2---Options

1817.21 Contracts.

Reference 10 U.S.C. § 3403 for limitations on the ordering period of task and delivery order contracts.

1817.22 Limitation on NASA Contracts Period of Performance.

NASA contracts are limited to a maximum 5-year period of performance or ordering period, inclusive of all options. To exceed a total potential duration of 5 years, contracting officers must obtain written approval unless one of the exemptions listed in paragraph 1817.24 below applies. This 5-year limitation applies to agreements (e.g., basic ordering agreements, blanket purchase agreements), interagency acquisitions, and orders placed under agreements or under Federal Supply Schedules or other indefinite delivery contracts awarded by other agencies.

1817.23 Documentation type and approval authority for requests to exceed a 5-year period of performance or ordering period (including all options).

(a) The documentation type and approval authority for request to exceed a 5-year period of performance or ordering period is as follows:

(1) Contracting officers must use the agency-wide "FAR Period of Performance and Ordering Period Duration Deviation Request" procurement template when requesting to deviate from performance limitations stated in the FAR (i.e., Service Contract Labor Standards, ordering period under task and delivery order contracts, etc.)

(i) If the total potential period of performance exceeds 8 years, the approval authority is the AA/Senior Procurement Executive.

(ii) If the total potential period of performance or ordering period exceeds 5 years but not 8 years, the approval authority is the Procurement Officer.

(2) Contracting officers must use the agency-wide "Determination and Findings (D&F) Period of Performance and/or Ordering Period Exceeding 5-Years" procurement template when the total cumulative period of performance and/or ordering period of a contract, Blanket Purchase Agreement (BPA), order, or interagency agreement is more than 5 years, except those covered under paragraph (a)(1).

(i) If the total period of performance or ordering period exceeds 8 years and a Headquarters Procurement Strategy Meeting (PSM) is required, the SPE is the approving authority.

(ii) If the total period of performance or ordering period exceeds 8 years and a Headquarters PSM is not required, the Procurement Officer is the approving authority.

(iii) If the total period of performance or ordering period exceeds 5 years but not 8 years, the approval authority is the Procurement Officer.

1817.24 Exemptions.

(a) Acquisitions for the design, development, test, and evaluation (DDT&E) of end-item systems development and/or hardware production. The period of performance must be consistent with the time needed to perform Phase A (concept studies, concept & technology development), Phase B (preliminary design & detailed engineering/technology completion), Phase C (final design, components/systems fabrication and testing), Phase D (system assembly, integration, testing, and launch), Phase E (systems and mission operations, sustaining engineering, maintenance support), and Phase F (closeout/decommissioning efforts).

(i) It is NASA policy to procure Phase E and F efforts separately from Phase A through D to allow for the maximum number of industry opportunities to compete for awards so long as awards to different contractors will not pose critical integration risks to NASA. For these contracts, where the period of performance is expected to exceed 5 years, a separate approval is not required when the period of performance is approved as part of the original acquisition plan and the work is included in the scope of the contract.

(b) Phase-in periods of up to 90 days when required for the efficient transition of contracting activities for a period that is concurrent with the predecessor contract in accordance with the use of FAR Clause 52.237-3, Continuity of Services. Phase-in periods may be in addition to the 5-year limitation.

(c) Periods of up to 6 months beyond the 5-year limitation when permitted by FAR Clause 52.217-8, Option to Extend Services, for unplanned, unforeseen circumstances or events that are beyond the control of the contracting officer, such as a protest.

1817.25 Option Documentation.

The contracting officer must document the justification for inclusion of options in accordance with FAR 17.2 using the Option Justification template.

1817.26 Evaluation.

(a) The contracting officer must ensure all offers are evaluated, including the basic contract and any option quantities or periods included in the solicitation, as well as any period permitted by FAR 52.217-8, Option to Extend Services, and any other additional options for quantities or services clauses included in the solicitation.

(b) The procurement officer is the approval authority for determinations by the contracting officer not to evaluate offers for any option quantities or periods.

(c)The selection statement for each acquisition involving an option must address the source selection authority's consideration of the option as part of the initial competition.

1817.27 Exercise of options.

(a) In addition to determining the option fulfills an existing need, the contracting officer must determine that there is no change in the scope of the option requirements.

(b) Options under cost type contracts must contain an estimated cost for the option period(s).

(1) Use of the provision (or formula) for determining the price of a fixed-price option requires advance approval by the Senior Procurement Executive or delegate submitted through the cognizant HQs Procurement Analyst.

(2) Use of a formula to determine the fee of an option in a cost-type contract requires advance approval of the Senior Procurement Executive or delegate, submitted through the cognizant Headquarters' Office of Procurement analyst. The formula must preclude the contractor from increasing costs for the purpose of earning additional fee.

1817.28 Analysis to support exercise of options.

(a) The contracting officer's determination that exercise of the option is the most advantageous method of fulfilling the requirement must be based on input and information from the requiring organization. The contracting officer and the requiring organization must ensure that analysis sufficient to support the determination that option exercise is the most advantageous method is completed in advance of providing the notice to the contractor as required by FAR 17.204-1(b). Sufficient time must remain in the performance period to allow the acquisition team to pursue appropriate alternative approaches with minimal impact to the program or project in terms of technical, cost, or schedule risk should the analysis conclude that the best programmatic path is not exercising the option.

(b) The analysis required to support the option exercise determination must include consideration of other factors in addition to price. In addition to the other factors contained in FAR 17.204-1(b), the analysis required to support the option exercise determination must include consideration of other factors in addition to price such as those identified in the agency-wide "Option Exercise Determination" procurement template.

(c) The contracting officer must document the determination to exercise an option using the agency -wide "Option Exercise Determination" procurement template and must notify the contractor using the guidelines in the agency-wide "Option Exercise Contractor Preliminary Notification" procurement template.

1817.4—Leader Company Contracting

1817.41 General.

It is NASA policy not to use the leader company contracting technique.

1817.5—Interagency Acquisitions

1817.51 Procedures.

For any FAR-based Inter-Agency Agreements (IAAs) (direct or assisted acquisition), COs and contract specialists must continue to follow regulations regarding D&F requirements in accordance with FAR 17.502-2(b). The procedures under NFS CG 1817.53, Economy Act, paragraph (e), only applies when the servicing agency is fulfilling the requirement through noncompetitive basis (i.e., the servicing agency is fulfilling our requirement sole source).

1817.52 General.

(a) Written agreement on responsibility for management and administration-

(1) **Assisted acquisitions.** When NASA is the requesting agency of an assisted acquisition, NASA and the servicing agency must sign a written IAA that establishes the general terms and conditions governing the relationship between the parties, including roles and responsibilities for acquisition planning, contract execution, and administration and management of the contract(s) or order(s). Whether NASA is the requesting or servicing agency, a signed copy of the agreement must be provided to the procurement officer and a copy retained in the contract file.

(2) **Direct Acquisitions.** The requesting agency administers the order; therefore, no written agreement with the servicing agency is required.

(b) The business-case analysis required by FAR 17.502-1(b) must be prepared by the center procurement officer and approved by the Senior Procurement Executive submitted through the cognizant Headquarters Office of Procurement analyst before submission to the OMB/Office of Federal Procurement Policy.

1817.53 The Economy Act.

(a) The Economy Act authorizes NASA to enter into agreements to obtain supplies or services from another agency. The Companion Guide (CG) applies when one agency uses another agency's contract to obtain supplies or services. If the interagency business transaction does not result in a contract or order, then the NFS CG does not apply.

(b) The Solutions for Enterprise-Wide Procurement (SEWP) is a Government-wide acquisition contract (GWAC) that provides information technology products and services for use across the federal Government—

(c) *Requirements for determination and findings*.

(1)(i) To satisfy the D&F requirement identified in FAR 17.502-2(b), and current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.404-1 may be used to ascertain whether the acquisition can be accomplished economically by contracting directly from commercial sources.

(ii) In addition to the requirements in FAR 17.502-2(b) the D&F must identify the period of performance and explain whether the acquisition is a non-competitive follow-on for the same services from the same servicing agency.

(2) All D&Fs for a servicing agency not covered by the FAR must be approved by the Senior Procurement Executive submitted to the cognizant Headquarters Office of Procurement analyst.

(3) When NASA is the servicing agency, a copy of the executed Economy Act determination and findings required by FAR 17.502-2 will be obtained from the requesting agency and retained in the contract file.

(d) Individual orders or successive non-competitive interagency orders for the same requirement with the same servicing agency must not exceed five (5) years. Requests for deviation from the (5) five-year limitation of this section must require the approval of the head of the contracting activity if the estimated value of the order is $5 million or less, or the Senior Procurement Executive, if the estimated value of the order exceeds $5 million. Requests for deviation must address—

(1) Why more than five years is required;
(2) Why the work must be performed by the same servicing agency; and
(3) How long beyond the current order is the requirement expected to continue.

(e) A D&F is required for each individual contract action (see FAR 1.501) and any increase permitted by options (see FAR 17.2). The contracting officer must use the agency-wide "Determination and Findings Interagency Acquisitions Economy Act" procurement template.

1817.54 Ordering procedures.

(a) NASA COs must use Treasury's 7600B form and/or G-Invoicing to place an order for supplies or services from another agency. The order must be prepared in accordance with Treasury instructions and NASA guidance and must include the purchase request (PR) number.

(b) When NASA is the servicing agency awarding a contract, the requesting agency must provide the appropriate information for the NASA CO to execute the justification and approval or determination and findings. A copy of the justification or determination must be retained in the contract file.

(c) When NASA is the servicing agency and is required to award a contract on behalf of another agency (requesting agency), in addition to the requirements identified in FAR 17.503(d)(3), the NASA CO must ensure compliance with the requesting agency's regulations, the requesting agency's funding and appropriation limitations, unique agency terms and conditions, the requesting agency's unique statutes, directives, and reporting requirements.

1817.55 FAR based IAAs

(a) **Requirement Office**. FAR based IAAs must be executed by the Office of Procurement (OP). The requirements office may assist with obtaining required information and documentation for the IAA, but execution in the system (i.e., G-Invoicing and/or SAP) must be done by OP (cognizant CO). Coordination between requirements owners and OP is required for both the General Terms & Conditions and order.

(1) For FAR based IAA orders, the signature authority of the Funding Official must be the cognizant CO. For D&Fs for any FAR based IAAs (direct or assisted acquisition),

COs and CS should continue to follow regulations regarding D&F requirements in accordance with FAR 17.502-2(b).

(b) **Program Office.** For IAA General Terms and Conditions (GT&C), the signature authority of the Initial and Final Approver must be individuals from the program office that have cognizance over the requirements. Coordination and concurrence from the cognizant OP office, one level above the CO, is required prior to approvals.

(c) For IAA orders, the signature authority of the Program Official must be an individual from the program office that has cognizance over the requirements

1817.56 Order requirements and provisions.

(a) In addition to the requirements identified in FAR 17.503 the following information must be included in the order, as appropriate:

(1) *Provision for acceptance.* Include a provision for acceptance, such as, the servicing agency must provide acceptance of this order no later than 30 days after receipt of the order. The acceptance must be sent to: Insert NASA installation, office code, and address. The acceptance must cite the order number and have a typed name, title, and signature of the accepting official, including address, phone number, and email address.

(2) If the servicing agency is a Military Department, the Military Department concerned will, within 30 days after receipt of the order, forward to the initiator the request and acceptance of the purchase request. Each purchase request will show the action being taken to fill the requirement and the same complete address of the Department of Defense (DoD) contracting activity.

(3) If the servicing agency is a Civilian Agency, acceptance should occur within 30 days after receipt of the order.

(b) *Provision for Payments*. Provide instructions for submitting invoices/billings and payment terms related to payments to be made by the requesting agency. Provide instructions on the level of detail necessary to make payment of the order, to include how often payments will be made, and any other pertinent information. Payment provisions should identify the address of the requesting agency for the servicing agency to submit invoices to, to include providing detailed instructions for transmitting the funds, and whether the servicing agency must submit invoices via G-Invoicing and/or the online Intra-Governmental Payment and Collection (IPAC) System. Information about IPAC is available at https://www.fiscal.treasury.gov/intragov.

(c) *Provisions for contract administration, audit, oversight, and reporting requirements*. Provide contract administration requirements and responsibilities appropriate for the type of contract and scope of work for the particular acquisition.

(d) *FAR and NFS clauses*. The order must include appropriate FAR and NFS clauses for: the accountability and reporting of property; intellectual property, including data rights, patent rights, and reportable new technology property; security; occupational health and safety; environmental requirements; and other clauses appropriate for the particular acquisition, as applicable.

(e) T*echnical representative and contact information*. The order must identify the technical representative as well as describe the individual's roles, responsibilities, and limitations.

(f) *Description of the effort*. The order must include a complete description of the supplies or services to be delivered, the scope of work, including deliverable requirements with delivery dates, and a reference to any proposal received from the servicing agency.

(g) *Authority of the order*. The order must cite the authority for each agency to enter the interagency acquisition. When NASA is the requesting agency, the Economy Act (31 U.S.C § 1535) must be cited when, in accordance with FAR 17.502-2(b), more specific statutory authority does not exist.

(h) Amount *of the order*. Identify funding (incremental or fully-funded) amount(s) and accounting and appropriation data (e.g., PR number, funds citation).

(i) *Order* n*umber*: To the extent feasible, all documents (including acceptances, contracts or orders, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings) should reference the order number and the item number.

(j) Changes *in estimated total prices*. When another agency determines that the estimated total price of the items to be acquired for NASA is not sufficient to cover the required reimbursement or is more than the amount required, a request for an amendment or modification will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, the Cognizant NASA contracting office must forward to the Civilian or DoW contracting activity an amendment or modification to the order.

1817.57 Agency reporting requirements.

Upon request, center procurement officers must submit information on interagency acquisitions to be included in the Agency's annual report to OMB to the cognizant Headquarters Office of Procurement analyst.

1817.70 – Phased Acquisition.

1817.701 Down-selections in phased acquisitions.

(a) The rationale for the use of the down-selection technique must be thoroughly justified in the acquisition planning requirement. Because the initial phase solicitation will also lead to subsequent phase award(s), the decision to use a down-selection strategy must be made prior to release of the initial solicitation. Accordingly, all phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or PSM minutes.

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

(c) With one exception, both the initial and subsequent phase(s) of an acquisition down-selection process are full and open competition (if using the progressive competition technique) the following are as follows:

1817.702 Publicizing.

(a) Each phase of a phased acquisition not performed in-house must be publicized in accordance with FAR Part 5. Time gaps between phases should be minimized by issuing a presolicitation notice of subsequent phase competition. The presolicitation notice for the initial competitive phase should also state the following:

(1) The Government plans to conduct a phased acquisition involving a competitive down-selection process. (Include a description of the process and the phases involved).

(2) Competitions for identified subsequent phases will build on the results of previous phases.

(3) The award criteria for subsequent phases will include demonstrated completion of specified previous phase requirements.

(4) The Government expects that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s). Proposals for the subsequent phase(s) will be requested from these contractors.

(5) The Government intends to issue (or not issue) a new, formal solicitation(s) for subsequent phase(s). If new solicitations are not planned, the acquisition must be identified as a "progressive competition" (reference Progressive Competition section below), and the mechanism for providing pertinent subsequent phase proposal information (e.g., statements of work, specifications, proposal preparation instructions, evaluation factors for award) must be described.

(6) Each subsequent phase of the acquisition will be publicized in accordance with FAR Part 5.

(7) Notwithstanding the expectation that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s), proposals from all responsible sources submitted by the specified due date will be considered. In order to contend for subsequent phase awards, however, such prospective offerors must demonstrate a design maturity equivalent to that of the prior phase contractors. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(b) In addition to the information in paragraph (a) of this section, the sources sought notice for the subsequent phase(s) must identify the current phase contractors.

1817.703 Progressive competition.

(a) To streamline the acquisition process, the preferred approach for NASA phased acquisitions is the "progressive competition" down-selection technique in which new, formal solicitations are not issued for phases after the initial phase. Subsequent phase proposals are requested by less formal means, normally by a letter accompanied by the appropriate proposal preparation and evaluation information.

(b) If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.102 or one of the exclusions in FAR 6.103, and only after compliance with the publicizing requirements of FAR Part 5.

(c) When using the progressive competition technique, if a prospective offeror other than one of the preceding phase contractors responds to the notice for a subsequent phase and indicates an intention to submit a proposal, the CO must provide to that offeror all the material furnished to the preceding phase contractors necessary to submit a proposal. This information includes the preceding phase solicitation, contracts, and system performance and design requirements, as well as all proposal preparation instructions and evaluation factors. In addition, the prospective offeror must be advised of all requirements necessary for demonstration of design maturity equivalent to that of the preceding phase contractors.

(d) A key feature of the progressive competition technique is that a formal solicitation is normally not required. However, when the Government requirements or evaluation procedures change so significantly after release of the initial phase solicitation that a substantial portion of the information provided in the initial phase solicitation, or contracts is no longer valid, a new solicitation must be issued for the next phase.

(e) Subsequent phase proposals should be requested by a letter including the following:

(1) A specified due date for the proposals along with a statement that the late proposal information in paragraph (c)(3) of FAR 52.215-1 Instructions to Offerors—Competitive Acquisition, applies to the due date.

(2) Complete instructions for proposal preparation, including page limitations, if any.

(3) Final evaluation factors.

(4) Any statement of work, specifications, or other contract requirements that have changed since the initial solicitation.

(5) All required clause changes applicable to new work effective since the preceding phase award.

(6) Any representations or certifications, if required.

(7) Any other required contract updates (e.g., small and small disadvantaged business goals).

(f) Certain factors may clearly dictate that the progressive competition technique should not be used. For example, if it is likely that NASA may introduce a design concept independent of those explored by the preceding phase contractors, it is also likely that a new, formal solicitation is necessary for the subsequent phase, and all potential offerors should be solicited. In this circumstance, progressive competition is inappropriate.

1817.704 Evaluation factors.

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that a preceding phase contractor will be the subsequent phase contractor, the evaluation factors for initial phase award must specifically include evaluation of the offerors' abilities to perform all phases.

1817.705 Down-selection milestones.

(a) When sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. These activities should commence as early as practicable. The initial phase contracts should be structured to allow for down-selection at a discrete performance milestone (e.g., a significant design review, contract completion) of a design maturity sufficient to allow for an informed selection decision. This will avoid time gaps between phases and eliminate unnecessary duplication of effort.

(b) The appropriate contract structure must reflect program technical objectives as well as schedule considerations. For example, if a two-phased acquisition strategy calls for formal completion of initial phase effort at Preliminary Design Review (PDR), but it is not financially practical or technically necessary for subsequent phase award and performance to carry all initial phase contractors through PDR, the initial phase contracts should be structured with a basic period of performance through a significant, discrete milestone before PDR with a priced option for effort from that milestone to PDR. The down-selection would occur at the earlier milestone, the PDR option exercised only for the down-selection winner, and the subsequent phase performance begun at the completion of the PDR option.

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EMERGENCY ACQUISITIONS

1818.1—Administration

1818.11 Pre-Emergency Planning

(a) The requiring office must include in Performance Work Statements or Statements of Work in contracts for major, on-site support activities, such as general facilities support/base operations; property management; security/guard/law enforcement services; information technology services to include information technology infrastructure maintenance and service, language substantially the same as follows:

Emergency Preparedness and Response

(a) The Contractor's obligation may include resolution of unusual or emergency situations. The Contractor may be required to assist NASA, within the general scope of work, in preparation for, or in response to emergencies. Obligations under this requirement must only arise when one or more of the criteria at FAR 18.001, enabling NASA to utilize "Emergency Acquisition Flexibilities," are met. If the emergency preparedness and response requirements result in changes to the contract, contract adjustments will be processed in accordance with the changes clause of this contract.

(b) The Center Office of Procurement should list contracts that contain the Emergency Preparedness and Response language referenced above in the Center Continuity of Operations Plans.

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1819.001— Definitions

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

1819.1— Presolicitation

1819.11 Coordination

(a) The Assistant Administrator (AA) for the Office of Small Business Programs (OSBP), or their appointee, is the Agency official responsible for interacting with the Small Business Administration (see FAR 19.102 (a)). The AA for the OSBP appoints Small Business Specialist (SBS) to support, review and make small business recommendations on acquisitions at NASA Centers.

(1) The contracting officer must submit a complete NF 1787 Small Business Coordination Package including the NF 1787, NF 1787A, "Market Research Report (pursuant to NFS CG 1810.12)," and all supporting documentation to the OSBP SBS, for the following:

(i) All acquisitions, including task or delivery orders against multiple award contracts, or a Governmentwide Acquisition Contract (GWAC), Blanket Purchase Agreement (BPA), Basic Ordering Agreement (BOA), or Federal Supply Schedule (FSS), exceeding the $2 million and not set aside for small business (set-asides defined in FAR Part 19).

(ii) All modifications adding new work that is outside the authority of any changes clause pursuant to FAR Part 43, Contract Modifications.

(iii) All acquisitions where contract bundling or consolidation are contemplated (See FAR 2.101).

(2) Exceptions. An NF 1787 is not required for the following:

(i) Orders issued under a single-award indefinite-delivery contract, BOA, or BPA.
(ii) Solicitations and contracts under the SBIR or STTR Programs, including Phase III awards.
(iii) Acquisitions from mandatory sources pursuant to FAR 8.101.
(iv) Broad Agency Announcements pursuant to FAR Part 35.
(v) Sole Source awards to small business

(b) For acquisitions that exceed $2 million and are not set aside for small business, if the OSBP SBS does not concur with the contracting officer's type of competition decision, the matter must be referred to the AA OSBP for resolution. The contracting officer must consider the AA OSBP's recommendations, pursuant to FAR 19.102(g).

(1) If the head of the contracting activity (HCA) approves the contracting officer's decision and the SBA appeals under FAR 19.102(f), the HCA must forward written notice to the AA OSBP.

(2) The following Table is provided as a guide to FAR Citations citing the nature and extent of SBA PCR Coordination:

FAR RFO Citation	Trigger Event	Required Coordination with SBA PCR	Timing Requirement
7.107-2(b)	Determination that consolidation or bundling is necessary and justified	Provide a copy of the determination to SBA	Upon making the determination
7.107-3(c)	Follow-on consolidated or bundled requirement	Notify SBA PCR and provide required data (savings, benefits, changes, etc.)	No later than 30 days before issuing the solicitation
19.102(c)	SBA PCR requests contract information	Provide PCR access to all reasonably obtainable, pertinent contract information	Upon request
19.102(e)(1)(i)	Acquisition for supplies/services currently provided by small business, but new quantity/value likely excludes small business competition	Provide proposed acquisition package to SBA PCR	At least 30 days before solicitation issuance
19.102(e)(1)(ii)	Construction acquisition that packages/consolidates discrete projects such that small businesses likely cannot compete	Provide proposed acquisition package to SBA PCR	At least 30 days before solicitation issuance
19.102(e)(1)(iii)	Any consolidated or bundled requirement	Provide full justification package to SBA PCR	At least 30 days before solicitation issuance
19.109(g)	Solicitation requires a subcontracting plan	Provide SBA PCR reasonable time to review and submit advisory findings	Before issuing the solicitation
19.206-3(d)(7)	Review of subcontracting plan and CO determination of acceptability	CO should obtain advice and recommendations from the SBA procurement center representative and the agency small business specialist.	After CO review
19.302-3(a)	Award of contract or modification containing a subcontracting plan	Notify SBA Area Director with copy of award	After award
19.302-3(b)	Commercial subcontracting plan approved	Forward commercial plan to SBA Area Director	After approval

19.302-3(c)(1)	Sealed bid subcontracting plan submitted	Provide copy to SBA PCR	After receipt
19.302-3(c)(2)	Final negotiated subcontracting plan incorporated into contract or modification	Provide copy to SBA PCR	After negotiation
19.302-3(d)	Contract modification involving subcontracting plan	Notify SBA PCR of opportunity to review	Prior to executing the modification
19.303-1(b)	Award of 8(a) Contract	All contracts and modifications must be distributed to SBA District Office servicing that concern.	At time of award and/or execution of modification.

1819.12—Contracting with the Small Business Administration (The 8(a) Program)

(a) Certain 8(a) Program acquisitions are exempt from Small Business Administration (SBA) coordination requirements pursuant to a Partnership Agreement between NASA and SBA. Contracting officers should contact the OSBP SBS to understand SBA coordination requirements or to obtain a copy of the Partnership Agreement.

(b) Before an 8(a) set aside can be issued market research must confirm that only an 8(a) small business can satisfy the requirement. Once this determination has been made, approval to issue an 8(a) set aside must be obtained from the Senior Procurement Executive.

1819.13 - Small Business Subcontracting Plans

(a) The contracting officer must use the agency-wide "Determination to Waive the Requirement for a Subcontracting Plan When No Subcontracting Possibilities Exist" procurement template when there is a determination that no subcontracting possibilities exist under the contract in accordance with FAR19.109(c)(2). The Determination must be submitted for the concurrence of the OSBP Small Business Specialist (SBS) prior to approval by the head of the contracting activity.

(b) Contracting officers, in collaboration with the OSBP SBS, may specify recommended subcontracting goals for each small business category in solicitations that require the submission of a subcontracting plan under FAR 52.219-9. Acquisition-specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with efficient performance.

(1) For solicitations that include FAR 52.219-9 and when the anticipated total value of the contract, including options, will exceed $100 million, the contracting officer, in collaboration with the OSBP Small Business Specialist (SBS), must specify baseline small business subcontracting goal targets, unless an exception in paragraph (b)(2) applies. Acquisition specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with market research

and efficient contract performance, and must be developed using the Small Business Goaling Template referenced in NFS CG 1819.

(2) Exceptions. The contacting officer's establishment of baseline small business subcontracting goal targets is discretionary when any of the following conditions are present:

(A) Commercial Acquisitions conducted under FAR Part 12;

(B) Orders placed under FAR Part 8 or FAR Part 16, including schedule orders, BPA calls, IDIQ orders, and task or delivery orders;

(C) Lack of "Meaningful" Subcontracting Opportunities. Market research demonstrates no meaningful subcontracting opportunities exist for one or more small business categories. (A meaningful subcontracting opportunity is one that represents a realistic, substantive, and technically appropriate portion of work that a capable small business can perform. (This is NOT the same as a determination that there are no subcontracting possibilities pursuant to FAR 19.109(c))

(D) New Technology Acquisitions Requiring Unconstrained Technical Evaluation. The requirement involves the acquisition of new technology in which the Government must evaluate the offeror's ability to maintain technical integrity, demonstrate innovation feasibility, or achieve cost savings, and predetermined subcontracting goals would interfere with the technical or cost evaluation.

(3) Any determination made by the Contracting Officer not to establish acquisition specific subcontracting goals must be coordinated with the OSBP SBS and documented in the contract file.

(4) When acquisition specific small business subcontracting goal targets are not established under paragraph (b)(2), the Contracting Officer, in coordination with the OSBP SBS, must develop evaluation criteria that ensures the fair, consistent, and transparent assessment of offerors' proposed subcontracting goals.

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

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

(7) The contracting officer must specify in the solicitation that Individual Subcontracting Plans must contain goals based on total contract value in addition to the goals expressed as a percentage of total subcontract dollars (refer to FAR 52.219-9(d)(1)). The contracting officer must insert the clause at FAR 1852.219-75, Individual Subcontracting Reports.

(c) The contracting officer must include the standard Small Business (SB) Subcontracting Evaluation criteria in the Instructions and Evaluation sections of the solicitation. The standard language is found in the NASA Source Selection Guide.

(d) Small business utilization, including within the small business subcategories – SDB, HUBZone, VOSB, SDVOSB, and WOSB, must be evaluated by the SSA or the evaluation team as a subfactor under the Mission Suitability factor or as a separate factor, as appropriate. The Small Business Utilization factor/subfactor must provide for a separate and distinct evaluation of small business subcontracting plans, including compliance with FAR 52.219-9. Previous small business subcontracting performance must be rated as part of the past performance evaluation factor.

(e) Contracting officers, in collaboration with the OSBP SBS, may specify recommended subcontracting goals for each small business category in solicitations that require the submission of a subcontracting plan under FAR 52.219-9.

(f) Pursuant to 15 U.S.C. 644(k)(20) and consistent with FAR 19.109(g) and 19.206-3, the contracting officer must coordinate for review solicitations that include 52.219-9, Small Business Subcontracting Plan, as well as any proposed plan, with NASA OSBP. All OSBP recommendations must be considered by the contracting officer.

(g) In addition to the subcontracting plan requirements of FAR 19.109 and the proposed small business goals, contracting officers should consider other aspects of the subcontracting plan in their proposal evaluation. The following are examples:

(i) Clear identification of which small businesses will be used in actual contract performance, and how they will be used.

(ii) Use of small business subcontractors for meaningful work, including high technology work.

(iii) Inclusion of enforceable small business subcontracting plans at lower-tier levels.

(iv) Participation as mentors in a mentor-protégé agreement under the NASA Small Business Supplier Development Program.

(v) Participation in outreach initiatives.

1819.14 Orders Under Multiple-Award Contracts

The contracting officer must consider OSBP SBS recommendations for small business reserves in multiple award procurements using full and open competition to utilize small business concerns to the maximum extent practicable. Full and open competition with reserves is a type of competition cited on the NF 1787. If the OSBP SBS does not concur with the contracting officer's type of competition decision, the matter must be referred to the AA OSBP for resolution. The contracting officer must consider the AA OSBP's recommendations pursuant to FAR 19.102(g).

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1819.2—Evaluation and Award

1819.21 Protesting a small business representation or re-representation.

(a) Any contracting officer who receives a protest must promptly forward a copy to HQ OSBP (HQ-smallbusiness@nasa.gov) upon forwarding to the SBA Government Contracting Area Director at the Government Contracting Area Office.

(i) The contracting officer must also provide the referral letter to HQ OSBP (HQ-smallbusiness@nasa.gov).

1819.22 Certificate of Competency

In compliance with FAR 19.204 the contracting officer must notify HQ OSBP (HQ-smallbusiness@nasa.gov).

1819.23 Evaluating small business subcontracting plans

An Individual Subcontracting Plan may contain goals based on total contract value for the basic contract and for each option.

1819.3 - Postaward

1819.31 Small Business Subcontracting Plans (other postaward responsibilities)

(a) Acceptance or rejection of SSRs for Individual Plans in the Electronic Subcontracting Reporting System (eSRS) or successor system will be accomplished by HQ OSBP.

(b) Master Subcontracting plans - For purposes of approving subcontracting plans, contracting officers should fully evaluate an offeror's master subcontracting plan previously approved by a contracting officer at another Federal agency. The cognizant NASA contracting officer is responsible for reviewing and approving a master subcontracting plan first submitted to NASA. When a contractor submits more than one duplicative initial master subcontracting plan to NASA in the same timeframe requiring approval, the center contracting officer administering the contract having the greatest total contract value is responsible for reviewing and approving the contractor's master subcontracting plan for the agency.

(c) The NASA approved master subcontracting plan may be used by all centers. A copy of all Center approved master subcontracting plans must be forwarded by email to HQ OSBP (HQ-smallbusiness@nasa.gov).

(d) When the contract includes a small business subcontracting plan, the contracting officer must –

(1) Review Individual Subcontract Reports (ISRs), and where applicable, Summary Subcontract Reports (SSRs), to ensure the contractor's compliance with 52.219-9, "Small Business Subcontracting Plan," within 75 days of each reporting period end date (refer to 13 CFR 125.3(d)(2), FAR 19.302-2(a), and Table 1819.31 below). This review includes ensuring that the data reported is acceptable, such as by verifying that the goals the

contractor entered on an ISR match the goals in the approved subcontracting plan and that the report includes no apparent errors, omissions, or mistakes. If ISR or SSR revisions are required, the contracting officer must provide written notice to the contractor and require a corrected report within 30 days of providing such notice.

(2) Consider the contractor's reported performance against, and efforts to achieve, small business subcontracting plan goals to make the assessments in FAR 16.402, 19.302-2(b), 42.1102(g), and NFS 1842.112, as applicable.

(3) Consult with and consider recommendations from the OSBP SBS in carrying out the responsibilities in (d)(1) and (2) above.

(4) The following table provided for reference:

Table 1819.31 - Subcontracting Plan Reports

Type of Report	Type of Plan	Report Due Date	Responsibility for Review and Action on the Report	Report review by the Contracting Officer or OSBP Due Date
Individual Subcontract Report (ISR)	Individual	May 15, Nov 14 and within 45 days of contract completion	NASA contracting officer	Jun 14 and Dec 14
	Commercial	Not required	Not required	Not required
Summary Subcontract Report (SSR)	Individual	Nov 14	NASA Office of Small Business Programs (OSBP)	Dec 14
	Commercial	Nov 14	The contracting officer that approved the Commercial Plan	Dec 14

1819.32 8(a) Program Contracts Contract administration

(a) The contracting officer must provide an executed copy of the contract to the SBA servicing District Office within 15 working days.

(b) Contracting officers must coordinate any planned requests for waiver of an 8(a)-contract termination with the HQs OP and OSBP. HQs Procurement will review and coordinate the package with HQs OSBP and will either forward the request to the SBA Administrator for signature or will advise the CO of the decision not to submit the request to the SBA.

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1819.7—Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Phase III Procurements

1819.71 Background

(a) The SBIR and STTR Programs each have three phases:

Phase I – Feasibility and proof of concept
Phase II – Prototyping and technology development
Phase III – Commercialization and Government use

(b) Commercialization includes:

- Sale of products or services to the Federal Government, and/or
- Sale of products or services in commercial markets

(c) Phase III is the mechanism Congress established to transition SBIR/STTR technology into mission-funded acquisition, production, or services.

(d) Key takeaway for contracting officers: If the Government is buying, producing, or further developing technology that originated in SBIR/STTR, Phase III authority should be considered first.

1819.72 Special Acquisition Requirement

(a) Core Requirement

When NASA (including its Government-Owned Contractor-Operated facilities or Federally Funded Research & Development Centers (GOCOs or FFRDCs) pursues research, development, production, services, or any combination related to technology developed under a Phase I or Phase II SBIR/STTR award, the contracting officer must, to the greatest extent practicable:

- Award the Phase III work to the same firm that developed the technology, and
- Clearly identify the resulting funding agreement as an SBIR/STTR Phase III award.

This requirement is established by 15 U.S.C. §638(r)(4) and applies regardless of contract type or dollar value.

(b) How Contracting Officers Implement the Requirement

To comply with the statute, the contracting officer must:

1. Make a good-faith effort to negotiate with the SBIR/STTR awardee; and
2. Conduct market research focused on whether the awardee is:
    - Available
    - Capable
    - Willing to perform the Phase III work

If it is practicable to do so, the Phase III award must be made on a noncompetitive basis to the SBIR/STTR awardee.

No additional sole-source justification is required beyond citing Phase III authority.

(c) When Direct Award Is Not Practicable

If awarding directly to the SBIR/STTR awardee is not practicable, the contracting officer must:

- Document the rationale in the contract file; and
- Provide a copy of the decision to the Small Business Administration (SBA).

After this documentation step, the contracting officer should still afford preference to the SBIR/STTR awardee through alternative means (see 1819.7307).

Important: The SBA notification must occur before pursuing other contracting approaches.

1819.73 Phase III — What Qualifies

(a) Phase III refers to work that:

- Derives from, extends, or completes prior SBIR/STTR work; and
- Is funded by sources other than SBIR/STTR program funds.

(b) Phase III work is usually focused on commercialization, but it may also include additional research and development.

(c)The following activities qualify as Phase III:

1. Commercial applications of SBIR/STTR-funded R&D financed by non-Federal sources.
2. Products or services for Government use funded by non-SBIR/STTR Federal funds.
3. Continuation of SBIR/STTR work, including additional R&D, funded by non-SBIR/STTR Federal funds.

(d) Phase III may involve:

- Products
- Production
- Services
- R&D
- Any combination of the above.

(e) Phase III awards may be issued as:

- Federal prime contracts
- Subcontracts
- Prime or subcontracts with non-Federal entities.

(f) Practical test: If the requirement would not exist “but for” the prior SBIR/STTR work, it likely qualifies as Phase III.

1819.74 Timing, Duration, and Value

(a) There are no statutory or regulatory limits on:

- The number of Phase III awards.
- The duration of Phase III awards.
- The type of contract or agreement.
- The dollar value of Phase III awards.

(b) There is also no time limit between:

- Phase I or Phase II and Phase III; or
- One Phase III award and a subsequent Phase III award.

(c) A contracting officer may enter into a Phase III award at any time with a Phase I or Phase II awardee.

1819.75 Business Size

(a) Business size according to phases:

- Phase I and Phase II awards are limited to small businesses (≤500 employees).
- No size standard applies to Phase III awards.

(b) A firm does not need to be a small business to receive a Phase III award.

(c) Common error to avoid: Do not disqualify a Phase III awardee solely because the firm has grown beyond small business size.

1819.76 Competition

(a) The competitive procedures used in SBIR/STTR Phases I and II satisfy all applicable competition requirements, including the Competition in Contracting Act (CICA).
As a result:

- No additional competition is required for Phase III awards.
- If a Justification and Approval (J&A) is required by internal procedures, it is sufficient to state that:
    - The action is an SBIR/STTR Phase III award;
    - The work derives from, extends, or completes prior SBIR/STTR work; and
    - The award is authorized under 15 U.S.C. §638(r)(4).

(b) No further sole-source justification is required.

1819.77 Other Preference Methods

(a) When a direct Phase III award to the SBIR/STTR awardee is not practicable, contracting officers should still provide preference, where feasible. Examples include:

- Brand-name references tied to the SBIR/STTR technology.
- Evaluation factors favoring subcontracting to SBIR/STTR awardees.
- Incentives for prime contractors to utilize SBIR/STTR firms.

(b) Before using an alternative approach, the contracting officer must:
- Document the rationale; and
- Provide a copy of the decision to SBA.

1819.78 Data Rights

(a) Phase III awards must include SBIR/STTR Data Rights, identical to those in Phases I and II. Key points:
- The SBIR/STTR Data Protection Period is not less than 20 years from the date of the Phase III award.
- During the protection period, properly marked SBIR/STTR Data:
  - Must be used within the Government;
  - Must not be released outside the Government without the awardee's written permission, except in limited circumstances.

(b) To receive protection:
- The award must include the SBIR/STTR Data Rights clause; and
- The awardee must properly mark the data with the required legend.

(c) Unmarked data, Form/Fit/Function data, and OMIT data are subject to Government Unlimited Rights. *(DOE has a statutory exception after the protection period.)*

1819.79 SBA Notice and Appeal Process

(a) When Notice Is Required
Notification to SBA is required when NASA (or its GOCOs/FFRDCs) intends to pursue Phase III work with an entity other than the Phase I or Phase II SBIR/STTR awardee.

(b) Required Content of the Notice
The written notice to SBA must describe:
1. The steps taken to comply with the special acquisition requirement.
2. Why award to the SBIR/STTR awardee is not practicable.
3. The intended awardee, funding instrument type, and estimated value.

(c) Appeal and Suspension
- SBA may file a notice of intent to appeal within 5 business days of receiving the notice.
- SBA may file a formal appeal within 10 business days.
- Upon notice of intent to appeal, the contracting officer must suspend further action until the Head of the Contracting Activity issues a written decision within 30 business days.

Award may proceed during an appeal only if a written public-interest determination is made and provided to SBA.

(d) Congressional Reporting

SBA is required to report all instances where an agency pursued Phase III work with an entity other than the original SBIR/STTR awardee. Please refer to the SBIR/STTR PHASE III – CONTRACTING OFFICER CHECKLIST template.

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NFS CG 1822
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1822.01—Scope

(a) Contracting officers should consult with the Center's Contractor Industrial Relations Officer (IRO) or designee when taking any of the actions prescribed or authorized in FAR part 22 or NFS Part 1822.

(b) All communications with the Department of Labor (DOL) national office of a labor organization on labor relation matters such as disputes must be conducted through the Center's Contractor IRO who will coordinate any information and requirements with the Headquarters Contractor IRO prior to contacting the DOL or the labor organization.

(c) Proposed responses to actions (e.g. labor disputes, work stoppages, plant seizures, injunctive actions, labor relations adversely affecting NASA) that are expected to substantially impact the activities of NASA or other Government agencies must be coordinated with the Center's IRO for approval by the Headquarters Contractor IRO.

(d) The NASA Industrial Labor Relations Guide provides agency-wide guidance to individuals involved in the acquisition of supplies or services (including construction) applicable to labor laws.

1822.001 Definitions.

"Agency labor advisor" is the Headquarters Contractor Industrial Relations Officer.

1822.002 Basic Labor Policies.

Reports of potential or actual labor disputes affecting NASA acquisitions, operations, or services must be coordinated through the Center's IRO for submission to the Headquarters Contractor IRO in accordance with NPR 5200.1.

1822.1—Postaward.

1822.11 Overtime approvals.

(a) The contracting officer (CO) is authorized to approve overtime premiums at Government expense. If two or more contracting offices have current contracts at a single facility and approval of overtime by one will affect the performance or cost of contracts of another, the contracting officer [must] obtain the concurrence of other appropriate approving officials and seek agreement regarding the contracts under which premiums will be approved. In the absence of evidence to the contrary, a contracting officer may rely on the contractor's written statement that approval will not affect performance or payments under any ongoing contract of another contracting office.

(b) The CO is the designated official for the purposes of FAR 22.104-2(b).

1822.2—Contract Work Hours and Safety Standards Act

1822.21 Liquidated damages and overtime pay.

For FAR 22.302 (d) the Headquarters Contractor Industrial Relations Officer (IRO) is the agency head designee.

1822.3—Labor Standards for Contracts Involving Construction

All contacts with the Department of Labor required by FAR Subpart 22.4, except for wage determinations, must be coordinated with the Center's Contractor IRO. The Center's Contractor IRO will coordinate the information and requirements with the Headquarters Contractor IRO.

1822.4— Presolicitation.

Contracting officers should obtain clarifications and coordinate with the Center's IRO concerns about the proper application of wage rate schedules to the type or types of construction project involved prior to contacting the DOL Administrator, Wage and Hour Division.

1822.41 Enforcement.

(a) The contracting officer is responsible for conducting investigations of labor violations relative to contracts under their cognizance in coordination with the Center's Contractor IRO.

(b) Reports of substantial violations or refusals to pay must be sent to the Headquarters Contractor IRO.

(c) Procurement officers must submit semiannual enforcement data (see FAR 22.404-2(d)) within 20 days after the end of the specified reporting periods to the Enterprise Procurement Integration and Excellence (EPIX) Office. Negative statements are required.

1822.42 Withholding payment.

(a) Headquarters Contractor IRO must determine the disposition of contract payments withheld or contract payments suspended and any assessed liquidated damages (see FAR 22.303-2(e)).

(b) The disposition of funds withheld or collected for liquidated damages must be in accordance with direction of the Headquarters Contractor IRO.

1822.6—Contracts for Materials, Supplies, Articles, and Equipment

1822.61 Exemptions.

Requests for exemptions (see FAR 22.601-3 (c)(1) and (2)) must be submitted in writing through the contracting officer, in coordination with the Center's Contractor Industrial Relations Officer (IRO) to the Headquarters Contractor IRO.

1822.10—Service Contract Labor Standards

1822.101 Wage determinations.

Contracting officers must obtain the assistance of their Contracting Officer's Representative and Center Contractor IRO to ensure use of the DOL Wage and Hour Division's Service Contract Act Directory of Occupations and ensure incorporation of all service employee classes (Directory and non-Directory) planned to be utilized for a particular acquisition. When completing an e98, the contracting officer must include and note any classifications and minimum hourly wage rates conformed under any predecessor contract. When a previously conformed classification is not included in the Directory, the contracting officer must include the job description on the e98. When the statement of work job title differs from the Directory job title, the contracting officer must provide a cross-reference on the e98.

1822.13—Equal Opportunity for Veterans

1822.131 Waivers.

Requests for waivers (see FAR 22.1301-3) must be submitted to the Office of the Associate Administrator for Equal Opportunity.

1822.132 Complaint procedures.

Contracting officers must submit all complaints (see FAR 22.1402) to the Office of the Associate Administrator for Equal Opportunity.

1822.14—Employment of Workers with Disabilities

1822.141 Waivers.

Requests for waivers (see FAR 22.1401-3) must be submitted to the Office of the Associate Administrator for Equal Opportunity.

1822.142 Complaint procedures.

Contracting officers must submit all complaints (see FAR 22.1402) to the Office of the Associate Administrator for Equal Opportunity.

1822.15—Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor

1822.1501 Policy.

All investigations under FAR Subpart 22.15 must be referred to NASA's Office of Inspector General.

1822.17—Combating Trafficking in Persons

1822.171 Postaward.

Contracting officers must notify their Center Contractor Industrial Relations Officer upon taking any action for violations and remedies (see FAR 22.1704).

1822.18—Employment Eligibility Verification

1822.181 Policy.

If the Head of Contracting activity waives the E-verify requirement the Enterprise Procurement Integration and Excellence (EPIX) Office must be notified. The cognizant EPIX, Procurement Analyst, will inform the Headquarters Contractor Industrial Relations Officer of any waivers granted for E-Verify.

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SUSTAINABLE ACQUISITION, MATERIAL SAFETY, AND POLLUTION

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SUSTAINABLE ACQUISITION, MATERIAL SAFETY, AND POLLUTION

1823.1—Sustainable Products

1823.11 Procedures.

(a) Every NASA procurement must be screened for the applicability of the Federal environmental programs listed in NFS CG 1823. This screening starts with the request originator, particularly for direct purchases of supplies. For service contracts and more complex acquisitions, this screening may be performed by the acquisition planning team. Request originators or the acquisition planning team, as appropriate, are also responsible for ensuring their procurement requirements comply with their center or facility's environmental management system as prescribed in NPR 8553.1, NASA Environmental Management System.

(i) NASA Form (NF) 1707, Special Approvals and Affirmations for Requisitions, Section 3, requires request originators to review the Federal environmental programs and document if they apply to the procurement, if they will be met, or if a waiver is included in the form. The center environmental organization is also available to provide support to both the contracting officer and request originator on the applicability of environmental programs. Using the NF 1707 as a guide, contracting officers must screen procurement requirements to determine if any of the environmental programs apply, to place the appropriate FAR provisions and clauses in solicitations and contracts,

(ii) Responsibility, policy and procedures for NASA's implementation of FAR 23.1 are described in the following directives:

(1) NPR 1800.1, NASA Occupational Health Program Procedures
(2) NPD 8500.1, NASA Environmental Management;
(3) NPR 8510.1, NASA Cultural Resources Management;
(4) NPR 8553.1, NASA Environmental Management System;
(5) NPR 8570.1, NASA Energy and Water Management Program;
(6) NPR 8580.1, Implementing the NASA National Environmental Policy Act and Executive Order 12114;
(7) NPR 8590.1, Environmental Compliance and Restoration Program; and
(8) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions.

(iii) NPR 8570.1, Energy and Water Management Program, provides procedural requirements for evaluating and implementing cost-effective energy efficiency, renewable energy, and water conservation measures in NASA facilities and operations. Both these NASA requirements and Federal environmental programs apply to the direct purchase of energy-or water-using products, e.g., appliances, computers, faucets, and to contracts where these products will be used by the contractor in performance of the contract, such facilities operations and maintenance (O&M) and construction contracts.

(b) The waiver must be included in the NF 1707 Subsection III, Items (d) and (e) rather than as a separate document. However, additional information may be in an attached document. All waivers must be approved by the Contracting Officer. The following waiver concurrences are required before the Contracting Officer can approve the waiver:

(i) The center or component facility environmental manager is delegated authority to make the exemption determinations regarding goods covered under the paragraphs (1), (3) and (4) portions of the FAR 23.101 definition of "Sustainable product" as well as all services related to anything meeting any of those portions of that definition.

(ii) For all hardware and software meeting the paragraph (2) portion of the definition, and for all services related to anything meeting that definition that:

(A) Are predominantly information and communication technology (ICT), information technology (IT), and/or information security (all three as defined in FAR 2.101) in nature may be approved by the HQs CIO; or

(B) Do not meet the requirements in (b)(ii)(A) above may be approved by the center or component facility energy manager.

1823.12 Sustainable Acquisition Reporting.

The Recovered Materials/Sustainability FPDS Data Element Choices must be thoughtfully and properly selected so that there is adequate data to gauge the progress and performance in the various environmental programs. Centers are encouraged to use this data to measure their progress on a regular basis as part of their self-assessments, and to make any corrections necessary to improve performance. The FPDS data will be used for semiannual reports to the Office of Management and Budget (OMB) on NASA's sustainable acquisition performance.

1823.13 Agency Programs.

(a) Responsibility, policy and procedures for NASA's implementation of FAR Part 23 are described in the following directives:

(i) NPR 1800.1, NASA Occupational Health Program Procedures
(ii) NPD 8500.1, NASA Environmental Management;
(iii) NPR 8510.1, NASA Cultural Resources Management;
(v) NPR 8553.1, NASA Environmental Management System;
(vi) NPR 8570.1, NASA Energy and Water Management Program;
(vii) NPR 8580.1, Implementing the NASA National Environmental Policy Act;
(viii) NPR 8590.1, Environmental Compliance and Restoration Program; and
(ix) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions.

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NFS CG 1824
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NFS CG 1824
PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

1824.1—Protection of Individual Privacy

1824.11 General.

(a) For NASA rules and regulations implementing the Privacy Act, see Privacy Act - NASA Regulations, (14 CFR 1212). The Act applies consent to any contractor maintaining a system of records to accomplish a NASA mission.

(b) Systems of records to which the Privacy Act does not apply include—

(i) Records maintained by a contractor on individuals employed by the contractor on its own behalf for the purpose of providing supplies and services to the Federal Government; and

(ii) Records that—

(A) Are maintained under contracts with educational institutions to provide training;

(B) Are generated on students working under the contract relative to their attendance (admission forms, grade reports, etc.);

(C) Are similar to those maintained on other students; and

(D) Are commingled with their records on other students.

1824.2—Freedom of Information Act

1824.21 Policy.

(a) For NASA implementation of the Freedom of Information Act, see Availability of Agency Records to Members of the Public (14 CFR 1206).

(b) When the contracting officer receives a Freedom of Information Act (FOIA) request from the public, the contracting officer must immediately refer the request to NASA's Principal Agency FOIA Officer. NASA's FOIA Points of Contact are located here (see footer).

(c) All procurement-related records or information must be maintained in accordance with the Federal Records Act and Freedom of Information Act (FOIA) requirements. These records are subject to FOIA and may be requested by the public. Contracting officers must review all procurement-related records, in coordination with OGC, for sensitive content as appropriate. Documentation should be organized to facilitate timely FOIA searches and responses, and best practices include segregating releasable and non-releasable material during record creation.

1824.22 General public.

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

(1) The names of firms invited to submit offers.
(2) The names of firms that attended any pre-bid or pre-proposal conferences.

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

1824.23 Requests from Members of Congress.

All proposed replies to congressional inquiries must be prepared and forwarded, with full documentation, to the Headquarters Office of Legislative and Intergovernmental Affairs for approval and release.

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NFS CG 1825
FOREIGN ACQUISITIONS

1825.1—Buy America – Supplies

1825.11 General.

(a) To the maximum extent possible, requiring organizations must identify items that were previously acquired from a foreign supply source that the organization anticipates obtaining from domestic sources in the future.

(b) When items previously purchased from foreign sources will now be purchased domestically, contracting officers must ensure the requiring organization completes a Made In America (MIA) Success Stories entry.

1825.12 Exceptions.

(a) When the nonavailability exception in FAR 25.103(b) applies, contracting officers must use the agency-wide "Buy American Act Nonavailability Determination (BAAND) – Supplies" procurement template to request approval of a waiver to the Buy American Act.

(b) The Senior Accountability Official (SAO) or designee is the concurring authority for all BAAND waivers. The Senior Advisor for the Office of International and Interagency Relations (OIIR) is designated as NASA SAO for domestic sourcing.

(c) *For all actions:* Submit BAAND waivers via NASA's Enterprise Acquisition Repository (NEAR) to the cognizant Headquarters (HQ) Office of Procurement (OP) Procurement Analyst for required concurrences. After receiving concurrence notification, follow FAR 25.103(b)(2)(iii) to submit the waiver to the Made in America Office (MIAO) for review. **Do not proceed with award** until MIAO review results are received, dispositioned, and retained in the NEAR file. Contracting officers must adhere to the following concurrences prior to obtaining the head of the contracting activity approval.

(1) *Actions above the simplified acquisition threshold:* HQs OP Procurement Analyst coordination, and then concurrence by the Senior Procurement Executive (SPE) and SAO or designee.

(2) *Actions at or below the simplified acquisition threshold (NASA Shared Services Center (NSSC) procurements)*: EPIX Director and SAO or designee's concurrence.

1825.9—Customs and Duties

1825.91 Exempted supplies.

(a) Through designation by the Assistant Administrator for Procurement, procurement officers are authorized to certify duty free entry for articles imported into the United States when procured by NASA, other U.S. Government agencies, or their contractors or subcontractors,

provided title to the articles is or will be vested in the U.S. Government in accordance with the terms of the contract or subcontract.

(b) Procurement officers must complete the certification set forth in 14 CFR 1217.104(a) or (c) using the agency-wide "Duty-Free Certificate" procurement template. Per 14 CFR 1217.103(b), all duty-free certificates must be concurred by the NASA Center Chief Counsel.

(c) Upon arrival of foreign supplies at a port of entry, the consignee, generally the commercial carrier or its agent (import broker), will file CBP Form 7501, Entry Summary.

(d) Procurement officers must maintain a record of each certification and make this record available for periodic review by NASA Headquarters and the U.S. Customs Service.

1825.10—Additional Foreign Acquisition Regulations

1825.101 Waiver of right to examination of records.

(a) The Administrator is the approval authority for the determination and findings (D&F) to use Alternate III of FAR clause 52.215-2, *Audit and Records-Negotiation*. This alternate waives NASA's right to examine any of the contractor's pertinent records involving transactions related to the contract or a subcontract and to interview any current employee regarding such transactions.

(b) The D&F must address FAR 25.1001(b) requirements, include supporting information, and be submitted via NEAR to the cognizant HQ Office of Procurement, Procurement Analyst for Headquarters review and approval.

1825.102 Use of foreign currency.

The Office of the Chief Financial Officer (OCFO) Deputy Chief Financial Officer for Finance is the designated official for making the determination of the feasibility of using excess or near-excess currency. See Chapter 10 of NASA Procedural Requirements (NPR) 9630.1, Accounts Payable Disbursements.

1825.71—Foreign Contract and International Agreement Clearances

1825.711 Scope.

This section prescribes policy and procedures for pre-award clearance of foreign contracts, and for coordination of international agreements that contemplate award of contracts using appropriated funds.

1825.712 Definition.

"Foreign contract acquisition" as used in this section, means the acquisition by negotiation of supplies or services, including construction work and research and development when the work is to be performed outside the United States by a foreign government or instrumentality thereof or by a foreign private contractor. The term does not include—

(1) Negotiation of contracts with domestic concerns involving work to be performed outside the United States; or

(1) Contracts with the Canadian Commercial Corporation.

1825.713 Foreign Contracts.

(a) In collaboration with the requirements owner, the contracting officer must coordinate with the cognizant Headquarters, Office of Procurement, Procurement Analyst before initiating any foreign contract acquisition if the acquisition is valued above $100,000 or involves export control issues. An acquisition involves export control issues if it entails —

(1) Importing or exporting goods or technical data from or to a country listed in 22 CFR 126.1(a) or (d) (Subchapter M, the International Traffic in Arms Regulations);

(2) Importing or exporting Defense Articles or Defense Services on the United States Munitions List at 22 CFR Part 121 which would require NASA to obtain a license from the State Department's Directorate of Defense Trade Controls;

(3) Exporting goods or technologies on the Commerce Control List at 15 CFR Part 774 and that require NASA to obtain either a license from the Commerce Department's Bureau of Industry and Security;

(4) Importing and/or exporting goods or technologies from or to an entity listed in 15 CFR Part 744, Supplements No 4, 6, and 7, or to any destination listed in 15 CFR Part 740, Supplement 1, Country Group D, or that otherwise require NASA to obtain a license from the Commerce Department's Bureau of Industry and Security; or

(5) Exporting and/or importing of goods, technology, or services to or from any entity subject to transaction control, embargo, or sanctions pursuant to 31 CFR Chapter V.

(b) All coordination required between NASA and the Departments of Commerce, State, and the Treasury regarding foreign contract acquisitions must be accomplished through the Headquarters Office of International and Interagency Relations (OIIR).

(c) When an acquisition meets the criteria in paragraph (a) of this section, the requiring organization must use the agency-wide "Request to Award A Foreign Contract" procurement template to request clearance to award a contract to a foreign entity from NASA Headquarters OIIR. The lead-time for obtaining an export license is 60 to 90 days; therefore, requests for clearance should be initiated as early as possible.

(d) The request to award a foreign contract must be submitted to NASA HQs OP, Procurement Analyst via NEAR. The HQ OP Procurement Analyst will then coordinate the request with the HQ OIIR.

1825.714 International Agreements.

(a) Headquarters Office of Procurement, Procurement Analyst concurrence is required for all Memoranda of Understanding with foreign entities and for other types of international

agreements which contemplate the procurement of goods or services using U.S. appropriated funds.

(b) Headquarters Office of Procurement, Procurement Analyst concurrence is not required for agreements that are done solely on a cooperative basis.

1825.72—Contractor Travel Outside the United States

1825.721 Requirement Statements.

(a) When it is anticipated that contractor employees will or may be required to travel internationally on official NASA business, the contracting officer must insert the following agency-wide requirement statements in Section C of the solicitation and contract:

(1) Counterintelligence Briefings; and

(2) Foreign Travel by Contractor employees on NASA Official Business.

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OTHER SOCIOECONOMIC PROGRAMS

1826.3 Historically Black Colleges and Universities and Minority Institutions

1826.31 General

(a) NASA's policy is to attain an Agency-wide goal of not less than one percent for participation by Historically Black Colleges and Universities (HBCU) and Minority Institutions (MI) in NASA contracts, pursuant to 51 U.S.C. 30304 (Pub. L. 111-314). Agency progress towards this goal is calculated as the sum of prime HBCU/MI dollars as reported in FPDS-NG and subcontracted HBCU/MI dollars as reported in eSRS or successor system, divided by total small business eligible dollars. "Small Business Goaling" is a standard report in the SAM.gov Data Bank and can be used to retrieve total small business eligible dollars.

(b) Heads of contracting activities (HCAs) must ensure that contracting personnel maintain awareness of NASA's goal for contracts and subcontracts with HBCUs and MIs and take reasonable action to increase their participation in NASA programs.

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PATENTS, DATA, AND COPYRIGHTS

1827.1 – General

1827.11 Applicability.

The contracting officer must consult with the center patent or intellectual property counsel and the installation software release authority to determine when to use the clauses and alternates listed in either FAR 27 or NFS 1827.

1827.3—Patent Rights under Government Contracts

1827.31 Solicitation provisions and contract clauses.

(a) Either the New Technology Representative or the Patent Representative, in consultation with each other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.

(b) The contracting officer must consult with the center patent or intellectual property counsel regarding the use of 1852.227-11 Alternate V in contracts for the performance of services at a NASA installation when a contractor is directed to fulfill the Government's obligations under a Cooperative Research and Development Agreement (CRADA) authorized by 15 U.S.C. 3710a. Alternate V may be included in, or added to, the contract when it is contemplated that a Contractor will be directed to fulfill NASA's obligations under a CRADA, but should be added prior to the contractor performing work under the CRADA.

(c) *Contractor petitions for waiver of title.* The Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or which may be made in the performance of NASA contracts with other than a small business firm or a nonprofit organization if the Administrator determines that the interests of the United States will be served. When a waiver of title under NFS 1827(e)(1)(ii) is granted, the contractor's right to title, the rights reserved by the Government, and other conditions and obligations of the waiver, such as requirements for reporting and filing patent applications on waived inventions, are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

(d) *All other petitions.* All other petitions will be processed by installation Patent

Counsel and forwarded to the Board. The Board must notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver.

(d)(1) Contracts for any of the following purposes may be considered to involve the performance of work of the type described in NFS 1827.303(d)(1) (these examples are illustrative and not all inclusive):

(i) Conduct of basic or applied research.

(ii) Development, design, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements.

(iii) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique.

(iv) Testing of, evaluation of, or experimentation with a machine, process, concept, or technique to determine whether it is suitable or could be made suitable for a NASA objective.

(v) Construction work or architect-engineer services having as a purpose the performance of experimental, developmental, or research work or test and evaluation studies involving such work.

(vi) The operation of facilities or the coordination and direction of the work of others, if these activities involve performing work of any of the types described in paragraphs (i) through (v) of this section.

(d)(2) A NASA-wide list of Center New Technology Representatives is shown at [https://invention.nasa.gov/contact-us.php

(e) For NASA contracts with other than a small business firm or a nonprofit organization, where title to any subject invention vests in NASA, the contractor is normally granted, in accordance with the NASA Patent Waiver Regulations, 14 CFR 1245.108, a revocable, nonexclusive, royalty-free license in each patent application filed in any country and in any resulting patent. The license extends to any of the contractor's domestic subsidiaries and affiliates within the corporate structure and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right are transferable only with the approval of the Administrator, except when transferred to the successor of that part of the contractor's business to which the invention pertains.

1827.32 General Procedures.

(a) A waiver may be requested in advance of contract award for any subject invention or class of subject inventions or during contract performance for individually identified subject inventions reported under the contract. For individual identified subject inventions, the petition must identify each invention with particularity (e.g., iEdison's Invention Report Number or by title and inventorship). For advance waivers, the petition must identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of "any invention or class of inventions," the petition must be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of technology.

(b) Securing invention rights acquired by the Government -- When the Government acquires the entire right to, title to, and interest in an invention under the clause at 1852.227-70, New

Technology—Other than a Small Business Firm or Nonprofit Organization, a determination of title is to be made in accordance with Section 20135(b) of the Act (51 U.S.C. 20135(b)), and reflected in appropriate instruments executed by NASA and forwarded to the contractor by the contracting officer.

(c) Licenses and assignments under contracts with nonprofit organizations. The Headquarters Agency Counsel for Intellectual Property (ACIP) is the approval authority for assignments. Contractor requests should be made to the Patent Representative designated in the clause at 1852.227-72 and forwarded, with recommendation of the Patent Representative, to the ACIP for approval.

(d) In contracts with an estimated cost in excess of $2,500,000 (or less when appropriate) that contain the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization, the contracting officer may require the contractor to submit, for post-award Government approval, a detailed plan for new technology reporting that demonstrates an adequate understanding of and commitment to the reporting requirements of the clause.

(e) For NASA contracts with other than a small business firm or a nonprofit organization, where title to any subject invention vests in NASA, the contractor is normally granted, in accordance with the NASA Patent Waiver Regulations, 14 CFR 1245.108, a revocable, nonexclusive, royalty-free license in each patent application filed in any country and in any resulting patent. The license extends to any of the contractor's domestic subsidiaries and affiliates within the corporate structure and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right are transferable only with the approval of the Administrator, except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(f) The contracting officer must not approve release of final payment under the contract and, if applicable, any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence.

(g) For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at 1852.227-70, New Technology-Other than a Small Business Firm or Nonprofit Organization, the contracting officer must notify the New Technology Representative as to which center organization has technical cognizance of the contract.

(h) Duties and responsibilities of the New Technology Representative:

(1) In consultation with the Contracting Officer's Representative (COR), review the technical progress of work performed under the contract to ascertain whether the contractor and its subcontractors are complying with the reporting and recordkeeping requirements of the New Technology—Other than a Small Business Firm or Nonprofit Organization clause or the Patent Rights—Ownership by the Contractor clause.

(2) Forward to the Patent Representative copies of all contractor and subcontractor disclosures of reportable items and of subject inventions, interim new technology

summary reports, final new technology summary reports, and utilization reports, as well as a copy of any written statement or correspondence with respect to such matters submitted therewith.

(3) Consult with the Patent Representative whenever a question arises as to whether a given reportable item is to be considered a subject invention and whether it was made in the performance of work under the contract.

(4) Forward to the Patent Representative all correspondence relating to invention waivers under the New Technology-Other than a Small Business Firm or Nonprofit Organization clause or election of title under the Patent Rights—Ownership by the Contractor clause.

(5) Upon receipt of the final new technology summary report required by the clause, and upon determination that the contract work is complete, consult with the COR to determine whether the contractor has complied with the clause's invention reporting requirements. If so, the New Technology Representative must certify compliance, obtain the Patent Representative's concurrence, and forward the certification to the contracting officer.

(i) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.

As to any subject invention, the Patent Representative must—

(i) Ensure that the contractor has provided sufficient information to protect the Government's rights and interests in it and, if applicable, to permit the preparation, filing, and prosecution of patent applications;

(ii) Determine inventorship;

(iii) Ensure the preparation of instruments establishing the Government's rights; and

(iv) Conduct selected reviews to ensure that subject inventions are identified, adequately documented, and timely reported or disclosed.

(j) The contractor is required to report their inventions into the National Institute of Standards and Technology (NIST) iEdison system, online at https://www.nist.gov/iedison, rather than NASA's E-NTR (New Technology Reporting System). Only NASA civil servant inventors may continue to input only their own inventions into e-NTR. If any inventor or co-inventor is not a NASA civil servant, then the invention must be reported into iEdison rather than E-NTR]. The contractor will not be considered to have completed the input until the iEdison system assigns the inputted report an Invention Report Number. The contractor must then send that report number to the New Technology Representative, the Patent Representative, the COR and the CO. When a federal government employee is a coinventor, the contractor must

also supply the New Technology Representative an irrevocable power for the Government to inspect and make copies of the patent application file. The New Technology Representative may also request from the contractor the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.]

(k) Contracting Officer actions: For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at 1852.227-70, New Technology-Other than a Small Business Firm or Nonprofit Organization, the contracting officer shall take the following actions:]

(1) Furnish, or require the contractor to furnish, directly to the New Technology Representative and the Patent Representative, a copy of each contract (and modifications thereto), and copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract.

(2) Use iEdison report functionality instead of New Technology Summary Reports (NTSRs). New Technology Summary Reports (NTSRs) are no longer required (that includes both interim and final reports). Instead, contracting officers may obtain various reports in the iEdison system for the same information as that provided on the previous NTSRs. To contact the NASA iEdison Administrator, send an e-mail to agency-iedison@mail.nasa.gov.

(l) New Technology Representative actions: The New Technology Representative must take the following actions:

(1) In consultation with the Contracting Officer's Representative (COR), review the technical progress of work performed under the contract to ascertain whether the contractor and its subcontractors are complying with the reporting and recordkeeping requirements of the New Technology—Other than a Small Business Firm or Nonprofit Organization clause or the Patent Rights—Ownership by the Contractor clause.

(2) Forward to the Patent Representative copies of all contractor and subcontractor disclosures of reportable items and of subject inventions and utilization reports, as well as a copy of any written statement or correspondence with respect to such matters submitted therewith.

(3) Consult with the Patent Representative whenever a question arises as to whether a given reportable item is to be considered a subject invention and whether it was made in the performance of work under the contract.

(4) Forward to the Patent Representative all correspondence relating to invention waivers under the New Technology-Other than a Small Business Firm or Nonprofit Organization clause or election of title under the Patent Rights—Ownership by the Contractor clause.

(5) Upon determination that the contract work is complete, consult with the COR to determine whether the contractor has complied with the clause's invention reporting requirements. If so, the New Technology Representative must certify compliance, obtain the Patent Representative's concurrence, and forward the certification to the contracting officer.

(m) Patent Representative actions: The Patent Representative must:

(1) Review each reportable item to ascertain whether it is to be considered a subject invention,

(2) Obtain any determinations required by paragraph (b) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization, and

(3) Notify the contractor.

(4) As to any subject invention, the Patent Representative must —

(i) Ensure that the contractor has provided sufficient information to protect the Government's rights and interests in it and, if applicable, to permit the preparation, filing, and prosecution of patent applications;

(ii) Determine inventorship;

(iii) Ensure the preparation of instruments establishing the Government's rights; and

(iv) Conduct selected reviews to ensure that subject inventions are identified, adequately documented, and timely reported or disclosed.

(n) Actions of either the New Technology Representative or the Patent Representative: Either the New Technology Representative or the Patent Representative, in consultation with each other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.]

(o) Final payment actions: The contracting officer must not approve release of final payment under the contract and, if applicable, any reserve set aside under the

withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence.

1827.33 General – NASA administration of the patent rights clauses.

(a) For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at 1852.227-70, New Technology-Other than a Small Business Firm or Nonprofit Organization, the contracting officer must take the following actions:

(1) Furnish, or require the contractor to furnish, directly to the New Technology Representative and the Patent Representative, a copy of each contract (and modifications thereto), and copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative or Patent Representative indicates otherwise.

(2) Notify the New Technology Representative as to which center organization has technical cognizance of the contract.

(b) The New Technology Representative must take the following actions:

(1) In consultation with the Contracting Officer's Representative (COR), review the technical progress of work performed under the contract to ascertain whether the contractor and its subcontractors are complying with the reporting and recordkeeping requirements of the New Technology—Other than a Small Business Firm or Nonprofit Organization clause or the Patent Rights—Ownership by the Contractor clause.

(2) Forward to the Patent Representative copies of all contractor and subcontractor disclosures of reportable items and of subject inventions, interim new technology summary reports, final new technology summary reports, and utilization reports, as well as a copy of any written statement or correspondence with respect to such matters submitted therewith.

(3) Consult with the Patent Representative whenever a question arises as to whether a given reportable item is to be considered a subject invention and whether it was made in the performance of work under the contract.

(4) Forward to the Patent Representative all correspondence relating to invention waivers under the New Technology-Other than a Small Business Firm or Nonprofit Organization clause or election of title under the Patent Rights—Ownership by the Contractor clause.

(5) Upon receipt of the final new technology summary report required by the clause, and upon determination that the contract work is complete, consult with the COR to determine whether the contractor has complied with the clause's invention reporting requirements. If so, the New Technology Representative must certify compliance, obtain the Patent Representative's concurrence, and forward the certification to the contracting officer.

(c) The Patent Representative must review each reportable item to ascertain whether it is to be considered a subject invention, obtain any determinations required by paragraph (b) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization, and notify the contractor. As to any subject invention, the Patent Representative must —

(1) Ensure that the contractor has provided sufficient information to protect the Government's rights and interests in it and, if applicable, to permit the preparation, filing, and prosecution of patent applications;

(2) Determine inventorship;

(3) Ensure the preparation of instruments establishing the Government's rights; and

(4) Conduct selected reviews to ensure that subject inventions are identified, adequately documented, and timely reported or disclosed.

(d) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at 1852.227-70, New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.

(e) The contracting officer must not approve release of final payment under the contract and, if applicable, any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence.

1827.4 —Rights in Data and Copyrights

1827.41 Limited rights data and restricted computer software.

(a) Protection of limited rights data specified for delivery. The contracting officer must consult with the center patent or intellectual property counsel regarding any questions concerning the delivery of limited rights data and/or the use of Alternate II that may arise from an offeror's response to the provision at FAR 52.227-15, Representation of Limited Rights Data and Restricted Computer Software, or during negotiations.

(b) If the basis for permitting the assertion under NFS 1827.404-4(b)(1) is subparagraph (i), then the permission must be granted in writing by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances that the computer software will be incorporated into an existing or proposed new commercial computer software product line within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for commercial use, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.

(i) If the basis for permitting the assertion under NFS 1827.404-4(b)(1) is subparagraph (ii), then the permission must be granted in writing by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate

assurances that the computer software will be incorporated into an existing or proposed new open source project within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for open source development, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.

(ii) If the basis for permitting the assertion under NFS 1827.404-4(b)(1) is subparagraph (iii), then the permission must be granted in writing that contains appropriate assurances that the agreed contributions to the Government are fulfilled, with contingencies enabling the Government to obtain assignment of copyright if such contributions do not occur in order to prevent the computer software from being suppressed or abandoned by the contractor.

(iii) If the basis for permitting the assertion under NFS 1827.404-4(b)(1) is subparagraph (iv), then the permission must be granted in writing by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances as required by the Agency Counsel for Intellectual Property, or designee, including at the very least the right to obtain assignment of copyright in order to prevent the computer software from being suppressed or abandoned by the contractor.

(c) Protection of restricted computer software specified for delivery. The contracting officer must consult with the center patent or intellectual property counsel regarding any questions concerning the delivery of restricted computer software and/or the use of Alternate III that may arise from an offeror's response to the provision at FAR 52.227-15 Representation of Limited Rights Data and Restricted Computer Software, or during negotiations.

1827.42 Data rights in basic and applied research.

Contracting Officers must consult with the Center Patent or Intellectual Property counsel to determine the applicable rights in data clauses for basic or applied research contracts performed solely by a college or university to include determining whether the use of FAR 52.227-14 Alternate IV in lieu of 52.227-14 paragraph (c)(1) is appropriate.

1827.43 Contractor's release, publication, and use of data.

(a) In contracts involving cosponsored research and development that require the contractor to make substantial contributions (*e.g.*, of a value of approximately 50 percent of the total cost of the contract (*i.e.*, Government, contractor, and/or third party paid costs, by cost-sharing or by repayment of nonrecurring costs) of funds or resources; and

(1) The contractor's and the Government's respective contributions to any item, component, process, or computer software, developed or produced under the contract <u>are not readily segregable</u>, the contracting officer may limit the acquisition of, or acquire less than unlimited rights to, any data developed and delivered under the contract.

(i) Lesser rights should, at a minimum,

(A) Assure use of the data for agreed-to Governmental purposes (including re-procurement rights as appropriate), and

(B) Address any disclosure limitations or restrictions to be imposed on the data.

(i) Consideration may be given to requiring the contractor to directly license others if needed to carry out the objectives of the contract.

(ii) As a guide, a clause may be appropriate when:

(A) It is used for all or for only specifically identified tasks or work elements under the contract. In the latter instance, its use will be in addition to whatever other data rights clause is prescribed under this subpart, with the contract specifically identifying which clause is to apply to which tasks or work elements.

(B) Where the purpose of the contract is not to either:

(i) Produce data for dissemination to the public, or

(ii) Develop or demonstrate technologies that will be available, in any event, to the public for its direct use.

(2) Where the contractor's contributions are readily segregable (by performance requirements and the funding for the contract) and so identified in the contract, any resulting data may be treated under this clause as limited rights data or restricted computer software in accordance with 27.404-2(c) or (d), as applicable; or if this treatment is inconsistent with the purpose of the contract, rights to the data may, if so negotiated and stated in the contract, be treated in a manner consistent with paragraph (a) of this section.

(b) When any permission to copyright is granted, any copyright license retained by the Government must be of the same scope as set forth in subparagraph (c)(1) of the clause at FAR 52.227-14 and without any obligation of confidentiality on the part of the Government unless, in accordance with NFS 1827.404-4(b)(2)(iii), the contributions of the Contractor are considered "substantial" for the purposes of FAR 27.408 (i.e., approximately 50 percent), in which case rights consistent with FAR 27.408 may be negotiated for the computer software in question.

1827.44 Unauthorized, omitted, or incorrect markings.

(a) *Unauthorized marking of data.* The contracting officer must consult with the center patent or intellectual property counsel before taking any action regarding unauthorized markings of data under paragraph (e) of the clause at FAR 52.227-14, Rights in Data—General.

(b) *Omitted or incorrect notices markings.* The contracting officer must consult with the center patent or intellectual property counsel before agreeing to add or correct any markings on data under paragraph (f) of the clause at FAR 52.227-14, Rights in Data—General.

1827.45 Commercial computers software.

When contracting for commercial computer software, follow FAR part 12 procedures. (See FAR subpart 12.107.)

1827.46 Other existing data.

See NFS 1827.48(i) for use of the clause 1852.227-88, Government-furnished computer software and related technical data.

1827.47 General - Acquisition of data.

Requirements for delivering technical data relating to standard commercial products and commercial services, components, or processes should be kept to the absolute minimum consistent with the purpose for which they are being procured. Normally, a vendor's manuals for installation, operation, or maintenance and repair and/or form, fit, and function data are adequate.

1827.48 Solicitation provisions and contract clauses.

(a) In contracts for basic or applied research to be performed solely by universities and colleges, the contracting officer must consult with the center patent or intellectual property counsel regarding the addition of subparagraph (4) as set forth at NFS clause1852.227-14 to paragraph (d) of the clause at FAR 52.227-14 and they will consider the guidance provided at FAR 27.404-4.

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

(c)The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for use of Alternate I of the clause at FAR 52.227-14. An example of its use is where the principal purpose of the contract (such as a contract for basic or applied research) does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or under any anticipated follow-on contracts relating to the same subject matter).

(d) The contracting officer must review the disclosure purposes listed in FAR 27.404-2(c)(1)(i)-(v) and, in consultation with the center patent or intellectual property counsel, determine which disclosure purposes apply based on the nature of the acquisition, and add them to paragraph (g)(3) of Alternate II of the clause at FAR 52.227-14, Rights in Data—General. If none apply, the CO must insert "none." Additions to those specific purposes listed may be made only with the approval of the procurement officer and concurrence of the center patent or intellectual property counsel.

(e)The contracting officer must consult with the center patent or intellectual property counsel regarding the acquisition of restricted computer software with greater or lesser rights than those set forth in Alternate III of the clause at FAR 52.227-14, Rights in Data--General. Where it is impractical to actually modify the notice of Alternate III, such greater or lesser rights may be indicated by express reference in a separate clause in the contract or by a collateral agreement that addresses the change in the restricted rights.

(f) The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for the use of Alternate IV in any contract other than a contract for basic or applied research to be performed solely by a college or university (but not for the management or operation of Government facilities). See the guidance at FAR 27.404-3(a)(3).

(g) Normally the clause at 52.227-20, Rights in Data—SBIR Program, is the only data rights clause used in SBIR contracts However, if during the performance of an SBIR contract (Phase I, Phase II, or Phase III) the need arises for NASA to obtain delivery of limited rights data or restricted computer software as defined in the clause at FAR 52.227-20, and the contractor agrees to such delivery, the limited rights data or restricted computer software may be acquired by modification of the contract (for example, by adding the clause at FAR 52.227-14

with any appropriate Alternates and making it applicable only to the limited rights data or restricted computer software to be delivered), or under a separate agreement, using the rights and related restrictions as set forth in FAR 27.404-2 as a guide.

(h) The contracting officer must consult with the center patent or intellectual property counsel and the installation software release authority to determine when to use the clauses and alternates listed in this paragraph.

(i) The contracting officer must consult with the center patent or intellectual property counsel and the installation software release authority to determine when to use the clause at 1852.227-88, Government-furnished computer software and related technical data.

1827.5 Technical Autonomy – Right to Repair.

1827.51 Definitions.

Right to repair means the ability of the Government to diagnose, maintain, repair, reconstruct, remanufacture, re-flash, or rebuild the product(s) delivered under the contract without waiting for the contractor to perform these tasks, and without negating any warranty clause or otherwise excusing the contractor from performance obligations. The right to repair supersedes any requirement, clause, or provision stated elsewhere in this contract that requires the contractor to attempt repair before the Government can attempt repair. The term "right to repair" can be used interchangeably with "right to repair".

Use, Maintenance, Repair Data and Instructions or UMRDI both mean: All documentation, data, and other information necessary to enable the Government to perform maintenance and repair such as specifications, parts, tools, schematics, software, and technical documentation necessary for internal manufacturing, repair, and operations.

Warranty is defined in FAR 2.101, Definitions.

1827.52 General

Technical autonomy is essential to achieving the nation's space policy and maintaining US leadership in space exploration. NASA must be equipped to lead the most complex engineering and operational challenges, ensuring resilience, agility, and innovation in every mission. This includes the ability to repair, operate, or maintain critical components to reduce external dependencies when necessary. This ability is also referred to as the "right to repair" or the "right of repair". In order to perform these activities, NASA must have access to applicable specifications, parts, tools, schematics, software, and technical documentation. Understanding, acquiring, and enforcing the government's rights in intellectual property is key to technical autonomy.

1827.53 Right to repair -- data rights --

(a) Unlimited data rights –
  (1) Under FAR 52.227-14, the government has unlimited rights in data delivered under the contract that are:

(i) Data first produced in the performance of the contract.
(ii) Manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished under the contract.
(iii) Data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. (Form, fit, and function data)
(iv) All other data delivered under this contract unless provided otherwise in accordance with the protection of limited rights data and restricted computer software.

(2) Having unlimited data rights gives the government the technical autonomy to engage in right of repair activities by itself or through third parties, however, without *possession* of the data, these rights are meaningless. It is crucial that contracting officers work closely with customer organizations to develop DRDs that clearly identify the specific data that should be delivered to ensure repairability, when such data should be delivered, and how to be delivered. Unless specified in DRDs, the contractor generally will not be required to provide the government with requested data. If identified, however, the contractor must provide the data.

(b) Limited data rights -- Contractors may provide data to the government with restrictions on its use in the form of a limited rights notice. Limited rights data is generally data developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The government's use of limited rights data is restricted unless certain language in the 52.227-14 Alternate II (as modified by NFS 1852.227-14) clause is included. Absent the inclusion of this language, the government's use of a contractor's limited rights data is constrained, even if it is specified as a deliverable. Including the specific language in the limited right notice is critical for the government to exercise its technical autonomy as it permits the use of limited rights data for certain enumerated reasons, such as use by support services contractors, or for maintenance, repair, or overhaul, among other reasons.

(c) Data marking -- The contractor is responsible for properly marking data delivered under the contract. The contracting officer must promptly review such markings with the contracting officer's representative, technical monitor, and intellectual property counsel, as necessary, to validate such markings. If the markings do not appear valid, the contracting officer should address any such markings in accordance with the procedures set forth in 52.227-14 regarding the unauthorized marking of data. Unauthorized or overly restrictive markings will impact the government's ability to use data in the future.

1827.54 Ordering additional data from the contractor

Under FAR 52.227-16, contracting officers can order any data first produced or specifically used in the performance of the contract, even if it was not required to be delivered under the contract, any time during performance of the contract and up to three years after acceptance of all items to be delivered under the contract. The government should not incur additional costs to obtain the data other than costs incurred by contractors for converting the data into the prescribed form, for reproduction, and for delivery. As such, contracting officers should insert the clause at 52.227-

16 when it may not be feasible to ascertain all the data requirements needed at contract award to ensure technical autonomy.

1827.55 Government performance of maintenance, repair, or overhaul work and obtaining UMRDI

In contracts that utilize the data rights clauses discussed above, the clauses provide the government with the rights necessary to perform maintenance, repair, or overhaul work (repair work) using data delivered under the contract, and these activities are not subject to additional contractor restrictions. All documentation, data, and other information necessary to enable the government to perform these activities is referred to as Use, Maintenance, Repair Data and Instructions (UMRDI). For solicitations that include products or supplies that may require repair work, contracting officers must include the requirements statement and DRD required by paragraph (d) below in accordance with the prescription stated in paragraph (d). Requirements statement C-301.5, Right to Repair; and DRD template entitled, "Use, Maintenance, Repair Data and Instructions (UMRDI)", outline the delivery of UMRDI, as the delivery of the UMRDI is critical to ensuring that NASA can utilize the rights outlined above to perform the repair work. Contracting officers should ensure that all personnel involved in the acquisition and contract administration understand the government's rights in data and are equipped to identify issues, such as unauthorized markings that would hinder the technical autonomy of the government, and actions that are needed to protect the government's interest.

(a) Contractor must include the UMRDI with product delivery unless a different delivery date is provided in the contract or later negotiated, including deferred delivery date(s).

(b) The contractor should not impose restrictions on the use of the UMRDI. For example, UMRDI used in accordance with the contract's data rights terms and conditions permits the Government's right to repair activities and is not subject to additional contractor restrictions.

(c) Any parts and tools, as defined within UMRDI, that are necessary to complete the Government's right to repair activities must be original equipment manufacturer (OEM). Non-OEM parts or tools will not be accepted unless approved by the COR and CO.

(d) For any contract, order (purchase order, task order, or delivery order) or agreement (BPA or BOA), totaling above the micropurchase threshold and including delivery to the Government of at least one product or supply that may require future repair work:

(1) Uniformed Contract Format (UCF) Section C must include the "Right to Repair" requirements statement *(located in NCMS)*; and

(2) The attachments (UCF Section J) must include the DRD entitled, "UMRDI". The DRD can be attached either separately, or within a Contract Data Requirements List (CDRL) included in Section J.

1827.6 DATA SHARING FOR INTEGRATED MISSION EXECUTION

1827.61 General

(a) NASA projects and programs have become more interdependent, creating a need to ensure all subcomponents integrate to successfully execute the overarching NASA mission. In a highly compressed schedule environment, all contractors on a project, program or mission must assist the Government in performing necessary operational data sharing to accomplish the Agency goals.

(b) While NASA already utilizes mandatory FAR clauses for data rights, as well as NASA FAR Supplement clauses 1852.237-73, Release of Sensitive Information and 1852.237-72, Access to Sensitive Information, individual projects and programs have utilized differing interpretations of the Government's rights and responsibilities for data sharing.

(c)The NASA Administrator's Acquisition Directive dated March 18, 2026, states that NASA "will shift from procedural micromanagement to disciplined insight. Oversight will be rigorous for human-rated vehicles, nuclear systems and otherwise safety-critical components and will be protected through NASA's independent technical authority." Insight provides the Government with a continuous feedback loop on the contractor's progress, leveraging the contractor's own systems. The specific requirements subject to Insight are defined by the program or project via the Insight Implementation Plan Data Requirements Description (DRD).

1827.62 Data Sharing

(a) Contracting officers (CO) must insert MSFC clause 52.209-91, "Associate Contractor Agreement (ACA)" in Section H *(located in NCMS)* of solicitations and contracts when <u>any</u> portion of the contract requires joint participation with another contractor(s).

(b) COs are to insert requirements statement C-301-7, "Government Insight", in Section C *(located in NCMS)* of solicitations and contracts when safety-critical activities are identified in the solicitation and contract.

(c) COs must include Data Requirements Description (DRD) titled, "Insight Implementation Plan" in all solicitations and contracts when C-301-7 "Government Insight" requirements statement is included in the solicitation and contract.

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BONDS AND INSURANCE

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BONDS AND INSURANCE

1828.1—Bonds

1828.1 Policy.

1828.12 Furnishing information.

(a) Reference "The Construction Bond Checklist" template located in the NASA agency wide templates.

(b) The chief of the contracting office is the agency head's designee for Class Waivers.

1828.2—Sureties

1828.21 Acceptability of individual sureties.

Notification of suspected criminal or fraudulent activities, with all supporting documentation, must be submitted to the Director, Acquisition Integrity Program within the Office of the General Counsel and the Office of Inspector General.

1828.3—Insurance

1828.31 Insurance under cost-reimbursement contracts.

1828.32 Group insurance plans.

The procurement officer is the approval authority.

1828.33 Liability.

(a) The procurement officer may approve a requirement for property damage liability insurance when:

(1) A commingling of operations permits property damage coverage at a nominal cost to NASA under insurance carried by the contractor during its commercial operations; or

(2) The contractor is engaged in the handling of high explosives or in extra hazardous research and development activities undertaken in populated areas.

(b) In all other circumstances, the Senior Procurement Executive is the approval authority.

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TAXES

1829.1—Resolving Tax Problems

1829.11 Resolving tax problems

(a) The Headquarters Office of the General Counsel (OGC) is the designated legal counsel for all external contacts on FAR Part 29 tax problems, including communications with the Department of Justice, other Federal agencies, and any taxing authority.

(b) When contacted by external parties concerning FAR Part 29 tax problems, the contracting officer must immediately notify the Center's Chief Counsel for guidance and provide a copy of the inquiry to the Center's Office of Procurement policy office.

(c) Contracting officers must forward tax problems that cannot be solved readily by reference to FAR Part 29 to Headquarters OGC with a copy to the cognizant HQs Procurement Analyst, and provide the following information:

(i) A comprehensive statement of pertinent facts, including documents and correspondence.

(ii) A copy of the contract.

(iii) The Center's Chief Counsel's review of the legal issues involved and recommended action.

(iv) A statement of the problem's effects on procurement policies and procedures, with recommendations coordinated with the Center's Office of Procurement's policy office.

(v) Documentation related to the inquiry must be retained in the official contract file.

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COST ACCOUNTING STANDARDS ADMINISTRATION

1830.1—CAS Program Requirements

1830.11 Policy-Waiver

(a) The Senior Procurement Executive is the only individual authorized to approve CAS waivers. Requests for waivers that meet the conditions in FAR 30.202(b) must be submitted to the Enterprise Procurement Integration and Excellence (EPIX) Office, at least 30 days before the anticipated contract award date.

(b) The Senior Procurement Executive will submit NASA's report to the CAS Board.

1830.2---Facilities Capital Employed for Facilities in Use and for Facilities Under Construction

1830.21 Contract facilities capital estimates

To estimate facilities capital cost of money (FCCOM), the contracting officer must use DD Form 1861, Contract Facilities Capital Cost of Money, after evaluating the contractor's cost proposal, establishing cost of money factors, and developing a prenegotiation cost objective.

1830.22 DD Form 1861 Instructions

(a) List overhead pools and direct-charging services centers (if used) in the same structure as they appear on the contractor's cost proposal and Form CASB-CMF. The structure and allocation base units-of-measure must be compatible on all three displays.

(b) Extract appropriate contract overhead allocation base data, by year, from the evaluated cost breakdown or prenegotiation cost objective, and list them against each overhead pool and direct-charging service center.

(c) Multiply each allocation base by its corresponding cost of money factor to compute the FCCOM estimated to be incurred each year. The sum of these products represents the estimated contract FCCOM for that year's effort.

(d) Add the yearly estimates to calculate the total contract FCCOM.

1830.23 Preaward FCCOM applications

Apply FCCOM in establishing cost and price objectives as follows:

(a) *Cost objective.* Use the FCCOM with normal, booked costs in establishing a cost objective or the target cost of an incentive type contract. Do not subsequently adjust these target costs when actual cost of money rates become available during the contract performance period.

(b) *Profit/fee objective.* Do not include FCCOM in the cost base when establishing a prenegotiation profit/fee objective. Use only normal booked costs in this cost base.

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NFS CG 1831
CONTRACT COST PRINCIPLES AND PROCEDURES

1831.1 – Contracts with Commercial Organizations

1831.11 Compensation for personal services.

Contracting officers are to follow the guidance and instructions provided in the NASA Source Selection Guide and agency wide templates (See Appendix A).

1831.12 Precontract costs.

(a) Precontract costs are applicable only to—

(i) Sole source awards, except those resulting in firm-fixed price or fixed-price with economic price adjustment contracts; or

(ii) Awards resulting from broad agency announcements.

(b) The procurement officer is the approval authority for the use of precontract costs. Authorization must be in writing and must address the following:

(i) The necessity for the contractor to initiate work prior to contract award to comply with the proposed delivery schedule.

(ii) The start date of such contractor effort.

(iii) The total estimated time of the advanced effort.

(iv) The cost limitation.

(c) Authorization to incur precontract costs must be provided to the contractor in writing and must include the following:

(i) The start date for incurrence of such costs.

(ii) The limitation on the total amount of precontract costs which may be incurred.

(iii) A statement that the costs are allowable only to the extent they would have been if incurred after formal contract award.

(iv) A statement that the Government is under no obligation to reimburse the contractor for any costs unless a contract is awarded.

1831.13 Evaluation of contractor and subcontractor evaluation plans.

Contracting officers may request a total compensation plan (TCP) for negotiated contracts using the Enterprise Instructions for Total Compensation Plans.

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NFS CG 1832
CONTRACT FINANCING

1832.1—Contract Financing

1832.11 Definition.

The Director, Acquisition Integrity Program, is the Agency remedy coordination official.

1832.12 Contract financing payments.

(a) Except as authorized in NFS 1832.908, it is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. However, the due date for making contract financing payments for a specific contract may be earlier than the 30th day, but not earlier than 7 days, after the designated billing office has received a proper request, provided that:

(i) The contractor provides consideration whose value is determined to be greater than the cost to the United States Treasury of interest on funds paid prior to the 30th day, calculated using the Current Value of Funds Rate published annually in the Federal Register (subject to quarterly revision);

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

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

1832.4—Advance Payments for Other Than Commercial Acquisitions

1832.41 General.

(a) The Director of the Enterprise Procurement Integration and Excellence (EPIX) Office, is the approval authority for all advance payments except the following:

(1) The procurement officer is the approval authority for non-fee bearing contracts with domestic entities when the cumulative contract value is $25,000,000 or less, and for all increases to such contracts over $25,000,000 previously approved by the Headquarters Office of Procurement as long as the advance payment amount outstanding at any time is not increased.

(2) The contracting officer is the approval authority for the following actions. In these cases, a findings and determination (see FAR 32.410) is not required.

(i) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I contracts. A class deviation has been signed authorizing use of advance payments on these contracts. The contracting officer must annotate the contract file that the deviation is on file at the NASA Headquarters Office of Procurement.

(ii) Expendable launch vehicle (ELV) service contracts. 42 U.S.C. 2459c authorizes advance payments for these contracts. The contracting officer must document the contract file with the rationale for approving the use of advance payments.

(b) All advance payment authorization requests, except those authorized by NFS CG 1832.4(a)(2)(ii), must be coordinated with the Center Deputy Chief Financial Officer.

1832.42 Letters of credit.

Each Center is considered a contracting agency for the purposes of this requirement.

1832.43 Interest.

Advance payments without interest are authorized.

1832.44 NASA procedure for approval.

In addition to the items listed in FAR 32.409-1, requests for Headquarters approval of advance payments (reference NFS NG 1832.4) must include the following information:

(a) Name of the cognizant NASA Headquarters program or staff office.

(b) Name and phone number of the contracting officer or negotiator.

(c) A copy of the proposed advance payments clause.

(d) If a profit/fee is contemplated, the factors considered in determining the profit/fee (reference the NFS CG 1815.4 “NASA Form 634”).

(e) Information justifying the adequacy of security to cover the maximum advance payment amount at any time outstanding.

1832.45 Findings, determination, and authorization.

(a) Generally, the format in FAR 32.410 should be used, tailored as follows:

(i) In format subparagraph (a)(2), use the phrase "Advance payments (in an amount not to exceed $…..... at any time outstanding)" in all determinations and findings. The phrase means the maximum unliquidated dollar amount a contractor would need in advance payments at any point in time for the particular contract. The amount would not usually be the full contract value. The amount inserted should be based on an analysis of the contractor's financing needs (monthly or other appropriate period) for the specific contract involved.

(ii) In the second sentence of format subparagraph (a)(4), delete the reference to a special financial institution account if no special financial institution account is required.

(iii) Use format subparagraph (a)(6), not (a)(7) or (a)(8).

(iv) At the end of format paragraph (b), use "is in the public interest."

(v) In format paragraph (c), use the phrase “(the amount at any time outstanding)" in all determinations and findings.

1832.5—Progress Payments Based on Costs

1832.51 Unusual progress payments.

The Director of the Enterprise Procurement Integration and Excellence (EPIX) Office is the approval authority for the use of unusual progress payments.

1832.52 Contract finance office clearance.

The Senior Procurement Executive is the approval authority for the actions at FAR 32.502-2.

1832.53 Administration of progress payments.

(a) If the contractor requests it and the contracting officer approving individual progress payments agrees, the administration of progress payments may be based on the overall contract agreement. Under this method, the contractor must include a supporting schedule with each request for a progress payment. The schedule should identify the costs applicable to each order.

(b) The contracting officer may treat a group of orders as a single unit for administration of progress payments if each order in the group is subject to a uniform liquidation rate and under the jurisdiction of the same payment office.

1832.54 Subcontracts.

Unusual progress payments to subcontractors must be approved by The Director of the Enterprise Procurement Integration and Excellence (EPIX) Office.

1832.7—Contract Funding

1832.71 NASA policy.

(a) When determining if a contract or task order can be incrementally funded, contracting officers, in conjunction with budget, financial, and program office personnel, must consider whether the procurement is severable or non-severable, a bona-fide need exists, and the appropriation is available for use.

(b) When reviewing incremental funding estimates, contracting officers should ensure contractors understand that the amount in the limitation of funds clause covers potential termination liability costs.

1832.72 Procedures.

For incrementally-funded contracts, the contracting officer must —

(a) Ensure and obtain documentation (i.e. purchase request) for the contract file demonstrating that initial funds, sufficient to begin contract performance under the incrementally funded contract, are approved, committed and available for obligation prior to the initial contract award;

(b) Ensure that the contract funding modification is signed within one business day from the date the original contract was signed and obligated in the financial system of record within the same accounting period the contract and first modification are signed; and

(c) Ensure that the initial contract award and a properly executed contract funding modification are distributed to the contractor at the same time.

1832.73 Limitation of cost or funds.

(a) Upon receipt of the contractor's notice under paragraph (c)(1) of the clause 1852.232-77, Limitation of Funds (Fixed-Price Contract), the contracting officer must promptly provide written notice to the contractor that the Government is—

(1) Allotting additional funds in a specified amount for continued performance;

(2) Terminating the contract; or

(3) Considering whether to allot additional funds; and

(i) The contractor is entitled to stop work in accordance with paragraph (b) of the clause at 1852.232-77, Limitation of Funds; and

(ii) Any costs expended beyond the amount specified in paragraph (a) of the clause at 1852.232-77, Limitation of Funds, are incurred at the contractor's risk.

(b) Upon determining that the contract will receive no further funds, the contracting officer must promptly give notice of the Government's decision and terminate for the convenience of the Government.

1832.74 Provisional increase in the estimated cost.

(a) Contracting officers must use the agency-wide “Request for Provisional Increase in the Estimated Cost” procurement template in situations where a contractor may be near or at the estimated cost for a contract or contract line item and there is an urgent and compelling need for the contractor to continue performance.

(b) The approval authority to issue any provisional increase in the estimated cost is the head of the contract activity.

1832.8—Assignment of Claims

1832.81 Policies.

The Senior Procurement Executive is the approval authority for no-setoff commitments.

1832.9—Prompt Payment

1832.91 Payment documentation and process.

(a) NASA's designated payment office is the NASA Shared Services Center (NSSC).

(b) Contracting officers or their designee must review and approve all payment requests in NASA's Invoicing Routing and Information System (IRIS). All provisionally approved interim vouchers are subject to a later audit of actual costs incurred.

(c) Review of interim cost vouchers and documenting, at a minimum, must include the following:

(1) Verification of identifying data on the voucher (contract number, contractor name, address, and date of voucher).

(2) Verification of the arithmetic calculations on the voucher.

(3) Verification that the billed costs are within the contract's period of performance.

(4) Verification that the voucher complies with terms of the contract.

(5) Verification of billed indirect rates against approved provisional indirect rates for the billing period, or prior year's approved indirect rates, or established indirect rates in the base contract.

(6) Verification that Other Direct Costs are proper and acceptable.

(d) To assist with interim cost voucher review, contracting officers must use the NASA Voucher Review Checklist (Cost-Type Contract) template and upload completed checklist in IRIS.

1832.92 Contract clauses.

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

1832.10—Performance-Based Payments

1832.101 Policy.

In determining whether performance-based payments are practical in competitive negotiated acquisitions, the contracting officer should consider the procedural impacts (e.g., proposal evaluation complications, longer evaluations, elimination of the potential for award without discussions, increased proposal information requirements) and the impact on small business competitiveness.

1832.102 Procedures.

(a) To establish performance bases and payment terms in competitive negotiated acquisitions the draft request for proposal must request potential offerors to suggest terms, including performance events or payment criteria. Contracting officers must use that information to establish a common set of performance-based payments parameters in the final request for proposal when practicable.

(b) Use of the price adjustment evaluation technique may require obtaining and analyzing proposal information that is normally not required in NASA firm-fixed-price competitions (reference the NFS CG 1815.4 "Requiring data other than certified cost or pricing data"). When using performance-based payments in competitively negotiated acquisitions under $50 million, contracting officers should consider the use of alternative evaluation methods, e.g., qualitative evaluation under Mission Suitability or another appropriate factor.

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NFS CG 1833
PROTESTS, DISPUTES, AND APPEALS

1833.1—Protests

1833.11 Protests to the Agency.

(a) The provision at NFS 1852.233-70 provides for an alternative to a protest to the United States Government Accountability Office (GAO). This alternative gives bidders or offerors the ability to protest directly to the contracting officer (CO) or to request an independent review by the Assistant Administrator for Procurement (or designee). The Agency review must be deemed to be at the CO level when the request is silent as to the level of review desired. The Agency review must be deemed to be at the level of the Assistant Administrator for Procurement (or designee) when the request specifies a level above the CO, even if the request does not specifically request an independent review by the Assistant Administrator for Procurement. Such reviews are separate and distinct from the Ombudsman Program described at NFS CG 1815.70.

(b) If an agency protest is filed, the deciding official uses the procedures in FAR 33.104 and this section to resolve the protest. The deciding official will provide a fair and prompt review of any protest filed with the Agency,

(c) The filing timeframes in FAR 33.104-2(a) and 33.104-3(a) apply. An agency protest is filed when the complete protest is received at the location designated in the solicitation. Unless otherwise specified in the solicitation, an agency protest must be received by 5:30 p.m. ET to be considered filed that same day. Unless otherwise specified in the solicitation, protests delivered after 5:30 p.m. ET will be considered received and filed the following business day.

(d) The protest must be in writing and meet all the following conditions:

(1) Include the information required by FAR 33.104-4(3);

(2) Indicate that it is a protest to the Agency; and

(3) Comply with NFS 1852.233-70 and state whether the protester chooses to have the CO or the Assistant Administrator for Procurement decide the protest.

(e) NASA's procedures do not provide for any discovery. The deciding official has discretion to request additional information from either the Agency or the protester, orally, or in writing, as may be necessary to render a decision on the protest. However, protests are normally decided on information initially provided by the protester and the Agency. To the extent permitted by law and regulation, the parties may exchange relevant information.

(f) A protester may represent itself or be represented by legal counsel. NASA will not reimburse the protester for any legal fees related to the agency protest.

(g) NASA must summarily dismiss and take no further action upon any protest to the Agency if the substance of the protest is pending in judicial proceedings or if the protester has filed a protest on the same acquisition with the GAO prior to receipt of an Agency protest decision.

(h) When a bidder or offeror submits an agency protest to the CO or alternatively requests an independent review by the Assistant Administrator for Procurement, the decision of the CO or the Assistant Administrator for Procurement must be final and is not subject to any appeal or reconsideration within NASA.

(i) The deciding official must obtain legal review by the Office of the General Counsel (OGC) before a decision in response to an agency protest is finalized.

(1) When the CO is the deciding official, the appropriate Center Office of the Chief Counsel will provide the legal review.

(2) When the Assistant Administrator for Procurement is the deciding official, it is the Center's responsibility to decide if it will defend the protest or will take voluntary corrective action. The Center Office of Procurement will work with the Center Office of the Chief Counsel to make this determination in a timely fashion. If the Center makes the determination to defend, the Center Office of Procurement, with the assistance of the Center Office of the Chief Counsel, will provide a written response to the protest to the Assistant Administrator for Procurement. This response should be submitted with sufficient time to allow the Assistant Administrator for Procurement to make their best effort to comply with FAR 33.104-4(c). Headquarters (HQ) OGC will advise the Assistant Administrator for Procurement on whether the protest has merit and will provide the final legal review of the decision of the Assistant Administrator for Procurement.

(j) The Senior Procurement Executive is the approval authority for contract award, in accordance with FAR 33.104-2(b)(1), and for authorizing continued contract performance, in accordance with FAR 33.104-3(b). Requests must be processed through the cognizant Procurement Analyst in Headquarters' Office of Procurement.

1833.12 Protests to GAO.

(a) The Senior Procurement Executive has the sole authority to decide whether the Agency will defend a protest filed before GAO or will take voluntary corrective action. NASA personnel must take no action to respond to or resolve any protest filed with the GAO other than in accordance with this part and other guidance provided by NASA Headquarters (HQs).

(b) Once the HQs Office of General Counsel (OGC) receives the protest, OGC will –

(i) Notify the contracting officer of the designated protest counsel (the NASA attorney(s) responsible for handling the protest);

(ii) Request a Statement of Facts and compilation of documents (see FAR 33.104-4) from the contracting officer;

(iv) Enter an appearance on behalf of the Agency and provide GAO with the name, title, and contact information of one or more NASA attorneys who may be contacted by GAO regarding the protest.

(c) If the contracting activity receives a protest before being informed of it by OGC, the contracting activity must immediately forward the protest to OGC.

(d) The contracting officer's Statement of Facts must be reviewed by the designated protest counsel.

(e) The designated protest counsel is responsible for preparing the Agency Report to GAO, based upon the contracting officer's Statement of Facts.

(f) The contracting officer is responsible for informing all interested parties that a GAO protest has been filed. (See FAR 33.105-3(b)). This should be done in writing using a method that provides evidence of receipt.

(g) As part of the process to obtain approval for contract award from the head of the contracting activity (HCA), in accordance with FAR 33.105-3(b)(2), coordination with the Senior Procurement Executive and HQs OGC is required.

(h) The contracting officer must consult the cognizant HQs Procurement Analyst before terminating a protested contract. As part of the process to obtain approval for continued contract performance from the HCA, in accordance with FAR 33.105-3(b)(2), coordination with the Senior Procurement Executive and HQs OGC is required.

1833.13 Solicitation provision and contract clause.

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

1833.2--Disputes and Appeals

1833.21 Suspected fraudulent claims.

The contracting officer must report suspected fraudulent claims to the Center or Headquarters Office of Inspector General and the Acquisition Integrity Program within the Office of the General Counsel.

1833.22 Contracting officer's authority.

See NASA Policy Directive (NPD) 2010.2, Alternative Dispute Resolution.

1833.23 Contracting officer's decision.

(a) With respect to FAR 33.205-6(a)(4)(ii), the Armed Services Board of Contract Appeals is the NASA Administrator's authorized representative for hearing appeals of contracting officer's final decisions. Accordingly, contracting officers must cite that fact in the final decision letter, provide the Board's then current mailing address, available at www.asbca.mil, and email address (asbca.recorder@mail.mil), and include a notification that the Board's operating procedures appear in Part 48, Code of Federal Regulations, Chapter 2, Appendix A.

(b) See NASA Procedural Requirement (NPR) 9640.1, Financial Management of Contractor Claims Against NASA, for procedural requirements relating to claims by contractors against NASA under 41 U.S.C. §§ 7101-7109.

1833.24 Contract clause.

The contracting officer must use the clause at FAR 52.233-1, Disputes, with its Alternate I whenever continued performance is vital to national security, the public health and welfare, important Agency programs, or other essential supplies or services whose timely re-procurement from other sources would be impracticable.

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NFS CG 1834
MAJOR SYSTEM ACQUISITION

1834.1 - Responsibilities.

Policies related to the implementation of Major Systems Acquisition for NASA are located in FAR Part 34, NFS 1834, NASA Policy Directive (NPD) 7120.4 "NASA Engineering and Program/Project Management Policy" and NASA Procedural Requirement (NPR) 7120.5 "NASA Space Flight Program and Project Management Requirements".

1834.2—Earned Value Management System

1834.21 Policy.

(a) NASA applies the Earned Value Management System (EVMS) requirement to all contracts, subcontracts, and task orders, inclusive of all options that—

Are cost or fixed-price incentive fee;

i. Have a value of $50 million or more;
ii. Have a period of performance of at least 18 months; and
iii. Contain development work scope

(b) For contracts, subcontracts, and task orders that meet the criteria in paragraph (a) and are valued at $100 million or more inclusive of options, the contractor must have an EVMS that has been accepted by the cognizant Federal agency (CFA) as compliant with the guidelines in the Electronic Industries Alliance 748 (EIA-748), Standard for Earned Value Management Systems.

(c) For contracts, subcontracts, and task orders that meet the criteria in paragraph (a), and are valued less than $100 million, the contractor must have an EVMS that complies with the guidelines in EIA-748, as determined by the cognizant contracting officer.

(d) For contracts, subcontracts, and task orders that do not meet the criteria in paragraph (a) the application of EVM is optional and is a risk-based decision at the discretion of the program/project manager.

(e) EVM is not required for contracts, subcontracts, and task orders that support Science Mission Directorate, (SMD) Mission Risk Classification D space flight projects with an estimated life-cycle cost below $150M.

(f) EVMS requirements may be applied to acquisitions of any value, type, or period performance designated as major by the program manager in accordance with the Office of Management and Budget (OMB) Circular A-11 or as a risk-based decision of the program manager.

(g) Requests for deviations from the EVMS requirements policy in paragraph (a) must be submitted to the cognizant procurement analyst in the Office of Procurement, Program Operations Division for approval by the Assistant Administrator for Procurement. The deviation request must be prepared by the requiring organization and must include a justification why

EVMS requirements should not be levied on an acquisition meeting the criteria identified in paragraph (a).

(h) If the contracting officer receives an over-target baseline (OTB) and/or an over-target schedule (OTS) request from a contractor in accordance with NFS 1852.234-2, Earned Value Management System, the contracting officer, in consultation with the requiring organization, must issue a formal written response to the contractor either approving or disapproving their request. The response must be placed in the contract file.

(i) If an offeror proposes to use a system that has not been determined to be in compliance with the EIA-748, the offeror must submit a comprehensive plan for compliance with these EVMS standards, as specified in the NFS 1852.234-1, Notice of Earned Value Management System. Offerors must not be eliminated from consideration for contract award because they do not have an EVMS that complies with these standards.

(j) Contracting officers, with support from the applicable NASA Center EVM Focal Points identified at https://www.nasa.gov/ocfo/ppc-corner/evm/ must request the assistance of the cognizant Defense Contract Management Agency (DCMA) office in determining the adequacy of offeror's proposed EVMS plans, procedures, and system compliance. The contracting officer in consultation with the NASA Center EVM focal points and DCMA, if applicable, will direct the contractor to correct any deficiencies.

1834.22 Integrated Program Management Data Analysis Report (IPMDAR).

(a) NASA has adopted the IPMDAR to improve integration of cost and schedule information in reporting requirements under acquisitions involving EVM. The IPMDAR provides performance data that can be used to track and identify problems early in the acquisition life cycle and forecast future acquisition performance. The IPMDAR is the primary means to communicate cost and schedule metric trends on the program/project status and to assess future performance to achieve program/project success (i.e., meet the technical requirements on schedule and within budgets).

(b) IPMDAR focus is on cost and schedule data that needs to be provided electronically each period. The IPMDAR requires three sets of data:

1. Contract Performance Dataset (CPD) - The Contract Performance Dataset (CPD) comprises performance/execution data from the contractor's existing management systems and contains multiple files in an industry standard format called JavaScript Object Notation (JSON).

2. Schedule Performance Dataset (SPD) - The Schedule Performance Dataset (SPD) comprises a native file format of the integrated master schedule (IMS) and the SPD that contains multiple files of schedule related data in the JSON format.

3. Performance Narrative Report - A Performance Narrative Report consisting of an Executive Summary and Detailed Analysis Report will typically be in DOCX or PDF format and is like the earlier CPR/IPMR Format 5.

(c) These datasets are delivered to the NASA customer per instructions in the IPMDAR data requirements descriptions (DRDs)/Contract Data Requirements List (CDRL) and uploaded to NASA's EVM-CR (Central Repository) at the agreed dates. NASA's EVM Working Group has developed an IPMDAR Tailoring Supplement that is intended to help acquisition teams, including Program/Project Managers, EVM, procurement and financial management personnel, develop and prepare IPMDAR DRDs/CDRLs.

(d) Contracting Officers (CO) must include a DRD/CDRL developed by the requiring organization in solicitations and contracts. The IPMDAR Tailoring Supplement provides more detailed information about the IPMDAR, identifies options for tailoring to specific types of acquisitions, provides definitions and instructions for the contractor/supplier, and provides a sample IPMDAR DRD. The NASA IPMDAR Tailoring Supplement can be found at https://www.nasa.gov/ocfo/ppc-corner/evm/guidance/.

1834.23 Integrated Baseline Reviews Guidance.

(a) Earned Value Management (EVM) (See FAR 34.2 and NFS 1834.2) is one of NASA's and industry's most powerful proven program management tools for over 50 years. Government and industry program managers use EVM to provide joint situational awareness of program status; assess costs, schedule, and technical performance on programs; and support proactive decision-making as program teams navigate constraints and risks in the performance of programs.

(b) As a program management system, EVM practices and competencies must be integrated into the program manager's acquisition decision-making processes. The data provided by the EVM System (EVMS) must be timely, accurate, reliable, auditable, and implemented in a disciplined approach consistent with the EIA-748, EVMS Guidelines. The Office of the Chief Financial Officer serves as the EVM policy and competency owner and ensures that EVM requirements and guidance are current and correct (see NPR 7120.5).

(c) IBRs are a critical component of EVM, establishing a common understanding and baseline for the program within 180 days of contract, subcontract, or task order award. Delays in completing an IBR introduces greater risk to the Government and Industry partners in executing requirements, within cost and schedule. NASA promotes an incremental approach for conducting an IBR to facilitate communication and ensure a common understanding of the approved contract work scope, budget, schedule, and risks at contract award or before.

(d) EVM is a cost-effective system that shares program situational awareness between the Government and contractor. In an oversight role, a critical function of the Government Program Office is to utilize all data, including cost, schedule, and technical performance metrics, to identify early indicators of problems so that adjustments can be made to make effective decisions and influence future program performance. The decision to apply EVM and the related EVM reporting requirements should be based on work scope, complexity, and risk along with the threshold requirements in the NFS.

(e) A contract is awarded based on a plan as it relates to EVM (e.g., schedule, basis of estimate, technical approach, risks). The IBR is not a one-time occurrence or event, but rather a

process to allow the Government and the contractor to jointly assess the plan for completing the contractual scope of work. In accordance with NFS 1852.234- 2(c), an IBR should be conducted as early as practical for the program to ensure an understanding and agreement of the performance measurement baseline (PMB). A letter from the Contracting Officer (or other communication) to the contractor may be needed to clarify initial IBR requirements.

(f) An IBR must be conducted within 180-calendar days after contract, subcontract, or task order award, even if it does not cover the entire scope of an (priced or unpriced) contract action. In situations where the entire work scope is not completely known within 180 calendar days, an IBR can be conducted in stages, such as with an undefinitized contract action (UCA). However, a review of the known scope of work should be conducted within the 180-calendar day window, with follow-up IBRs scheduled for the work not yet completed in the context of the entire PMB. As a rule of thumb, the initial IBR should extend through the first major milestone for the program. Any IBR event increment should not be driven by contract definitization but should represent the best time to assess the plan of work. A timely and thorough IBR is to the benefit of all parties involved including the Government and the contractor.

For more, see the NASA IBR Handbook located at https://www.nasa.gov/ocfo/ppc-corner/ppc-guidance-documents/#EVMHandbooks.

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NFS CG 1835
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1835.10—Board agency announcements

1835.102 Broad agency announcements.

(a) Draft or final versions of any form of BAA that directly or substantially supports a program subject to NASA Procedures and Guidelines (NPR) 7120.5 must not be released unless either —

(i) All applicable NPR 7120.5 required documentation (see NFS CG1807) is current and has been approved (e.g., Formulation Authorization Document, Program Commitment Agreement, Program Plan, or Project Plan); or

(ii) Authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

(b) Announcements authorized by NFS 1835.102(a)(1) with a total estimated dollar value of $500M or greater, or otherwise designated by the Senior Procurement Executive, must be supported by a Procurement Strategy Meeting and Executive Summary presentation approved by Headquarters, unless otherwise delegated.

1835.103 Foreign participation under broad agency announcements (BAAs).

(a) *Policy*.

(1) NASA seeks the broadest participation in response to broad agency announcements, including foreign proposals or proposals including foreign participation.

(b) *Procedure*. When a foreign proposal or a U.S. proposal with foreign participation is received in response to a BAA, the NASA sponsoring office must determine whether the proposal conforms to the no-exchange-of-funds policy in NFS 1835.102-70(a).

(1) If the proposal conforms to the policy in NFS 1835.102-70(a), the NASA sponsoring office must evaluate the proposal and make selection in accordance with NFS CG 1835.112 (d). In conjunction with the notification of successful foreign proposers, the NASA sponsoring office must notify the Headquarters Office of International and Interagency Relations (OIIR). OIIR will negotiate the agreement with the sponsoring foreign agency or funding institution for the proposed participation.

(2) If the proposal does not conform to the policy in NFS 1835.102-70(a), the NASA sponsoring office must —

(i) Determine whether the proposal merits further consideration;

(ii) If further consideration is warranted, refer the proposal to OIIR; and

(iii) Complete the evaluation of the proposal. However, no notification of selection, whether tentative or final, must be made without OIIR approval.

(3) Notification to OIIR required by paragraphs (b)(1) and (b)(2)(ii) of this section, must address the items contained in 1872.504(c), and must be coordinated through the Office of Procurement.

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1835.11—NASA Research Announcements.

1835.112 NASA Research Announcements (NRA) Instructions.

(a) *Issuance*.

(1) Before issuance, each field-generated NRA must be approved by the installation director or designee, with the concurrence of the procurement officer, and each Headquarters-generated NRA must be approved by the cognizant Program Associate Administrator or designee, with the concurrence of the Headquarters Offices of General Counsel and Procurement. In addition, the issuing office must obtain input from the cognizant offices responsible for matters of safety and mission assurance, occupational health, environmental protection, information technology, export control, and security. Input must also be obtained from the appropriate systems safety organization for NRA's that may involve potentially hazardous operations such as those related to flight and/or mission critical ground systems. The NRA approval authority must designate the selection official.

(2)(i) The final report should summarize the results of the entire contract, including recommendations and conclusions based on the experience and results obtained. The final report should include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to explain comprehensively the results achieved under the contract. The final report should comply with formatting and stylistic guidelines contained in NPR 2200.2, Requirements for Documentation, Approval, and Dissemination of NASA Scientific and Technical Information. Electronic formats for submission of reports should be used to the maximum extent practical. For more information, see the clause at NFS 1852.235-73, Final Scientific and Technical Reports.

(iii) It is NASA policy to provide the widest practicable and appropriate dissemination of scientific and technical information (STI) derived from NASA activities, including that generated under NASA research and development contracts. One mechanism for disseminating NASA STI is through CASI. Before approving a final report delivered under a contract for inclusion in the CASI repository, NASA must complete a Document Availability Authorization (DAA) review. The DAA review is intended to ensure that NASA disseminates NASA STI in a manner consistent with U.S. laws and regulations, federal information policy and publication standards, intellectual property rights, technology transfer protection requirements, and budgetary and technological limitations. NASA Form 1676, NASA Scientific and Technical Document Availability Authorization (DAA), or a center-specific version of this form, is used to complete this review. The DAA review process applies to the publication and dissemination of NASA STI by NASA or under the direction of NASA. The final report, as delivered under the contract, must not be released outside of NASA until NASA’s DAA review has been completed and the availability of the document has been determined by NASA.

(iv) *Additional reports of work.* In addition to the final report required by paragraph (a)(i) of this section, the contracting officer, in consultation with the program or project manager, should consider the desirability of requiring periodic reports and reports on the completion of significant units or phases of work for monitoring contract performance. Any additional reports must be included in the clause NFS 1852.235-74 as a contract deliverable. (See FAR 27.403.)

(v) Upon receipt of the final report, or any additional reports required by 1852.235-74 if included in the contract, the contracting officer must forward the reports to the

contracting officer's representative (COR) for review and acceptance. The COR must ensure that the DAA review is initiated upon acceptance of the final report or any additional reports that NASA elects to publish or release outside of NASA or present at internal meetings at which foreign nationals may be present. (For final reports, this review is part of the NF1676 process – see NFS 1852.235-73, Final Scientific and Technical Reports. For other reports, it is done separately.) Upon completion of the DAA review, the COR must ensure that the DAA-approved STI and the original approved DAA form are sent to the center STI/Publication Manager. The contractor should be advised of the final availability determination. These responsibilities should be included in the COR Delegation, NASA Form 1634.

(b) Use of the SF 298, Report Documentation Page, is no longer mandatory. If it is used, the contractor would submit the form as the last page of the report.

(1) NRAs must be posted in accordance with FAR 5.201. The technical section describing the area of interest should not exceed 50 words.

(2) If a Headquarters-generated NRA may result in awards by a NASA field installation, the issuing office must notify the installation procurement officer and provide a copy of the NRA.

(3) The selecting official is responsible for the preparation and distribution of the NRA.

(4) NRAs normally must remain open for at least 90 days.

(c) *Content and Format.* All NRAs must conform to NPR 5810.1, "Standard Format for NASA Research Announcements (NRAs) and other Announcements for Grants and Cooperative Agreements".

(d) *Receipt of proposals, evaluation, and selection.*

(1) Proposals must be protected as provided in FAR 15.608, FAR 15.609, and NFS 1815.609-70.

(2) Late proposals and modifications must be treated in accordance with FAR 15.107.

(3) The selection decision must be made following peer or scientific review of a proposal. Peer or scientific review must involve evaluation by an in-house specialist, a specialist outside NASA, or both. Evaluation by specialists outside NASA must be conducted subject to the conditions in NFS 1815.207. After receipt of a proposal and before selection, scientific or engineering personnel must communicate with an offeror only for the purpose of clarification (as defined in FAR 15.306), or to understand the meaning of some aspect of the proposal that is not clear, or to obtain confirmation or substantiation of a proposed approach, solution, or cost estimate.

(4) Competitive range determinations must not be made, and final proposal revisions must not be requested.

(5) Part of a proposal may be selected unless the offeror requests otherwise. In addition, changes to a selected proposal may be sought if (i) the ideas or other aspects of the proposal on which selection is based are contained in the proposal as originally submitted, and are not introduced by the changes; and (ii) the changes sought would not involve a material alteration to the requirements stated in the NRA. Changes that would affect a proposal's selection must not be sought. When changes are desired, the selecting official may request revisions from the offeror or request the contracting officer to implement them during negotiations with the successful offeror(s). The changes must not transfer information from one offeror's proposal to another offeror

(see FAR 15.306(e). When collaboration between offerors would improve proposed research programs, collaboration may be suggested to the offerors.

(6) The basis for selection of a proposal must be documented in a selection statement applying the evaluation factors in the NRA. The selection statement represents the conclusions of the selecting official and must be self-contained. It must not incorporate by reference the evaluations of the reviewers. The selection statement must contain the following:

(i) A brief description of the solicitation, including a statement of program objectives, the evaluation and review processes that were followed, and a summary of the results of the evaluation and review of proposals.

(ii) A listing of all selected proposals including proposal number, proposing principal investigator, proposing institution, and title (indicate partial selections when known).

(iii) A brief rationale for the selection based upon the expert evaluation of proposals by a peer panel in accordance with the evaluation criteria defined in the NRA, and incorporating programmatic factors.

(iv) A brief description of the post-panel decision making process used to arrive at the selection. In particular, the selection of proposals identified by the peer review as having a lower evaluation result than those not selected must be explained.

(7) The selecting official must notify each offeror whose proposal was not selected for award and explain generally why the proposal was not selected. If requested, the selecting official must arrange a debriefing under FAR 15.5, with the participation of a contracting officer.

(8) The selecting official must forward to the contracting officer the following information:

(i) A copy of the NRA (This requirement may be waived in the case of a grant award at the discretion of the grant officer).

(ii) The results of the technical evaluation, including the total number of proposals received, the selection statement, and the listing of proposal(s) selected for funding. These requirements may be waived in the case of a grant award at the discretion of the grant officer if the purchase request specifically references the NRA number and states that the proposal forwarded for funding was selected under the NRA.

(iii) A description of any changes desired in any offeror's statement of work, including the reasons for the changes and any effect on level of funding.

(iv) If a contract will be used to fund the proposal, a description of deliverables, including technical reports, and delivery dates, consistent with the requirements of the NRA.

(v) A procurement request.

(vi) Comments on the offeror's cost proposal (either the selecting official's comments, which may be based on the reviewers' comments, or copies of the reviewers' comments with any different conclusions of the selecting official); these comments must address the need for and reasonableness of travel, computer time, materials, equipment, subcontracted items, publication costs, labor hours, labor mix, and other costs.

(vii) A copy of the selected proposal as originally submitted, any revisions, and any correspondence from the successful offeror.

(9) The selecting official may provide to the contracting officer copies of the reviewers' evaluations. Reviewers' names and institutions may be omitted.

1835.112 Foreign participation in NRA proposals.

Foreign proposals or U.S. proposals with foreign participation must be treated in accordance with NFS 1835.102-70. Additional guidelines applicable to foreign proposers are contained in the provision at NFS 1852.235-72, Instructions for Responding to NASA Research Announcements.

1835.135 NASA Research and Development (R&D) Contract Reporting.

Contracting Officers must insert in the description field in the Federal Procurement Data System (FPDS), or in the NASA Contract Management System (NCMS) as applicable**,** a brief but informative description of the statement of work, not to exceed 250 characters, for each contract award and new work. It is important that FPDS reporting in particular be as accurate as possible at all times. Many management and other decisions are made based in part, if not entirely, on FPDS data.

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NFS CG 1836
CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1836.2 Special Aspects of Contracting for Construction

1836.21 Government cost estimate.

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

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

1836.22 Preconstruction Orientation Checklist.

(a) After the award of a Federal Acquisition Regulation (FAR) Part 36 construction contract the CO should inform the successful offeror of significant matters of interest. In order to accomplish this the contracting officer may issue an explanatory letter or conduct a preconstruction conference. The template entitled, “Preconstruction Orientation Checklist” can be provided as an attachment to an explanatory letter to the contractor or serve as the basis for a meeting with the contractor.

(b) The Contracting Officer should address: 1) statutory matters to include labor standards (FAR Subpart 22) and subcontracting plan requirements (FAR Part 19), and 2) matters of significant interest to include who has authority to decide contractual issues, administrative matters (e.g., security, safety, and fire and environmental protection), and construction responsibilities.

(c) If the CO is holding a preconstruction conference it should be held prior to the start of construction at the work site. If a conference is held the CO should consider allowing the Project Manager as well as other key installation personnel (Fire or Safety personnel for example) to present topics.

1836.23 Notice of Award.

If using sealed bidding, contract delivery or performance schedules, commencement of work, or notices to proceed must not be included in a notice of award. (See NFS 1814).

1836.24 Architect and Engineering Services Evaluation.

(a) The architect-engineer selection boards (see FAR 36.202-1(a)) are designated as NASA's evaluation boards for the purposes of FAR 36.202-1(b).

(b) Installations must establish an architect-engineer selection board to be composed of the selection authority and at least three voting members. Membership must at least include: one currently registered architect or professional engineer, who must serve as the board chairperson; an official from the requiring office; if appropriate, a technical official familiar with any unique subject matter critical to the requirement; and a procurement official (a contracting officer, if feasible) as an ad-hoc advisor to the board. Where appropriate, the procurement official may serve as a voting member. Non-Government employees must not be appointed as voting members.

1836.25 Selection authority for architect-engineering boards.

The selection authority must be appointed in accordance with installation procedures.

1836.26 Government cost estimate for architect-engineer work.

The contracting officer may disclose the overall amount of the Government estimate after award upon request of offerors.

1836.27 Selection process for contracts not to exceed the simplified acquisition threshold.

The procedures at FAR 36.202-4(a) or (b) may be used at the discretion of the selection authority.

1836.28 Selection of architect-engineer for master planning.

(a) Definition of master plan. A master plan is an integrated series of documents presenting in graphic, narrative, and tabular form the present composition of the installation and the plan for its orderly and comprehensive development to perform its various missions in the most efficient and economical manner.

(b) Selection.

(1) Selection of an architect-engineer must be made by the Official, appointed by the Center Director. The report of the architect-engineer selection board will be concurred in at NASA Headquarters by the Assistant Administrator for Strategic Infrastructure, the Senior Procurement Executive, the Chief Financial Officer, and the General Counsel.

(2) The Official, appointed by the Center Director, must be responsible for the architect-engineer selection board report required by FAR 36.202-1(b)(3).

1836.3—Partnering

1836.31 Definition.

"Partnering" means a relationship of open communication and close cooperation that involves both Government and Contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

1836.32 General.

(a) The establishment of a partnering environment usually leads to higher quality products completed more quickly at lower overall costs and with fewer accidents and litigation.

(b) The use of partnering is encouraged as it has been shown to reduce the average contract cost and schedule growth and to reduce contract claims and litigation.

(c) Partnering is a voluntary contract relationship within the management process that is not to be used to unofficially alter terms of the contract.

1836.33 Policy.

(a) Partnering should be used on a contract when the contracting officer, in coordination with the project manager, determines that the benefits to be achieved from its use are expected to be greater than the costs. See NASA Partnering Desk Reference.

(b) In determining whether the benefits of partnering are greater than the costs, the following factors should be considered:

(1) The estimated dollar value of the contract.
(2) The complexity of the work to be performed.
(3) The contemplated length of the contract.
(4) The estimated costs to be incurred in conducting the partnership development and team building initial and follow-up workshops.

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NFS CG 1837
SERVICE CONTRACTING

1837.1—Performance-Based Acquisitions

1837.11 Policy.

A statement of objectives (SOO) may be used on both competitive and non-competitive acquisitions. Use of a SOO on a competitive acquisition must be approved by the procurement officer and supported by a description of how the source selection process will be structured to accommodate evaluation of offeror-unique performance work statements submitted in response to the SOO.

1837.2—Personal Services

1837.12 Policy.

NASA Procedural Requirement (NPR) 3300.1, Employment, Appointment Authorities, and Details, Chapter 3, Employment of Experts and Consultants provides the policies, responsibilities, and procedures for the appointment of experts and consultants.

1837.4—Advisory and Assistance Services (A & AS)

1837.41 Policy.

Advisory and assistance services of individual experts and consultants should normally be obtained by appointment rather than by contract. See NPR 3300.1, Employment, Appointment Authorities, and Details, Chapter 3, Employment of Experts and Consultants.

1837.42 A & AS contracts for the evaluation of proposals.

(a) Outside peer review evaluators may be used to evaluate Small Business Innovation Research (SBIR), Small Business Technology Transfer (STTR), NASA Research Announcement (NRA), Announcement of Opportunity (AO), and unsolicited proposals without making the determination of non-availability.

(b) For all other actions, the NASA official one level above the NASA program official responsible for the evaluation must make the determination, with the concurrence of the legal office. The contracting officer must ensure that a copy of the determination is in the contract file prior to issuance of a solicitation.

(c) The official designated in paragraph (b) of this section is responsible for the actions required in FAR 37.402-3(a).

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1837.8—Other Service Considerations

1837.81 Definitions.

Pension portability, sensitive information, and service provider are defined in NFS 1837.8.

Requiring organization means the NASA organizational element or activity that requires specified services to be provided.

1837.82 Pension Portability.

(a) NASA's policy is not to require pension portability in service contracts. However, pension portability requirements may be included in solicitations, contracts, or contract modifications for additional work under the following conditions:

(1)(i) There is a continuing need for the same or similar services for a minimum of five years (inclusive of options), and, if the contractor changes, a high percentage of the predecessor contractor's employees are expected to remain with the program; or

(ii) The employees under a predecessor contract were covered by a portable pension plan, a follow-on contract or a contract consolidating existing services is awarded, and the total contract period covered by the plan covers a minimum of five years (including both the predecessor and successor contracts); and

(2) The procurement officer determines in writing, with full supporting rationale, that such a requirement is in the Government's best interest. The procurement officer must maintain a record of all such determinations.

(b) When pension portability is required, the plan must comply with the requirements of the clause at 1852.237-71, Pension Portability, (see NFS 1837.8), and the contract must also include a clear description of the plan, including service, pay, liabilities, vesting, termination, and benefits from prior contracts.

1837.83 Funding and term of service contracts.

(a) For all severable service contracts, the base period of performance must not extend beyond the date of the availability of the funds initially obligated to the contract at the time of award. The Bona Fide Needs Rule, codified at 31 U.S.C 1502, provides that the balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. The period of performance of any option on severable service contracts also must not extend beyond the period of availability of funds. Contracts including such options must contain the appropriate "Availability of Funds" clause.

(b) Decisions regarding the severability of the work and compliance with the Bona Fide Needs Rule should be made as early as possible in the acquisition planning process. Contracting officers, in collaboration with the requirements initiator and supporting Center Financial and Legal

personnel, should ensure that the funding and term of severable service contracts are considered and discussed in acquisition planning documentation, including the severability of the work and compliance with the Bona Fide Needs Rule. For additional information on acquisition funding to include the Bona Fide Need rule click here.

1837.84 Providing contractors access to sensitive information.

(a) To support management activities and administrative functions, NASA relies on numerous service providers. These contractors may require access to sensitive information in the Government's possession, which may be entitled to protection from unauthorized use or disclosure.

(b) As an initial step, the requiring organization must identify when needed services may entail access to sensitive information and must determine whether providing access is necessary for accomplishing the Agency's mission. The requiring organization must review any service provider requests for access to information to determine whether the access is necessary and whether the information requested is considered "sensitive" as defined in NFS 1837.8.

(c) When the requiring organization determines that providing specified services will entail access to sensitive information, the solicitation must require each potential service provider to submit with its proposal a preliminary analysis of possible organizational conflicts of interest that might flow from the award of a contract. After selection, or whenever it becomes clear that performance will necessitate access to sensitive information, the service provider must submit a comprehensive organizational conflicts of interest plan.

(d) This comprehensive plan must incorporate any previous studies performed, thoroughly analyze all organizational conflicts of interest that might arise because the service provider has access to other companies' sensitive information, and establish specific methods to control, mitigate, or eliminate all problems identified. The contracting officer, with advice from Center counsel, must review the plan for completeness and identify to the service provider substantive weaknesses and omissions for necessary correction. Once the service provider has corrected the substantive weaknesses and omissions, the contracting officer must incorporate the revised plan into the contract, as a compliance document.

(e) If the service provider will be operating an information technology system for NASA that contains sensitive information, the operating contract must include the clause at 1852.240-76, Security Requirements for Unclassified Information Technology Resources, which requires the implementation of an Information System Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use.

(f) NASA will monitor performance to assure any service provider that requires access to sensitive information follows the steps outlined in the clause at 1852.237-72, Access to Sensitive Information, to protect the information from unauthorized use or disclosure.

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ACQUISITION OF INFORMATION AND COMMUNICATION TECHNOLOGY

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ACQUISITION OF INFORMATION AND COMMUNICATION TECHNOLOGY

1839.01—IT Products and Services

1839.1 Presolicitation

1839.11 Policy.

The Federal Information Technology Acquisition Reform Act (FITARA), Section 831, grants the Chief Information Officer (CIO) statutory authority over the planning, programming, budgeting, and execution of all acquisition of IT. The Act requires CIO (or Delegate) approval prior to acquisition award.

All acquisitions will likely acquire, furnish, or use IT, including artificial intelligence during the period of performance. Therefore, prior to award all acquisitions must obtain Office of the Chief Information Officer (OCIO) Authorization regardless of:

(a) acquisition vehicle (i.e., P-Card purchases, purchase orders, contracts, task/delivery orders, other direct charges under existing contracts, etc.)
(b) NAICS code (i.e., all NAICS codes including non-IT NAICS codes), or
(c) dollar value, including value of $0.

1839.12 Authorizing IT Acquisition.

(a) The Information Technology Procurement Office (ITPO) and the NASA Shared Services Center (NSSC) are the buying location for IT hardware, software, and services.

(b) The contracts located via the following Acquisition Navigator website link are mandatory NASA and other contract vehicles and must be utilized for IT hardware, software, and services.

(c) The Requiring Office must obtain OCIO authorization through either the Commercial IT Request (CITR) or OCIO Requirements Coordination and Approval (ORCA) applications found on the Acquisition Navigator IT Products and Services webpage. Additional instructions for completing the OCIO authorization process are included on NASA Form (NF) 1707. OCIO authorization must be obtained prior to award.

(d) CITR provides OCIO authorization only for the acquisition of commercial IT products and services under the simplified acquisition threshold as defined in FAR 12.201-1. CITR is found at: https://oneplace.nasa.gov/citr.

(e) To issue an OCIO authorization number CITR requires the specific commercial IT item(s) and manufacturer. If unknown, NF 1707, Section 2 provides an option for the acquisition to proceed without formal OCIO authorization. However, once the commercial IT item(s) and/or manufacturer are determined, a CITR authorization number is required prior to award.

(f) Commercial IT acquired by contractors as other direct costs under existing NASA contracts must obtain OCIO authorization through CITR.

(g) ORCA provides OCIO authorization for all other acquisitions. ORCA authorization should be obtained at the earliest point in the acquisition process. ORCA provides provisions, and terms and conditions, that must be included in the solicitation and resultant order or contract. ORCA is found at: https://oneplace.nasa.gov/orca.

1839.13 File documentation.

The contracting officer must document OCIO authorization in the contract file via NASA Form 1707, or system-generated email containing the OCIO authorization number from either the CITR or ORCA applications.

1839.14 ICT Documentation.

(a) For all acquisitions of ICT, market research must include an Accessibility Conformance Report (ACR) issued by the product developer which discloses how the product conforms with Section 508 Standards. An OCIO CITR Authorization Number documents completion of this requirement and may be found on the NF 1707 or via system-generated email from the CITR application.

(b) An ACR is not required if an exception at FAR 39.104-4 applies.

1839.70 – Authorization for Radio Frequency Use

1839.7001 Procedures.

NPD 2570.5, NASA Electromagnetic Spectrum Management, requires the submission of a request for spectrum certification to Center Spectrum Manager (SM) for all activities using the Electromagnetic Spectrum. The procurement request originator must submit the request for spectrum certification as early in the acquisition and procurement cycles as possible. NPR 2570.1, NASA Radio Frequency (RF) Spectrum Management Manual, sets forth the procedures for the management requirements for establishing and governing the use of radio frequencies. Contractors, providing or operating RF equipment for NASA use, must obtain RF spectrum authorization from the Center/Facility Spectrum Manager in accordance with the procedures set forth in the NPR from the installation's spectrum manager.

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1840.1 - Security definitions

These terms apply to procurements (solicitations and resultant contracts) of Unmanned Aircraft Systems (UASs) for use in operations.

1840.11 Definitions other than Associate Elements definition, sub-terms, and sub-definitions.

Adversary country means the Democratic People's Republic of Korea, the Islamic Republic of Iran, the People's Republic of China, the Russian Federation, or, as determined by the Secretary of Commerce, any other foreign nation, foreign area, or foreign non-government entity engaging in long-term patterns or serious instances of conduct significantly adverse to the national or economic security of the United States.

American Security Drone Act-covered foreign entity is defined in FAR 40.201, Definitions.

Covered foreign entity means an *American Security Drone Act-covered foreign entity*.

Covered Unmanned Aircraft System (UAS) means any UAS that:

(a) is manufactured, in whole or in part, by either:

(i) A covered foreign entity; or

(ii) an entity domiciled in an adversary country;

(b) uses critical electronic components installed in flight controllers, ground control system processors, radios, digital transmission devices, cameras, or gimbals manufactured, in whole or in part, in an adversary country;

(c) uses operating software (including cell phone or tablet applications, but not cell phone or tablet operating systems) developed, in whole or in part, by an entity domiciled in an adversary country;

(d) uses network connectivity or data storage located outside the United States, or administered by any entity domiciled in an adversary country; or

(e) contains hardware and software components used for transmitting photographs, videos, location information, flight paths, or any other data collected by the UAS manufactured by an entity domiciled in an adversary country.

Critical electronic component means any electronic device that stores, manipulates, or transfers digital data. The term critical electronic component does not include, for example, passive electronics such as resistors, and non-data transmitting motors, batteries, and wiring.

Drone means an *Unmanned Aircraft System (UAS)*

Federal information means information created, collected, processed, disseminated, disclosed, or disposed of by or for the Federal Government, in any medium or form." This definition of "federal information" is derived from OMB Circular A-130, *Managing Information as a Strategic Resource*, dated February 8, 1996:

National Airspace System (NAS) means the common network of United States airspace; air navigation facilities, equipment, and services; airports or landing areas; aeronautical charts, information, and services; related rules, regulations, and procedures; technical information; and manpower and material. The term also includes system components shared jointly by the Departments of War, Transportation, and Homeland Security

Unmanned Aircraft (UA); is defined in FAR 40.201

Unmanned Aircraft System (UAS) is defined in FAR 40.201,

1840.12 Definitions of "Associated Elements" and related sub-terms and sub-definitions.

Associated elements include all of the following. Each term is defined below:

(a) *Battery* means the Unmanned Aircraft's (UA's) central source of stored power, which provides energy for the propulsion, flight control, communication and payload operation.

(b) *Battery management system* means a system that ensures reliable energy management while maximizing the efficiency and safety of a UA's operation.

(c) *Motor* means an engine that provides propulsion to UA to enable flight in the National Airspace System.

(d) *Electronic Speed Controller (ESC)* means a controller that enables precise control of motor speed and direction by acting as a communication bridge between the flight controller and the motor.

(e) *UA* or *Unmanned Aircraft System (UAS) Communication System* means a system that transmits or receives command-and-control (C2), telemetry, or mission data via programmable firmware or network-capable radio frequency or wired links. This **i**ncludes Global Navigation Satellite Systems (GNSS), transceivers, radios, C2 links, flight termination equipment, or bi-directional communication interfaces, which may include smart batteries, smart cameras, and payloads.

(f) *UA* or *UAS Docking Station* means a system external to the unmanned aircraft that:

(1) Is designed to mechanically or electrically interface with an unmanned aircraft to perform one or more functions, including launch, recovery, securing, recharging, refueling, battery exchange, storage, maintenance/diagnostics or data transfer; and

(2) Incorporates a communication interface (e.g., Ethernet, Wi-Fi, cellular, satellite, or other radio frequency link) for the purposes of remote monitoring, control, or data exchange with the unmanned aircraft.

(g) *UA Flight Control System or Other Onboard Computer* means the main flight control computer responsible for executing flight control firmware and processing command inputs. This includes the primary flight controller, onboard processors, and any programmable or network-accessible firmware associated with flight control functions. NOTE: Non-programmable commodity sensors (e.g., Inertial Measurement Units (IMUs), barometers, magnetometers, Visual Inertial Odometry (VIO) cameras) are not associated elements unless

they contain writable memory, programmable firmware, or bi-directional communication interfaces, including gimbals, cameras, and optics.

(h) *UA* or *UAS Ground Control Station (GCS)* means the main control center for unmanned aircraft operation where operators monitor and control the unmanned aircraft's flight. This includes handheld, portable, stationary, and vehicle-mounted controllers, as well as tethered unmanned aircraft control systems. Devices within this list category are either standalone devices designed for UAS operations only, or devices such as tablets, smartphones, computers, or other communication equipment used only as a GCS. NOTE: A device that could be used as GCS, but is not being used for that purpose, does not fall into this category.

(i) *UA* or *UAS Mission Planning and Operating Software* means software that plans and executes the unmanned aircraft's mission, including waypoint navigation, sensor operation, and payload collection or delivery.

(j) *UA* or *UAS Network Management Software* means software that manages the command-and-control architecture of the unmanned aircraft. This includes managing bandwidth allocation, signal strength, and other network parameters.

1840.2 - SECURITY PROHIBITIONS AND EXCLUSIONS

1840.21 Presolicitation.

(a) Requirements statement: Contracting officers (COs) must insert the *"Drone Procurement"* requirements statement *(located in NCMS)* in all solicitations, contracts,orders and agreements regardless of dollar value (including micropurchases), when it is anticipated the contractor will provide an unmanned aircraft system (UAS) (a.k.a drone) that will process, store, or transmit federal information.

(b) In the market research phase, the requirements development team must collect information about how the capabilities of various products align with the "Drone Procurement" requirements statement prescribed above for procurements involving the provision of drones.

(c) During acquisition planning and solicitation development, COs must ensure that the requirements are described with sufficient detail to enable vendors to provide offers that are responsive to agency information security requirements per OMB Memorandum M-26-02.

(d) Proposal instructions: COs must insert in competitive solicitations and contracts regardless of dollar value (including micropurchases) the "Section L&M Drone Procurement Instructions," within the agency-wide "Section L&M Mission Suitability Volume," solicitation instructions (located in NCMS), when it is anticipated the contractor will provide an unmanned aircraft system that will process, store, or transmit federal information.

(e) Presolicitation Impact Assessment: The Contracting Officer's Representative (COR) (or, if one has not been appointed, the technical point of contact) must include a copy of the completed Presolicitation Impact Assessment, or any other form of documentation showing that the impact assessment was completed, in requisitions that are submitted to the NASA Shared Services Center (NSSC). Neither NSSC nor any other contracting officer can issue an award that

contains the potential procurement of a UAS that will process, store, or transmit federal information until they receive proof that the presolicitation impact assessment was completed.

1840.22 Preaward Impact Assessment

(a) The CO will serve as the liaison between the offeror and ISSO/ISO. If the ISSO/ISO requires additional information to complete the assessment, the CO will retrieve that information from the offeror.

(b) No Contracting Officer may award any contract, order, agreement, or call at any dollar level (including micropurchases), that includes the provision of any covered unmanned aircraft system (covered UAS) or any portion of a covered UAS.]

(c) Section L&M Template : Once completed, the ISO, ISSO, and Office of the Chief Information Officer (OCIO) Authorizing Official (AO) (or AO Designated Representative (AODR) will sign the Impact Assessment Template.

(d) The Information Systems Officer (ISO) or Information System Security Officer (ISSO) will upload the completed and signed Impact Assessment Template into NASA's Risk Information Security Compliance System (RISCS) - the Agency's information systems and system security plan (SSP) inventory.

1840.23 General Procedures – Assessment of Proposals

(a) Preaward Impact Assessment -- Upon receiving a proposal which an offeror intends to procure a UAS that will process, store, or transmit federal information, the contracting officer's representative (COR) or, if no COR has been appointed, the requirement's technical point of contact, will contact their Center's Information System Security Officer (ISSO) and Information System Owner (ISO) to initiate a Preaward Impact Assessment. A list of Center ISSOs and ISOs can be found in the Office of Chief Information Officer's (OCIO) Impact Assessment Template.

(b) Impact Assessment Template -- ISSOs and ISOs will need to complete OCIO's Impact Assessment Template based on information received from the offeror. The template includes instructions, an impact assessment questionnaire, and guidance on security requirements that contractors must meet.

1840.24 Solicitation provision and contract clauses

(a) Minimum (as applicable) clauses and provisions when procuring drones:
52.240-90, Security Prohibitions and Exclusions Representations and Certifications
52.240-91, Security Prohibitions and Exclusions (may include Alt. I – see below)
52.240-93, Basic Safeguarding of Covered Contractor Information Systems
1852.240-76 Security Requirements for Unclassified Information Technology Resources.
52.224-3, Privacy Training

(b) *Use of Alternate I of FAR 52.240-91*. Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by any Department of Homeland Security (DHS) Federal Acquisition Supply Chain Security Act (FASCSA) order. DHS FASCSA Orders automatically apply to all NASA procurements. If the

requiring activity instructs the contracting officer to also use DoD (a.k.a. Department of War (DoW)) FASCSA orders and/or Director of National Intelligence (DNI) FASCSA orders, the CO must then use the clause at FAR 52.240-91 with its Alternate I, check "Yes" for the DHS FACSCA orders, then check either "Yes" or "No" as appropriate for DoW and DNI FASCSA orders. Regardless of agency source, all such orders are published in the System for Award Management website at https://www.sam.gov.

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Acquisition of Utility Services

1841.1—General

1841.11 Statutory and delegated authority.

(a) The NASA Senior Procurement Executive (SPE) (as defined in NFS CG 1802) may request delegations of utility contracting authority from the General Services Administration (GSA) to NASA.

(b) The SPE has delegated both of the following authorities to the center procurement officer (as defined in NFS 1802):

(1) The authority described in 1841.11(a) above; and

(2) The authority to certify to GSA that NASA has:

(i) An established utilities acquisition program;

(ii) Personnel technically qualified to deal with specialized utilities problems; and

(iii) The ability to accomplish its own pre-award utility contract review.

(c)The center procurement officer must coordinate with the Headquarters Facilities Engineering Division before exercising the SPE-delegated authorities above. The procurement officer must include the above certification in the request for the delegation of authority.

1841.2—Acquiring Utility Services

1841.21 Policy.

The Center or Component Facility Energy Manager must review each acquisition of utility services for opportunities to optimize and reduce energy and water utility costs through available utility services/commodity purchasing mechanisms, life-cycle cost-effective efficiency projects and initiatives, alternative fuels, and renewable and alternative energy and water requirements addressed in NPR 8570.1, Energy Efficiency and Water Conservation.

1841.22 Separate contracts.

Before entering into a separate contract, the contracting officer must coordinate with the Center Energy Manager and Headquarters Facilities Engineering Division.

1841.23 Acquisition of energy when purchased as a commodity.

The acquisition of energy, such as electricity and natural gas, when purchased as a commodity is considered the acquisition of supplies rather than the acquisition of utility services described in FAR Part 41. Therefore, the contracting officer may acquire energy commodities directly under applicable authorities and FAR procedures governing the acquisition of supplies including, but not limited to, those governing the acquisition of commercial products and/or commercially available off-the-shelf (COTS) items (both defined in FAR Part 2). NASA Centers and Component Facilities may also participate in energy commodity procurement programs conducted by other entities, such as the GSA and the Defense Logistics Agency. The contracting

officer must coordinate energy commodity acquisitions with the Headquarters Facilities Engineering Division.

1841.24 Interagency agreements.

A NASA Center or Component Facility located with a Department of Defense (DoD) installation may, after coordinating with the Headquarters Facilities Engineering Division, enter into an interagency agreement to reimburse the installation for utility services provided by the installation under DoD's utility services authority.

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NFS CG PART 1842
CONTRACT ADMINISTRATION AND AUDIT SERVICES

1842.1—Contract Audit Services

1842.11 Contract audit responsibilities.

(a) The Defense Contract Audit Agency (DCAA) has been designated as the Department of War (DOW) agency responsible for the performance of audit functions for NASA contracts with vendors for which DOW acts as the Cognizant Federal Agency Official (CFAO), except those contracts awarded to educational institutions for which other agencies have audit cognizance under OMB Uniform Guidance (2 CFR Part 200, Subpart F); those with the Canadian Commercial Corporation; and those contracts with vendors for which NASA serves as the CFAO. DCAA may not self-initiate contract required audits (i.e., incurred cost audits, contractor business reviews) on NASA's behalf without obtaining an audit request. For those contracts where DCAA has not received a Letter of Audit Delegation (NASA Form 1433), DCAA will provide a notice to HQ-DL-OP-NASA-Contract-Audit@mail.nasa.gov asking if NASA wants a specific contract(s) audited.

(b) Cross-servicing arrangements are the responsibility of the Headquarters Office of the Chief Financial Officer. Contracting officers should direct questions to the Enterprise Procurement Integration and Excellence (EPIX) Office.

1842.12 Review of administration and audit services.

NASA contracting activities must assess their delegations to Department of War (DOW) semiannually to determine changes in delegation patterns that could result in significant changes in DOW manpower requirements or have other important impacts on DOW contract administration activities. Events such as major program cutbacks or expansions, changes in locations of major programs, and sizable new acquisitions should be considered in the assessment. Contracting activities must advise the EPIX Office when an assessment indicates a significant change in required DOW support. DCAA will provide the EPIX Office with a contract required audit plan annually. DCAA will distribute a copy of all completed contract required audits that include NASA to HQ-DL-OP-NASA-Contract-Audit@mail.nasa.gov

1842.13 Assignment of NASA personnel at contractor plants.

(a)(1) NASA personnel normally must not be assigned at or near a contractor's facility to perform any contract administration functions listed in FAR 42.302(a). Before such an assignment is made, a written request must be forwarded to the cognizant program director for approval with the concurrence of the Senior Procurement Executive. The following supporting information must be forwarded with the request to make the assignment:

(i) A statement of the special circumstances that necessitate the assignment.

(ii) The contract administration services to be performed.

(iii) A summary of any discussions held with the cognizant contract administration organization.

(iv) A staffing plan covering three years or such shorter period as may be appropriate.

(2) The provisions of this paragraph do not apply to NASA audit personnel assigned to the field installations and paragraph (b) of this section, unless they are performing any contract administration functions listed in FAR 42.302(a), or to personnel assigned to contractors' plants on NASA or other Federal installations.

(b) NASA may assign technical personnel (such as quality assurance, reliability, or engineering representatives) to contractors' plants or laboratories to provide direct liaison with NASA and technical assistance and guidance to the contractor and DOW. The duties and responsibilities of these technical representatives must be clearly defined and must not conflict with, duplicate, or overlap with functions delegated to DOW personnel. NASA must advise appropriate DOW and contractor organizations of the duties and responsibilities of NASA technical personnel.

(c) When a NASA resident office, including any assigned technical personnel, and a DOW contract administration office are performing contract administration functions for NASA contracts at the same contractor's facility, the two offices must execute a written agreement clearly establishing the relationship between the two organizations and the contractor. The agreement should eliminate duplication in the performance of contract administration functions and minimize procedural misunderstandings between the two organizations. Such agreements must be consistent with existing delegations to the contract administration offices concerned and must specify the relationship of NASA non-procurement resident personnel to their DOW and contractor counterparts if such personnel are involved in any aspect of contract administration.

1842.14 Assignment of Contract Audit Services for Canadian Firms.

(a) For contracts with the Canadian Commercial Corporation (CCC), audits are automatically arranged by the Department of Defense Production (Canada) (DDP) in accordance with agreements between NASA and DDP. Audit reports are furnished to DDP. Upon advice from DDP, CCC will certify the invoice and forward it with Standard Form (SF) 1034, Public Voucher, to the contracting officer for further processing and transmittal to the fiscal or financial management officer.

(b) For contracts placed directly with Canadian firms, audits are requested by the contracting officer from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by SF 1034, are forwarded to the contracting officer for further processing and transmittal to the fiscal or financial management officer. Periodic advisory audit reports are furnished directly to the contracting officer.

1842.2—Contract Administration Services

1842.21 Assignment of contract administration.

(a) *Special instructions.* The contracting officer may retain the functions described in FAR 42.302(b)(1) and any of the functions in the FAR 42.302(a) except those in paragraphs (a)(5), (a)(9), (a)(11), and (a)(12). In addition to the instructions at FAR 42.202(a)(1) through (4), contracting officers must—

(1) Send delegations to the DCMA NASA Support Desk operated by DCMA NASA Product Operations (NPO) at: dcma.san-antonio-tx.npo.mbx.nasa-support-desk@mail.mil, for receipt, coordination, and acceptance by DCMA and re-delegation for performance by the appropriate DCMA Contract Management Office(s); except for research and development with universities; management and professional support services; base, post, camp and station purchases; operation or maintenance of, or installation of equipment at, radar or communication network sites; and operation and maintenance of, or installation of equipment at Center test ranges, facilities, and installations;

(2) Include in delegation requests the NASA Form 1430, Letter of Contract Administration Delegation, General, along with appropriate appendices (NASA Form 1430A, 1430B, 1430C, 1430D), ,which each include an area for Acceptance of Contract Administration, and contract documents (base contract and SOW/PWS). Use the following address on NASA Form (NF) 1430 for block 3: DCMA NASA Product Operations, 2720 Howitzer Rd, Bldg. 2372, Fort Sam Houston, TX 78234-6002.

1842.22 Retention of contract administration.

(a) The assignment of contract administration is optional for the following contracts:

(1) Research and development study contracts not involving deliverable hardware or Government furnished property.

(2) Contracts with periods of performance of 90 days or less.

(3) Contracts with periods of performance of 91 to 180 days that do not include all of the following:

(i) A small business subcontracting plan.

(ii) Government-furnished property.

(iii) Progress payments, if a fixed-price type contract.

(4) Purchase orders without Government source inspection requirements.

(5) Contracts requiring only on-site performance.

(6) Contracts requiring work in the vicinity of the awarding center where DOD contract administration services are not reasonably available.

(b) The determination to assign Quality Assurance, Property Administration or Plant Clearance for administration must be made after review by the cognizant technical personnel.

1842.3--Contract Administration Office Functions

1842.31 Contract administration functions.

In addition to the responsibilities listed in FAR 42.302(a), responsibility for reviewing earned value management system (EVMS) plans and verifying initial and continuing contractor compliance with NASA and DoD EVMS criteria and conformity with Electronic Industries Alliance Standard 748 (EIA-748) for EVMS, is normally delegated to DCMA.

1842.32 Postaward conference.

(a) A postaward conference must be held with representatives of the contract administration office when—

(1) A contract is expected to exceed $10,000,000;

(2) Contract performance is required at or near a NASA installation or NASA-controlled launch site;

(3) The delegation will impose an abnormal demand on the resources of the contract administration office receiving the delegation; or

(4) Complex contract management problems are expected, particularly risk management areas identified during program and acquisition planning, e.g., significant or unusual mission success, technical, cost, schedule, safety, security, occupational health, environmental protection, and export control risks.

(b) Procurement officer approval is required to waive a post-award conference for contracts meeting any of the criteria in paragraph (1) of this section. The request for procurement officer approval to waive a post-award conference must address action taken and planned to ensure effective communication with the contract administration office during the performance of the contract.

(c) During the Post-Award Orientation, COs must remind contractors that background investigations must be thoroughly and transparently completed. Failure to do so will cause problems with issuance of badges and proper access to NASA facilities and material.

(d) COs must use the agency-wide procurement "Postaward Conference Report" procurement template when a postaward conference is required.

1842.5—Indirect Cost Rates

1842.51 Final indirect cost rates.

For the purposes of satisfying the audit requirements at FAR 42.505-2(b)(2), NASA contracting officers must continue to rely on either a DCAA audit report or a DCAA memorandum documenting that, based on a risk assessment and a proposal adequacy evaluation, DCAA deemed the incurred cost proposal to be low risk and did not select if for further audit.

1842.52 Contracting officer determination procedure.

(a) When NASA is not the cognizant Federal agency, NASA should participate with the cognizant contracting officer (or cognizant Federal agency official) in the final indirect cost rate determination procedure where the issues involved would have a significant financial impact on the agency. The NASA participant should be a representative from the NASA Cognizant Federal Agency Office within the HQs Enterprise Pricing Office. If a determination is made that NASA's participation is not warranted, that decision must be communicated to the cognizant contracting officer (or cognizant Federal agency official).

(b) When NASA is the cognizant Federal agency, settlement of indirect costs should be conducted by the NASA Administrative Contracting Officer from the HQs Enterprise Pricing

Office. The following address may be used when notifying NASA: HQ-DL-OP-NASA-Contract-Audit@mail.nasa.gov.

1842.53 Cost-sharing rates and limitations on indirect rates.

(a) The Assistant Administrator for Procurement is the approval authority for use of an indirect rate ceiling provision in a solicitation or contract. Requests for approval must be submitted through the Headquarters Office of Procurement. Such requests must be constructed in the form of a Determination & Finding (D&F) which must, at a minimum, contain a copy of the proposed indirect rate ceiling provision, a justification as to why such a provision is necessary, and the associated benefits to the Government. The Headquarters Office of Procurement Analyst must coordinate all indirect rate ceiling approval requests with the Headquarters Office of the General Counsel, the Cognizant Administrative Contracting Officer, and the cognizant Enterprise Procurement Integration and Excellence (EPIX) Procurement Analyst.

(b)(1) Indirect cost ceilings should only be used when:

(i) a proposed contractor is a new or recently reorganized company, and there is no past or recent record of incurred indirect costs;
(ii) a proposed contractor has a recent record of a rapidly increasing indirect cost rate due to a declining volume of sales without a commensurate decline in indirect expenses; or

(c) In competitive procurements, if a contractor attempts to strengthen its position by proposing indirect cost rates that are lower than those reasonably expected during contract performance potentially leading to a cost overrun identified in the cost realism evaluation, use of an indirect rate ceiling provision should be proposed as part of the source selection presentation, and the approval procedures outlined above should be initiated at that time.

(d) All indirect rate ceiling provisions must address, at a minimum, the indirect rates being capped, the procedures for possible adjustment of ceiling rates if certain circumstances warrant such adjustment and the following must apply:
(1) The Government will not be obligated to pay any additional amount should the final indirect cost rates exceed the negotiated ceiling rates, and

(2) In the event the final indirect cost rates are less than the negotiated ceiling rates, the negotiated rates will be reduced to conform with the lower rates.

1842.54 NASA Quick-closeout procedures.

Reference the Enterprise Contract Close Out Procedures B-200-1.

1842.91 Processing agreements.

(a) The installation must immediately notify the Headquarters Office of Procurement of the request to execute a novation (successor-in-interest) or change-of-name agreement.

(b) The contracting officer must forward one copy of the agreement to the Headquarters Office of Procurement.

1842.92 DOW processing of novation and change-of-name agreements on behalf of NASA.

(a) Copies of novation and change-of-name agreements executed by DOW on behalf of NASA are maintained by the Headquarters Office of Procurement.

(b) Headquarters Office of Procurement is the Agency point of contact for issues related to proposed novation agreements. With the concurrence of the Headquarters Office of Procurement, an installation may execute a separate agreement with the contractor.

1842.10—Suspension of Work, Stop-Work Orders, and Government Delay of Work

1842.101 Contract clauses.

FAR 52.242-15, Stop-Work Order, must not be used in solicitations or contracts for research performed by educational or other nonprofit institutions.

1842.11—Contractor Performance Information

1842.111 Policy.

For contracts with a performance period longer than one year, contracting officers must complete an interim performance evaluation within 120 days after the end of that period, in accordance with FAR 42.11. Interim evaluations are not required for contracts whose award anniversary falls within three months of the contract's end date. The final evaluation will cover the period from the last interim evaluation through the end of the contract. Interim evaluations are optional for Small Business Innovation Research /Small Business Technology Transfer (SBIR/STTR) Phase II contracts.

1842.112 Procedures.

(a) The contracting officer must determine who (e.g., the technical office or end users of the products or services) evaluates appropriate portions of the contractor's performance. The contracting officer should use the Contractor Performance Assessment Reporting System (CPARS) input template to obtain evaluations if the technical office or end users do not have access to CPARS. The evaluations are subjective in nature. The contracting officer, who holds responsibility for conducting performance evaluations, must ensure that all evaluations are reasonable, well-documented, and completed in a timely manner to support award-fee determinations and CPARS reporting. The contracting officer must also apply incentives and consequences in a consistent manner across programs, projects, and Centers

(b) The CPARS must be used to document evaluations. This provides for a five-tiered rating covering the following attributes: quality, schedule, cost control (not required for firm-fixed-price contracts or firm-fixed-price contracts with economic price adjustment), business relations, management of key personnel, utilization of small business, and other considerations within the CPARS module; Quality, Key Consultants, Design/Engineering, and Construction within the ACASS module; and Quality, Management, Timely Performance, Labor Standards, Environmental Management, Occupational Health and Safety Standards within the CCASS module.

(1) For occupational health and safety, the following should be included in the rating based on applicability to the specific contract:

(i) Compliance with the approved health and safety plan.

(ii) Safety record and incidence history.

(iii) Procedures for the correction and control of hazards.

(2) For environmental management, the following should be included in the rating-based applicability to the specific contract:

(i) Compliance with the Center environmental management system (for on-site contracts).

(ii) Use of environmentally preferable products and services.

(iii) Compliance with contract sustainable acquisition requirements.

(c) For Cost Plus Award Fee or Fixed Price Award Fee type contracts, contracting officers must complete the following evaluation information in the Award Fee Evaluation System (AFES) module in the NASA Acquisition Internet Service (NAIS):

(1) Available award fee amount.

(2) Amount of award fee earned.

(3) Award fee rating.

(4) How the use of award fee did or did not motivate the contractor's overall cost, schedule and technical performance as measured against contract requirements in accordance with the criteria stated in the award fee plan.

(5) How the objectives were enhanced by using an award fee contract as stated in the determination and findings required at FAR 16.401-2.

(6) Award fee determination meeting date.

(7) Date Fee Determining Official determination notice to the contractor.

(8) Date contractor was paid.

(9) Numerical award fee score.

(d) Center Procurement Offices must monitor the information entered in the Award Fee Evaluation System (AFES) for accuracy and completeness.

(e) Contractor performance will be reflected in past performance assessments, considering severity, persistence, mission impact, and progress against corrective actions.
Contractors with performance issues will receive written notice and have an opportunity to respond, including corrective action plans with defined improvement milestones.

(f) Unresolved or systemic contractor performance issues documented will negatively impact Past Performance evaluations in future source selections.

1842.72—NASA Contractor Financial Management Reporting

(a) Contracting officer responsibilities.

(1) Contracting officers must ensure contracts require cost reporting consistent with both policy requirements and project needs. Contracting officers must monitor contractor cost reports on a regular basis to ensure cost of the reported data is accurate and timely. Adverse trends or discrepancies discovered in cost reports should be pursued through discussions with financial and project team members.

(2) Whenever cost performance threatens contract performance, contracting officers must require corrective action plans from the contractors.

(3) The contracting officer must document the review of the contractor's cost reports using the agency-wide "NASA Form (NF) 533 Monthly Supplemental Analysis" procurement template or a Center developed tool that includes the same analysis required by the agency-wide template.

(4) NASA Form 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, evaluation of the contractor's cost performance, and forecasting of resource requirements.

(5) Where a specific contractual requirement differs from the standard system set forth in NPR 9501.2E, 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 the project manager. Such approval must be documented and retained, with the supporting rationale, in the contract file.

(6) The contractor's internal automated printout reports may be substituted for the 533 reporting formats only if the substitute reports contain all the data elements that would be provided by the corresponding 533's. The contracting officer must coordinate any proposed substitute with the installation financial management office.

(b) Contract requirements.

(1) Reporting requirements, including a description of reporting categories, must be detailed in the procurement request, and reports must be required by inclusion of the clause prescribed in NFS 1825.7101(a). The contract schedule must include report addresses and numbers of copies. The final agreed upon reporting categories must be approved by the Center Chief Financial Officer or designee to ensure that data required for agency cost accounting will be provided by the reports. Reporting dates must be in accordance with NPR 9501.2, except that earlier submission is encouraged whenever feasible. No due date must 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 development of the cost reporting structure must be a collaborative effort by government personnel to include, as appropriate: technical, program management, procurement, financial, and resources personnel who will have a role in monitoring contractor performance, contract administration, or otherwise use the reporting data. The reporting structure, i.e., the specific reporting categories must be included in the solicitation to inform prospective contractors of the reporting requirements. The final reporting structure will be finalized and agreed to by the government and the contractor.

(3) The contractor must 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.

1842.73—Audit Tracking and Resolution

1842.731 NASA reportable contract audit follow-up process.

(a) As used in this subpart, the Reportable Audit Representative is the Center's designee for tracking the resolution and disposition of reportable contract audit reports.

(b) This section implements OMB Circular No. A-50 and supplements NASA Policy Directive (NPD) 9910.1B, "Government Accountability Office/NASA Office of Inspector General Audit Liaison, Resolution, and Follow-up." NPD 9910.1B establishes a robust program for audit liaison, resolution, and follow-up to manage audit recommendations issued by the Government Accountability Office (GAO) and the NASA Office of Inspector General (OIG), and non-Federal auditors performing work on behalf of these audit organizations, in accordance with Office of Management and Budget (OMB) Circular No. A-50, Audit Follow-up.

(1) All reportable contract audit reports with recommendations where NASA has resolution and disposition authority must be resolved within six months after receipt of the audit report per NPD 9910.1B(1)(g).

(c) The Reportable Audit Representative must track and report on all reportable contract audit reports as defined by Chapter 15, Section 6, of the DCAA Contract Audit Manual (CAM) where NASA has resolution and disposition responsibility. Until all audit recommendations are resolved and dispositioned, the information must be updated at least quarterly. DCAA will provide to the Enterprise Procurement Integration and Enterprise (EPIX) Office, a listing of reportable audit reports requiring resolution and disposition.

(1) The resolution and disposition of DCAA reportable contract audit reports, where NASA has resolution and disposition authority, are handled as follows:

(i) Audit recommendations pertaining to an individual NASA contract are the responsibility of the NASA contracting officer for that contract.

(ii) Audit recommendations impacting more than one NASA contract are the responsibility of the NASA contracting officer providing the preponderance of funding to the contractor for the contractor fiscal year covered by the audit report (lead contracting officer). The lead contracting officer from the Center with the preponderance of funding serves as lead and should furnish a copy of the reportable contract audit report to all NASA contracting officers with contracts impacted by the audit report and copy the NASA Cognizant Federal Agency Office within the Enterprise Pricing Office using the following email address HQ-DL-OP-NASA-Contract-Audit@mail.nasa.gov. Those contracting officers along with NASA Administrative Contracting Officer (ACO) should be provided with the opportunity to participate in negotiations or provide input into the negotiation strategy for resolving and dispositioning the audit recommendations.

(d) Reportable contract audit reports issued to DCMA in cases where contract administration has been delegated to DCMA are not required to be reported by NASA since DCMA is required to track and maintain these audit reports. NASA contracting officers must communicate with the DCMA ACO, who has the authority to perform reportable contract audit resolution and disposition activities on these NASA contracts. This dialogue will be conducted

at least semiannually regarding the status relative to the ACO's audit resolution and disposition activities documented in the contract file. During this dialogue, NASA contracting officers should also obtain projected reportable contract audit resolution and disposition dates to address any issues in a timely manner and ensure the timely close out of cost-type contracts.

1842.732 Reportable audit disposition documentation.

For each DCAA reportable contract audit report where NASA has resolution and disposition authority, the NASA contracting officer must submit disposition documentation (e.g. price negotiation memorandum) to the DCAA office that provided the audit report with a copy provided to the NASA Cognizant Federal Agency Office within the HQs Enterprise Pricing Office using the email address HQ-DL-OP-NASA-Contract-Audit@mail.nasa.gov.

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CONTRACT MODIFICATIONS

1843.2—General

1843.21 Policy.

(a) Contracting officers must require consideration for all scope changes.

(b) Contract modification negotiations must be concluded within 45 days of receipt of a qualifying proposal. When negotiations are delayed beyond 14 days from the schedule, leadership engagement is mandatory. Delays without escalation are unacceptable.

(c) Contracting officers must use the agency-wide "Request for Proposal (RFP) for Existing Contracts" procurement template in negotiated acquisitions to communicate requirements to contractors on existing contracts and to solicit proposals for contract modification. The template may be used under a variety of authorities (e.g., changes clause, new work), but does not waive the contracting officer's obligation to comply with all applicable FAR and NFS documentation requirements (e.g., notices, deviations, competition considerations).

1843.3—Change Orders

1843.31 Scope.

This section provides policy and procedures for unpriced change orders and undefinitized contract actions (UCAs). This section applies to unpriced change orders with an estimated value exceeding the SAT.

1843.32 Definitions.

As used in this section-

"Contract action" means an action which results in a contract.

(1) It includes contract modifications for additional supplies or services.

(2) It includes task orders and delivery orders.

(3) It does not include change orders invoked by any of the FAR 52.243 Changes Clauses, administrative changes, funding modifications, or any other contract modifications that are within the scope and under the terms of the contract (e.g., engineering change proposals, value engineering change proposals).

"Definitization" means the agreement on, or determination of, contract terms, specifications, and price, which converts the undefinitized contract action to a definitive contract.

"Qualifying proposal" means a proposal that contains sufficient information to enable NASA to conduct meaningful analyses and audits of the information contained in the proposal.

"Undefinitized contract action (UCA)" means any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. Example is new work needs to be added to the contract, but the final price or estimated cost and fee has not been agreed upon before performance needs to begin to meet NASA mission requirements.

“Unpriced change order” means any requirement change invoked by any of the FAR 52.243 Changes Clauses that is within the scope and under the terms of the contract (e.g., engineering change proposals (ECP), value engineering change proposals). Example includes a change request approved (ECP) via Program/Project Control Board.

1843.4 Unpriced Change Orders

1843.41 Policy.

(a) Contract file must contain documentation of a contracting officer in-scope determination when issuing an unpriced change order.

(b) Unpriced change orders must include a not-to-exceed price.

1843.42 Definitization.

(a) Unpriced change orders must contain definitization schedules that provide the definitization by 180 days after issuance of the change order. This date may be extended but may not exceed 120 days from submission of the contractor’s qualifying proposal. When execution of the action is delayed beyond 14 days from the agreed schedule, leadership engagement is mandatory. Delays without escalation are unacceptable.

(b) Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the contract. If the contractor does not submit a timely qualifying proposal, the contracting officer may suspend or reduce progress payments under FAR 32.503-6, or take other appropriate action.

1843.5 Undefinitized Contract Actions (UCAs)

1843.51 Policy.

(a) Undefinitized contract actions (UCAs) must be used only when-

(1) The negotiation of a definitive contract action is not possible in sufficient time to meet the Government’s requirements; and
(2) The Government’s interest demands that the contractor be given a binding commitment so that contract performance can begin immediately.

(b) UCAs must include a ceiling price or not-to-exceed price.

(c) The contracting officer may issue undefinitized contract actions only on an exception basis, and must ensure that NASA liabilities and commitments are minimized. When an undefinitized contract action is justified and program requirements can be severed into smaller, discrete efforts, the contracting officer must limit work authorized by the undefinitized contract action to the minimum severable effort required to satisfy the urgent program requirements. The contracting officer must acquire any remaining requirements through a separate, fully priced and definitized contract action.

(d) The contracting officer must use the agency-wide "Justification and Approval of Undefinitized Contract Actions (UCAs) and Letter Contracts" procurement template to justify why the UCA is being issued and include the Government's cost estimate for the new requirement or changed requirements. The request for approval must fully explain the need to begin performance before definitization, including the adverse impact on agency requirements resulting from delays in beginning performance.

(e) The contracting officer must include the signed approved request to issue a UCA in the contract file.

1843.52 Procedures.

(a) The contracting officer must issue UCAs above the simplified acquisition threshold as bilateral agreements setting forth a ceiling or "not to exceed" (NTE) price for the new or changed contractual requirements.

(1) For fixed price contracts, the negotiated price for the new or changed contract requirements must not exceed the established ceiling price.

(2) For cost-type contracts, any costs eventually negotiated for the new or changed requirements in excess of the NTE must be non-fee bearing.

(b) The contracting officer must clearly show the UCA's ceiling or NTE amount separately from the main contract's pricing.

(c) The head of the contracting activity may waive the ceiling NTE price and bilateral agreement requirements prior to UCA issuance based on urgency. This waiver authority is not delegable. The contracting officer must document this waiver in the contract file.

(d) The contracting officer must clearly define the changed contractual requirements in the UCA and must limit the requirements to the minimum effort required to satisfy urgent program requirements while a cost proposal is prepared, analyzed, and negotiated.

(e) For UCAs where the Government's estimated cost or price is over $1,000,000 (and the action is not excluded under NFS CG 1843.3), the contracting officer must—

(1) obtain a 180-day funding profile from the contractor prior to execution of the UCA; and

(2) include a requirement that the change be separately accounted for by the contractor to the degree necessary to provide the Government visibility into actual costs incurred pending definitization. The contracting officer may waive this requirement for individual actions, if the contracting officer determines that such accounting procedures would not be cost effective. Any such waiver must not affect existing NASA Form 533 or other financial reporting requirements set forth in the contract.

1843.53 Approval.

(a) The Head of the Contracting Activity (HCA) is the approval authority for UCAs.

(b) In emergency situations, approval may be given orally and subsequently confirmed in writing.

(c) Prior to modifying the scope of a UCA when performance has already begun, a request to modify the UCA scope must be approved by the HCA prior to executing the contract modification. The request should show that the modification is consistent with good business practices and in the best interests of the Government.

(d) The HCA approval authority for UCAs is not delegable.

1843.54 Exceptions.

(a) Exceptions to the requirement for HCA approval of UCAs are modifications to--

(1) facilities contracts;
(2) construction contracts using Construction of Facilities funding; or
(3) decrease contract value.

(b) For any of the modifications in paragraph (a) of this section, the contracting officer must cite the exception and include complete supporting rationale for its applicability in the contract file.

1843.55 Definitization.

(a) UCAs must contain definitization schedule that provide for definitization by 180 days after issuance of the UCA. This date may be extended but may not exceed 120 days from submission of the contractor's qualifying proposal. Contract award must be made within 120 days of receiving a qualifying proposal. Schedule delays beyond 14 days require leadership engagement.

(b) Withholding of contractor payments:

(1) Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the contract. If the contractor does not submit a qualifying proposal in accordance with the contract definitization schedule, considering FAR 52.216-26, Payments of Allowable Costs Before Definitization, the contracting officer may withhold an amount necessary to protect the interests of the Government, or take other appropriate actions (e.g., documenting the noncompliance in the contractor's past performance evaluation or terminating the contract for default).

(2) Contracting officers must document in the contract file the justification for withholding or not withholding payments if the qualifying proposal was not submitted in accordance with the contract definitization schedule.

(c)The contracting officer must keep a record of negotiations used to finalize the contract, clearly explaining how the final price was decided. This record should also point out any differences between the original NTE price and the final agreed-upon price. The summary of negotiations must be documented in the price negotiation memorandum (PNM) and included in the contract file.

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1844.2 -Consent to Subcontracts

1844.202 Contracting officer's evaluation.

1844.202-1 Responsibilities.

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

(b) Contracting officers must document subcontract consent reviews using the Subcontract Consent Review template.

1844.3—Contractors' Purchasing Systems Reviews

1844.31 DCMA-conducted contractor purchasing system reviews.

For contractors where the Defense Contract Management Agency (DCMA) has cognizance, NASA contracting officers must determine if a Contractor Purchasing System Review (CPSR) review is needed, be aware of purchasing system approval status, and should become actively involved with the DCMA in the CPSR process. DCMA has a CPSR_Guidebook_091021.pdf that is a helpful resource for the CPSR process. Involvement should include the following:

(a) Verifying that CPSRs are being conducted in accordance with FAR 44.301.
(b) Ensuring that purchasing system review specifically includes the business unit performing the NASA contract.
(c) Actively participating as a team member, or arranging NASA representation, on DCMA CPSRs to review areas of NASA-specific interest. At a minimum, such participation or representation must be arranged when the DCMA CPSR review involves—
(1) Contractors with major NASA programs;
(2) Contractors' business units where the total dollar value of NASA contracts is substantial; or
(3) Any contractor system where the contracting officer has special concerns.
(d) Ensuring that the selected CPSR sample to be reviewed reflects the level of NASA business in the contractor's purchasing organization.

(e) Providing to the cognizant DCMA CPSR team leader any areas of special emphasis regarding the contractor's purchasing system to ensure that the review is tailored to address any NASA concerns.

1844.32 NASA-conducted contractor purchasing system reviews.

The dollar threshold for conducting CPSRs on contractors when NASA has cognizance is $25 million or above. When NASA has cognizance, the NASA contracting officer must determine: (i) if a CPSR review is needed; (ii) be aware of purchasing system approval status; and (iii) become actively involved with the Enterprise Pricing Office's (EPO) Cognizant Federal Agency (CFA) Office in the CPSR process.

The EPO CFA Office will coordinate the CPSR process with all stakeholders and will determine who will perform the CPSR if one is needed. The EPO CFA utilizes DCMA, NASA CPA Firms, or NASA personnel to perform CPSRs. The EPO CFA Office will assign the NASA Administrative Contracting Officer (ACO) to determine the scope of review and to coordinate with all stakeholders. The NASA ACO may vary the scope of review depending on the contractor and contracts involved, and will maintain close coordination with the NASA contracting officer during CPSRs at contractors under NASA cognizance.

1844.33 Contracting officer surveillance.

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

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

1844.34 Review of CPSR reports.

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

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1845.1—General

1845.11 NASA policy.

(a) In addition to the criteria cited in FAR 45.102 which must be demonstrated before providing property to contractors, contracting officers must carefully consider the following factors when deciding if it is in the Government's best interest to provide Government property for the performance of a contract. Providing Government property—

(1) Increases the Government's administrative burden and requires recordkeeping and personnel;

(2) May dilute the contractor's overall responsibility and weaken guarantees, end-item delivery requirements, and other contract terms;

(3) May NASA be responsible for delays in that the Agency assumes responsibility for scheduling delivery of the property and the operability of the property;

(4) Carries its own inherent risk that the property may be lost, damaged, destroyed or misused, resulting in a loss of funds that could otherwise be used to support NASA's mission;

(5) When commercially available, may confer a competitive advantage to contractors who have not taken on the same investment risk as their competitors. Contractors who plan for the Government's provision of commercially available equipment are passing those investment risks to the Government; and

(6) May be counterproductive to socio-economic programs which encourage small businesses to develop through capital investment.

(b) The contracting officer must obtain the approval of the Center Real Property Accountable Officer prior to negotiating, or entering into any real property leaseholds, permits, licenses or disposition actions. The contracting officer must advise the Center Real Property Accountable Officer when the place of performance is on a NASA center or facility, and the contractor will be offered space and utilities under NFS clause 1852.245-77.

1845.12 General.

(a) Contracting officers are responsible for overall management of their contracts, including the management of Government property provided to contractors under NASA Contracts.

(b) Contracting officers must fully document decisions to provide property, including authorization for contractors to purchase property as a direct cost to the Contract. This documentation must clearly demonstrate that the provision of property is in the Government's best interests in accordance with FAR 45.102. Contracting officers must complete the agency-wide "Contracting Officer Determination to Provide Government Property" procurement template, if authorizing use of government property to a contractor.

(c) Contracting officers must review the contractor's requests for provision of Government property under the clause at 1852.245-70 to determine whether authorizing the provision of Government property is an appropriate business decision according to the policy reference above at NFS CG 1845.11 above.

(d) Contracting officers may solicit the opinion of the technical officer regarding the technical need for the property. However, technical need, in and of itself, is not sufficient reason for providing Government property. If the property is required to satisfy technical needs, it is still assumed to be in the Government's best interest to require the contractor to use contractor-owned property for contract performance.

(e) Contracting officers must assure that all changes to contract property involving the provision of additional Government-furnished property or reduction of existing property are noted in the contract by insertion or modification of the clause at 1852.245-76, and are recorded or reported for recording in the appropriate NASA property management information records.

(f) Contracting officers must document the file on the determination to provide Government property and must forward copies of any approved requests to —

(1) The Center Deputy Chief Financial Officer (DCFO) when an item of property or, in the case of a contract for construction, the total value of property being constructed by the contractor is expected to result in the acquisition or construction cost exceeding the NASA capitalization threshold of $1,000,000; and,

(2) The NASA Center IPO, when the contractor is not authorized to conduct its own screening of available inventory.

(g) IPOs must coordinate screening with center reutilization personnel to determine the availability of existing Government inventory and excess.

(1) The IPO must notify the contracting officer of the availability of property as soon as possible after receipt of the approved request from the contracting officer.

(2) The IPO must assist the contracting officer in the coordination of the transfer and oversee property documentation of the transfer of existing Government property to the contractor.

1845.13 Responsibility and liability for Government property.

When the Property Administrator, with the concurrence of the Industrial Property Officer (IPO), determines and reports that the contractor's property management practices are inadequate and/or present an undue risk to the Government, contracting officers must revoke the Government's assumption of risk or take other action to mitigate the risk of loss, damage, destruction, or theft of Government property.

1845.14 Transferring Accountability.

(a) When furnishing existing Government property to the contractor, contracting officers must—

(1) Insert NFS clause 1852.245-76, List of Government Property Furnished Pursuant to FAR 52.245-1, if not already included in the contract; and

(2) Modify the list in 1852.245-76 to include any property furnished after award.

(b) In addition to modification of the list, transfers of property must be recorded on a "shipping" or "transfer" document such as the DD Form 1149 "Requisition and Invoice/Shipping Document."

(1) Centers may use equivalent documents that contain the same information.

(2) This requirement includes physically transferred property and property transferred in place.

(3) Contracting officer technical representatives are responsible for creation of shipping documents, based on the contractor's requests and contracting officer's approval, and are considered "shippers" for this purpose.

(4) Shippers will segregate items valued over $500,000 and request the transfer of these items on separate documents.

(5) The transfer documents must be complete and must include the following information for all items with a value greater than $5,000:

(i) Description of Property.
(ii) Property Identification Number.
(iii) Value.
(iv) Capital Value (if applicable).
(v) Property Classification.
(vi) Federal Supply Classification.
(vii) Gaining Contract.
(viii) Acquisition Date.

(6) Contracting officers must approve all shipping documents prior to property movement.

1845.2—Solicitation and Evaluation Procedures

1845.21 NASA solicitation preparation procedures.

(a) Each solicitation, as applicable, must include the following:

(1) A list of any Government property available to be furnished, quantities, locations, conditions, and any related information.

(2) A requirement that offerors identify any Government property in their possession proposed for use during contract performance. The items, quantities, locations, acquisition costs, and proposed rental terms must be provided, along with identification of the Government contract under which the property is accountable.

(3) A requirement that requested Government provided facilities be described and identified by the classifications in NFS 1845.7101-1.

(4) A requirement that offerors provide, if applicable, the date of the last Government property control system review, a summary of the findings and recommendations, and contractor corrective actions taken.

(b) The contracting officer must provide a copy of the solicitation (or contract if no solicitation is used) to the center Industrial Property Officer (IPO) for review when—

(1) The value of the acquisition exceeds the simplified acquisition threshold, and the work is to be performed within the physical confines of the center;

(2) Existing Government property may be furnished; or

(3) Contractors may acquire property that will be titled to the Government under the provisions of FAR 52.245-1, Government Property.

(c) IPOs must review the solicitation to—

(1) Ensure the correct application of property clauses based on the contract type, situation, and product or services ordered;

(2) Ascertain the contract's possible impact on center property or logistics operations and advise the center's Supply and Equipment Management Officer of those possible impacts; and

(3) Assure that appropriate property transactions for existing Government property, from internal sources and prior contracts, have been properly reported to NASA property and financial systems.

(d)(1) Items of Government property used to support NASA programs often become historically significant. In addition, property used by NASA programs often has value that exceeds other property with identical material or physical characteristics. This is particularly true for property that has flown in space. Descriptions of physical characteristics and condition are insufficient to determine an item's historic significance or real value. NASA Center Exhibit Managers are responsible for determining whether property meets the criteria for designation as historically significant. It is essential that items of historic significance are retained for the benefit of current and future generations. NASA must also obtain maximum value for property offered for sale.

(2) The contracting officer must contact the Center Exhibit Manager to determine whether the items acquired for or produced by the contract are likely to have historic significance or increased value due to their use in support of NASA projects and programs.

(3) Center Exhibit Manager must advise the contracting officer when they believe that property produced or acquired for the Government under the contract may have increased historic significance or increased value due to its use in support of NASA activities or programs.

1845.22 Plant reconversion and plant clearance.

The Senior Procurement Executive is the approval authority for any solicitation provision or contract clause that would defer negotiation of costs for plant reconversion or plant clearance until after award.

1845.23 NASA evaluation procedures.

(a) The contracting officer must request Industrial Property Officer (IPO) or Property Administrator (PA) assistance in evaluations of the offeror's proposed systems, standards and practices for the management of Government property.

(b) The contracting officer must provide the offeror's proposed property management standards and practices to the IPO for review and evaluation prior to award.

(c) IPOs must review proposals to determine whether the offeror's proposed industry leading standards and practices and/or voluntary consensus standards are sufficient to manage property, from planning through disposition, under the circumstances of the contract.

(1) If the IPO is unfamiliar with the offeror, the circumstances of the contract or the performance situation, the IPO may request the assistance of the cognizant PA for evaluation of the standards, practices, situation and history of property management performance at the offeror's place of performance.

(2) The IPO must provide a written evaluation, listing any proposed changes or improvements, to the contracting officer prior to award.

(d) The contracting officer must require changes or improvements to the offeror's property management practices, standards, or processes as recommended by the IPO. The contracting officer must advise the offeror that its property management practices, standards, and processes

will not be considered adequate for the protection, preservation, and management of Government property, and that the Government will not accept risk under the property clause until the recommended changes or improvements are made.

(e) When an offeror's proposal requests the Government to provide commercially available equipment, and the commercially available equipment is not required as an end item deliverable or part thereof, the contracting officer should assure the integrity of the competitive process by

(1) Adjusting the offeror's proposal to compensate for the value of the Government-provided, commercially available equipment; or

(2) Charging appropriate rent in accordance with the clause at FAR 52.245-9, Use and Charges. As the purpose for rent is to obtain just consideration for the Government's assumption of risk and cost, rent for commercially available equipment provided after award may not be treated as an allowable direct cost under the contract.

1845.3—Authorizing the Use and Rental of Government Property

1845.31 Use of property on other Government contracts.

(a) NASA contracting officers having cognizance over NASA property may authorize its rent-free use on other NASA contracts and contracts of other agencies if such use will not interfere with NASA's primary purpose for the property and will not extend beyond the expected expiration or completion date of the NASA contract.

(b) Contracting officers must obtain the concurrence of the gaining contracting officer when they intend to authorize the rent-free use of Government property for performance under the gaining contracting officer's cognizance.

1845.32 Use of Government property for commercial work.

(a) The coverage at FAR 45.3 applies to a contractor's commercial (any non-Government) use of any NASA equipment.

(b)(1) The percentage of Government and non-Government use must be computed based on time available for use. For this purpose, the contractor's normal work schedule, as represented by scheduled production shift hours, must be used. All equipment having a unit acquisition cost of less than $500,000 at any single location may be averaged over a quarterly period. Equipment having a unit acquisition cost of $500,000 or more must be considered on an item-by-item basis.

(2) Approvals for non-Government use, may not exceed 50 percent of total use and may not extend beyond the contract period of performance. Use or rental of Government property must incur charges for all portions that are used for non-government commercial purposes.

(3) Requests for approval must be submitted to the head of the contracting activity at least 6 weeks in advance of the projected use and must include—

(i) The number of equipment items involved and their total acquisition cost; and

(ii) An itemized listing of equipment having an acquisition cost of $500,000 or more, showing for each item the nomenclature, year of manufacture, and acquisition cost.

1845.33 Use of Government property on contracts with foreign governments or international organizations.

(a) Contracting officers must obtain written authorization from the Senior Procurement Executive and concurrence from the Manager of Contract Property Programs, Logistics Division, Office of Strategic Infrastructure; the Office of the General Counsel (Headquarters); and the Office of International and Interagency Relations (OIIR) before allowing the use of Government production and research property on work for foreign countries or for international organizations.

(b) Contracting officers must forward requests, along with a summary of the circumstances involved, including as a minimum—

(1) The name of the requesting contractor;

(2) The number of contracts under which the property is controlled;

(3) A description of the property;

(4) The name of the foreign contractor and the relationship of the foreign contractor to its government or to any international organization;

(5) A description of the articles to be manufactured or services to be performed;

(6) A statement that the intended use will not interfere with the current or foreseeable requirements of the United States or require use of the property beyond the expected expiration or completion date of the NASA contract;

(7) A statement that the use of Government property is consistent with the best interests of the United States;

(8) A statement that such use is legally authorized; and

(9) Any evidence of endorsement by another agency of the U.S. Government based on national security or foreign policy of the United States (e.g., an approved license or agreement from the Department of State or Department of Commerce).

(c) Use, if approved, must be subject to rent in accordance with FAR 45.3.

NASA procedures for disposal are in NPR 4300.1C, NASA Personal Property Disposal Procedures and Guidelines**.**

1845.34 Use of Government property on independent research and development programs.

(a) The contracting officer must not authorize contractor use of Government property for independent research and development on a rent-free basis except in unusual circumstances and after a written determination that—

(1) Such use is clearly in the best interests of the Government (for example, the project can reasonably be expected to be of value in specific Government programs); and

(2) No competitive advantage will accrue to the contractor through such use (see FAR 45.103(a)(2)).

(b) Contracting officers must utilize the same approval requirements as stated above under the Use of property on other Government contracts paragraph.

1845.5—Support Government Property Administration

1845.51General.

(a) The contracting officer must provide copies of contracts, modifications and related documents to the Center Industrial Property Officer.

(b) When the Industrial Property Officer or Property Administrator determines that the contractor's proposed systems, standards and practices for the management of Government property are inadequate to manage Government property, the Contracting Officer should: (1) Require the contractor to provide a written revision that addresses the determination of the Industrial Property Officer or Property Administrator.

1845.52 Delegations of property administration and plant clearance.

(a) NASA contracting officers must delegate property administration and plant clearance for contracts performed outside of NASA centers, installations and facilities when:

(1) The contract is a cost type contract;

(2) The contract is a fixed price contract that contains a cost element allowing or requiring the contractor to acquire property on behalf of the Government and that property is titled to the Government by operation of the FAR property clause;

(3) The contract is a fixed price contract and Government property is furnished; or,

(b) NASA Contracting officers may retain property administration and plant clearance only when there is a compelling need, such as a security requirement or safety requirement that would prohibit a non-cleared property administrator or a plant clearance officer from performing these services.

(c) Delegation of property administration activities to other agencies will be made according to the special delegation instructions issued by Logistics Division, Office of Strategic Infrastructure; NASA Form 1430, Letter of Contract Administration Delegation, General created/signed by NASA Contracting Officers; NASA Form 1430C, Property Administration/NASA Form 1430D, Appendix Plant Clearance created by Contract Property Program Manager/Letter of Delegation owner and signed by DoD in accordance with NPR 4500.1A, Administration of Property in the Custody of Award Recipients. Variance from these delegations' instructions must be authorized by Logistics Division, Office of Strategic Infrastructure.

(d) Contracting officers must retain property administration and plant clearance for all contractors where the place of performance is within a NASA Center, Installation or Facility.

1845.53 Retention of property administration and plant clearance.

(a) Contracting officers may retain property administration functions and responsibilities by written notification of the Center Industrial Property Officer. Contracting officers who retain property administration must perform property administration in accordance with the requirements of this subsection, FAR Part 45, and Department of War (DOW) instructions for property administration. The written notification must contain—

(1) A plan for performance of property system reviews;

(2) A procedure that allows for the maintenance of property management records for items transferred to and from the contractor, the collection and dissemination of property and

property related financial reports and the proper disposition of Government property in accordance with Federal Management Regulations and FAR 45.6;

(3) A plan for coordination of support property administration functions with the cognizant agency;

(4) Procedures for disposition of Government property, according to FAR and Federal Management Regulations, and for required reporting of disposition actions; and,

(5) Concurrence of the center procurement officer.

(b) When the contracting officer retains property administration and plant clearance, the contracting officer must provide annual reports to the Industrial Property Officer and the Center Property Accountant detailing—

(1) The status of the annual property control system review;

(2) Any incidence of Loss, Damage or Destruction and the contracting officer's determination of liability;

(3) The status of the contractor's physical inventory of property; and

(4) Final reports of disposition of Government property.

1845.54 Responsibilities of the Industrial Property Officer.

This section describes the functional management responsibility for contract property. Beyond individual contracting officers, each NASA installation director will appoint an industrial property officer to manage and coordinate property matters among the various contracting officers, technical officials, contractor officials, delegated property administrators and plant clearance officers. Generally, that individual is responsible for the entire contract property management function outlined below; the installation is responsible for the entire function regardless of how it is organized and distributed. The responsibilities are:

(a) Provide a focal point for all management of contract property, including Government property (Government-furnished and contractor-acquired) provided to universities, non-profit research institutions and to industry.

(b) Provide guidance to contracting and other personnel on the NASA property provisions.

(c) To the extent feasible, review property provisions of acquisition plans, solicitations, contacts, and modifications for potential problems. Propose changes as necessary.

(d) To the extent feasible, participate in pre-award surveys/post-award orientations when significant amounts of Government property will be involved.

(e) Ensure that vesting-of-title determinations are made and documented pursuant the applicable FAR Government property clause and financing clauses such as the Progress Payments Clause.

(f) Maintain effective communications with delegated property administrators and plant clearance officers to keep fully informed about contractor performance and progress on any property control problems.

(1) Obtain and review property control system survey summaries for all contracts for which property administration has been delegated. Advise the Manager, Contract Property

Programs, Logistics Division, Office of Strategic Infrastructure of any severe or continuing problems.

(2) Provide property administrators with copies of all pertinent contract property documentation.

(g) Review, analyze and verify that the contractor's property management system is capable of producing a correct and complete NASA Form 1018, NASA Property in the Custody of Award Recipients via NASA Electronic Submission System (NESS) https://ness.nasa.gov/contractor. The contractor must submit annual report until period of performance is over and once property is returned or dispositioned submit a final report; and NASA Form 1019, Property Management System Analysis (PMSA), according to NPR 4500.1A.

(h) Review property administrators' approvals of relief of responsibility for lost, damaged, and destroyed property and question the contractor regarding the need for any excessive or repetitive approvals.

(i) When appropriate, make recommendations to source and performance evaluation boards regarding property management and award fee criteria and evaluations regarding property management.

(j) Monitor plant clearance status to preclude delays in contract closeout.

(k) Maintain received contract property files for all transactions and correspondence associated with each contract.

1845.55 Responsibilities of the Property Administrator

(a) When property administration is not delegated to Department of War (DOW), the NASA property administrator must evaluate the contractor's management and control of Government property and ascertain whether the contractor is effectively complying with the contract provisions. The property administrator's responsibilities include—

(1) Developing and applying a property system review program for each contractor under the property administrator's cognizance;

(2) Evaluating the results of contractor's property control activities and, when necessary, recommending that the contracting officer revoke the Government's assumption of risk for loss, damage or destruction of Government property;

(3) Advising the contracting officer of other significant problems the property administrator cannot resolve, and recommending appropriate action, which may include disapproval of the contractor's property control system;

(4) Resolving property administration matters as necessary with the contractor's management, personnel from Government procurement and logistics activities, and representatives of the NASA Headquarters Office of the Inspector General, the Defense Contract Audit Agency (DCAA), and other Government agencies; and

(5) Recognizing the functions of other Government personnel having cognizance of Government property and obtaining their assistance when required. (These functions include, but are not limited to, contract cost audit, quality assurance, engineering, pricing, and other technical areas. Assistance and advice on matters involving analyses of the contractor's books and accounting records and on any other audit matters deemed appropriate must be obtained

from the cognizant auditor.) Property Administrators must use, and not repeat, the work of Government auditors or other cognizant Government review activities unless that work does not satisfy the property control system audit requirements set forth in the DOW property guidance and related NASA instruction. NASA Property Accountants must use, and not repeat, audits Property Administrators have completed or scheduled.

(b) Property administrators will assist the contracting officer in pre-award activities.

(1) Property administrators will review the contractor's proposed standards and practices to assess their suitability for the pending contract and will so advise the contracting officer.

(2) Property administrators will advise the contracting officer regarding the contractor's demonstrated past performance in property management, including their ability or inability to perform to the proposed standards or execute the practices they have proposed for the pending contract.

(c) After a report of excess received from a contractor has been referred to the plant clearance officer for screening and ultimate disposition, the property administrator must ensure prompt disposition. For equipment, the property administrator must —

(1) Assure the preparation and submission of individual reports required of the contractor;

(2) Verify the permit certifications required by the forms; and

(3) Transmit the report to the NASA Industrial Property Officer.

(d) Upon completion or termination of a contract, the property administrator must —

(1) Monitor the actions of the contractor in returning excess Government property not referred to the plant clearance officer; and

(2) Advise the cognizant plant clearance officer as to the existence at a contractor's plant of residual property requiring disposal.

(3) When informed that disposition of Government property under a contract has been completed, the property administrator must perform a final review and sign a determination that—

(i) Disposition of Government property has been properly accomplished and documented;

(ii) Adjustment documents, including any request of the contractor for relief from responsibility, have been processed to completion;

(iii) Proceeds from disposals or other property transactions, including adjustments, have been properly credited to the contract or paid to the Government as directed by the contracting officer;

(iv) All questions regarding title to property fabricated or acquired under the contract have been resolved and appropriately documented; and

(v) The contract property control record file is complete and ready for retirement.

(4) When final review pursuant to paragraph (a) of this section reveals that such action is proper, the property administrator must accomplish and sign a DD Form 1593, Contract Administration Completion Record, or equivalent.

(5) The Property Administrator must forward the complete and signed DD Form 1593 to the contracting officer, and so annotate the Property Summary Data Record.

(6) The contracting officer must include the DD form 1593 in the official contract file.

1845.56 Responsibilities of the plant clearance officer.

When the plant clearance is not delegated to DOW, NASA plant clearance officers must be responsible for---

(a) Seeking the advice and concurrence of the General Counsel regarding antitrust actions when needed.

(b) Assuring that the center equipment manager is advised of, and receives documentation for, all capital valued property that has been reported for disposition.

(c) Advising the contracting officer regarding all disposition actions and activities.

1845.6—Reporting, Reutilization, and Disposal

1845.61 Screening.

(a) Property Disposal Officers (PDOs) are the center focal points for intra-agency reutilization screening.

(1) When property is reported for disposition through PCARSS or on manual inventory schedules, PDOs must make that information available to procurement and program offices seeking to acquire similar, new property in accordance with the agency inventory and other agency excess utilization requirements of FAR Part 8.

(2) When property is reported for disposition through NASA DSPL systems, the PDO must screen and process the disposition in accordance with NPR 4200.1, NASA Personal Property Disposal Procedural Requirements and related guidance.

(b) Waiver of screening requirements. The Director, Logistics Division Office of Strategic Infrastructure, will approve deviations from intra-agency screening requirements.

1845.62 Abandonment, destruction or donation of excess personal property.

The center property disposal officer (PDO) must review abandonment or destruction determinations in accordance with NPR 4300.1.

1845.63 Proceeds of sale.

Sale of surplus contractor inventory. The plant clearance officer must maintain an open suspense record until verifying that credit has been applied, unless another Government representative has specifically assumed this responsibility.

1845.64 Contractor inventory in foreign countries.

NASA procedures for disposal are in NPR 4300.1, NASA Personal Property Disposal Procedures and Guidelines.

1845.65 Inventory disposal report.

A copy of Standard Form 1424, Inventory Disposal Report, must be provided to the center industrial property officer or the PDO.

1845.66 Contractor's scrap procedures.

(a) The center property administrator is authorized to approve the contractor's scrap procedure. Before approval, the plant clearance officer must review the procedure, particularly regarding sales. The plant clearance officer must ensure that the procedure contains adequate requirements for inspecting and examining items to be disposed of as scrap. When the contractor's procedure does not require physical segregation of Government-owned scrap from contractor-owned scrap and separate disposal, care must be exercised to ensure that a contract change that generates a large quantity of property does not result in an inequitable return to the Government. In such a case, the property administrator must decide as to whether separate disposition of Government scrap would be appropriate.

(b) A plant clearance case must not be established for production scrap disposed of through the contractor's approved scrap procedure.

1845.67 Contractor's approved scrap procedure.

(a) When a contractor has an approved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this section.

(b) Property in scrap condition, other than that disposed of through the contractor's approved scrap procedure, must be reported on appropriate inventory schedules for disposition in accordance with the provisions of FAR part 45 and NFS 1845.

1845.68 Contractor inventory in foreign countries.

NASA procedures for disposal are in NPR 4300.1, NASA Personal Property Disposal Procedures and Guidelines.

1845.69 Protecting and Preserving the Historic and Scientific Value of U.S. Government Lunar Artifacts

Contracting officers must insert the "C-301.3, Protecting and Preserving the Historic and Scientific Value of U.S. Government Lunar Artifacts" requirements statement in solicitations and contracts requirements when the resultant contract will pertain to lunar activities carried out by, for, or in partnership with NASA."

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1846.1—General

1846.11 Policy.

(a) NASA Procedural Requirements (NPR) 8735.2, Hardware Quality Assurance Program Requirements for Programs and Projects, provides the accepted standard for quality management requirements used, in whole or in part, to ensure the effective and consistent implementation of quality assurance programs for NASA's missions.

(b) NASA's contract insight vs. oversight policy consists of the following:

(1) Oversight will be rigorous for human-rated vehicles, nuclear systems and otherwise safety-critical components and will be protected through NASA's independent technical authority.

(2) For fixed-price, modular, or commercial procurements, replace standing micromanagement with milestone-based performance verification, eliminate redundant reporting, reduce review cycles that do not materially improve safety or performance and require vendors to demonstrate outcomes.

1846.12 Contracting Office Responsibilities.

(a) Review the NF 1707, Special Approvals and Affirmations of Requisitions, and ensure the request originator has addressed all Quality Assurance requirements. Specifically:

(1) Ensure the request originator has annotated on the NF 1707 whether the acquisition involves the procurement of safety critical parts, as defined in NPR 8735.1, Exchange of Problem Data Using NASA Advisories and the Government-Industry Data Exchange Program (GIDEP), and that any such safety critical parts have been GIDEP screened.

(2) Ensure both a Quality Point of Contact and Center GIDEP Coordinator signature has been obtained on NF 1707 validating the quality assurance requirements.

(b) Quality assurance surveillance plans (QASPs) must not be included in the contract. A copy of the QASP, and any revisions, must be stored in the official contract file.

1846.3—Contract Clauses.

When NFS 1852.246-71, Government Contract Quality Assurance Functions, is included in the solicitation and contract, request originator must coordinate with the OSMA Contract Administration and Audit Services Point of Contact to ensure resources are allocated to perform required Quality Assurance Functions.

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1846.2—Contract Quality Requirements

1846.21 Higher-level contract quality requirements.

Contracting officer must review the NF1707, higher-level contract quality requirements, and ensure the appropriate requirements are included in the solicitation and contract.

1846.4—Government Contract Quality Assurance

1846.41 General.

(a) QASPs are prepared by the project office with input from the contracting officer in conjunction with the statement of work and is periodically adjusted thereafter based on changing risk factors as the contract requirement progresses through acquisition planning, source selection, and contract administration.

(b) *For performance-based service contracts,* except those acquisitions using FAR Part 12, that do not include higher-level contract quality requirements, and the Government prepares the quality assurance surveillance plan (QASP), the agency-wide "QASP" template for performance-based service contracts must be used and prepared in conjunction with the performance work statement or statement of objectives by the requirements owner.

(c) *When a contract includes higher-level contract quality requirements*, the QASP must be prepared by the project in accordance with their safety and mission assurance plan (SMAP), with input from the contracting officer as necessary. Guidance on QASP preparation for contracts that include higher-level quality requirements, including QASP templates for contracts with higher-level contract quality requirements, can be found at https://sma.nasa.gov/sma-disciplines/quality.

(i) NPR 8735.2 provides detailed requirements and guidance concerning QASP development. QASP development is an element of government contract quality assurance (GCQA) and an element of the Project's Safety and Mission Assurance (SMA) program.

(ii) An SMA program is required by NPR 7120.5, NASA Space Flight Program and Project Management Requirements, and to a lesser degree by NPR 7120.8, NASA Research and Technology Program and Project Management Requirements.

(iii) GCQA is applicable for the acquisition of critical and complex supplies and services that are subject to higher level quality requirements.

(iv) The surveillance method planned for use is described in terms of insight and oversight as defined in NPR 8735.2. Surveillance can be performed in an insight, oversight, or combined, as determined by NASA, using a risk-based decision methodology.

1846.42 Nonconforming supplies and services.

(a) NASA personnel at all levels are responsible for reporting to the Office of Inspector General and the NASA Director, Acquisition Integrity Program (AIP), when they become aware of noncompliant conditions or failure experiences which may constitute evidence of fraud, malpractice, or other serious misconduct. Suspected counterfeit goods must not be returned to the contractor without the authorization of the AIP Director.

(b) Upon receipt of a notification required by FAR clause 52.246-26(b)(2), the contracting officer must send the notification to the Program/Project Quality Assurance Representative and the Office of Safety and Mission Assurance (OSMA) Supply Chain Risk Management (SCRM) Program within 3 business days of receipt of the notification.

1846.6—Material Inspection and Receiving Reports

1846.61 General.

Contracting officer must file Material and Receiving Reports (MIRRs), (DD Form 250 series) within the appropriate file element in NASA's Enterprise Acquisition Repository (NEAR).

1846.7—Warranties

1846.71 Criteria for use of warranties.

(a) In deciding whether to use a warranty clause, the following factors must be considered in addition to those at FAR 46.703:

(1) Cost of correction or replacement, either by the contractor or by another source, in the absence of a warranty;

(2) The warranty as a deterrent against the furnishing of defective or nonconforming supplies;

(3) Whether the contractor's quality program is reliable enough to provide adequate protection without a warranty, or, if not, whether a warranty would cause the contractor to institute an effective quality program;

(4) Reliance on "brand-name" integrity; and

(5) Whether a warranty is regularly given for a commercial component of a more complex end item.

1846.72 Authority for use of warranties.

(a) A warranty clause may be used when it is found to be in the best interests of the Government, after an analysis of the factors listed in FAR 46.703 and NFS CG 1846.7.1.

(b) Except for the warranty of commercial products and commercial services (see FAR 12.105 and 46.709), and warranties contained in Federal, military, or construction specifications, the decision to use a warranty clause or to include a warranty provision in a specification other than a Federal, military, or construction specification must be made only upon the written authorization of the Procurement Officer or a designee. This decision may be made either for individual acquisitions or classes of acquisitions.

(c) Warranties required by applicable architect-engineer specifications must be included in construction contracts.

1846.73 Administration.

When notified of a defect in warranted items, the contracting officer should ascertain whether the warranty is currently in effect and ensure that the contractor is given proper and timely notice of the defect.

1846.90—Counterfeit Electronic Part Detection and Avoidance

1846.91 Procedures

Upon receipt of a notification required by NFS clause 1852.246-74(c), the contracting officer must send the notification to the Program/Project Quality Assurance Representative the OSMA SCRM Program within 3 business days of receipt of the notification.

1846.10—Supply Chain Visibility (SCV)

1846.101 SCV Reporting.

(a) Contracting officers must include the Supply Chain Visibility (SCV) Reporting Data Requirement Document (DRD) in solicitations and contracts**,** including task orders, of programs and projects governed by NPR 7120.5, NASA Space Flight Program and Project Management Requirement when--

(1) a procurement is $20 million or more (including options);

(2) product(s) to be delivered is in the program or project's critical path;

(3) the program or project determines supply chain management is necessary; or

(4) a prime contractor is or may be procuring on behalf of the Government or serving as a procurement agent for products and services for programs and projects governed by NPR 7120.5.

(b) Any proposed modifications to the SCV Reporting DRD must be approved by NASA's Supply Chain Resiliency Board (SCRB) Chair. Modification requests should be submitted via the OSMA SCRM SCV Reporting Modification Requests form and must provide:

(1) Solicitation / Contract Number and Title,

(2) Name of Program and Project,

(3) Rationale for SCV Reporting requirement modification,

(4) Impact assessment and risk mitigation strategy, and

(5) Any other program or project information needed to help make a modification approval determination, if needed.

(c) Any proposed waiver to the required incorporation of SCV Reporting must be approved by the NASA SCRB. Submit proposed waivers via email to the NASA SCRB Executive for the board's review. The proposed waiver must contain the rationale for not incorporating the DRD into a specific, identified procurement. The SCRB will review waiver requests and respond via email. Documentation must be retained in the file.

(d) When the SCV Reporting DRD is included in the contract or added as part of a modification, and a COR is appointed, the contracting officer must delegate SCV reporting duties to the COR by selecting the appropriate box on the NF 1634, COR / Alternate COR Delegation. CORs must register the NASA contract in NASA's Supply Chain Insight Central (SCIC) within 30 calendar days of receipt of delegation. If a COR is not appointed, the responsibilities are retained by the CO, and the contract must be registered in NASA's SCIC within 30 calendar days of award or effective date of the modification.

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1847.1—General

1847.11 Policies.

(a) Program and project coordination with the Center Flight Operations Office is required for the acquisition of Government aircraft or aircraft services, including federal aircraft, commercial aviation services (CAS) and unmanned aircraft systems (UAS).

(b) Prior to releasing any solicitation or awarding any contract for aircraft or aircraft services, the requiring office must obtain concurrence from the Center Flight Operations office utilizing the NASA Form 1707, that the contemplated acquisition complies with NASA aviation safety program requirements stipulated in NPD 7900.4, NASA Aircraft Operations Management, and NPR 7900.3, Aircraft Operations Management. If the Center does not have a Flight Operations office, concurrence from another Center's Flight Operations office designated by the Aircraft Capability Management Office in the Mission Support Directorate at NASA Headquarters is required.

(c) Requiring offices must use the mandatory enterprise contracts (see Enterprise Procurement Strategies) for all aircraft operational support service requirements.

1847.2 —Contracts for Transportation or for Transportation-Related Services

1847.21 Liability and insurance.

NASA personnel must report discrepancies and adjust claims for loss of and damage to Government property in transit in accordance with NPR 6200.1, NASA Transportation and General Traffic Management.

Subpart 1847.3—Transportation in Supply Contracts

1847.31 NASA export privilege.

NASA has export licensing privileges for moving commodities to foreign destinations. Contracting officers must request the advice of the Center Export Administrator to ensure full and appropriate use is made of these privileges.

1847.32 Packing, marking, and consignment instructions.

In contracts providing for delivery f.o.b. origin and shipment under Government bills of lading, consignment instructions may be limited to the mail address of the consignee (receiving activity), provided the contract instructions state: "Shipment other than mail must be consigned as indicated on the Government bill of lading furnished to the contractor."

1847.33 Transit arrangements.

When the provision at FAR 52.247-56 is used, the solicitation must state that offers will be evaluated on the basis of the lowest overall cost to the Government, including transportation costs to NASA from point of origin to final destination, taking into account any applicable transit privileges.

1847.4- Air Transportation by U.S.-Flag Carriers

1847.41 NASA Definitions.

Per 41 C.F.R. 102-33.20 and as used in this subpart, consistent with 41 C.F.R. 102-33.20 -

"Federal aircraft" means manned or unmanned aircraft that an executive agency owns (i.e., holds title to) or borrows for any length of time. Federal aircraft include—

(1) Bailed aircraft: Federal aircraft that is owned by one executive agency, but is in the custody of and operated by another executive agency under an agreement that may or may not include cost-reimbursement. Bailments are executive agencies to executive agency agreements and involve only aircraft, not services;

(2) Borrowed aircraft: aircraft owned by a non-executive agency and provided to an executive agency for use without compensation. The executive agency operates and maintains the aircraft;

(3) Forfeited aircraft: aircraft acquired by the Government either by summary process or by order of a court of competent jurisdiction pursuant to any law of the United States;

(4) Loaned aircraft: Federal aircraft owned by an executive agency, but in the custody of a non-executive agency under an agreement that does not include compensation; and

(5) Owned aircraft: an aircraft for which title or rights of title are vested in an executive agency.

"Government aircraft" means manned or unmanned aircraft operated for the exclusive use of an executive agency. Government aircraft include—

(1) Federal aircraft (see definition for "Federal aircraft" in this section); and

(2) Aircraft hired as commercial aviation services (CAS). CAS include—

(i) Leased aircraft for exclusive use for an agreed upon period of time (The acquiring executive agency operates and maintains the aircraft);

(ii) Capital lease aircraft for which the leasing agency holds an option to take title;

(iii) Charter aircraft for hire under a contractual agreement for one-time exclusive use that specifies performance (The commercial source operates and maintains a charter aircraft);

(iv) Rental aircraft obtained commercially under an agreement in which the executive agency has exclusive use for an agreed upon period of time (The executive agency operates, but does not maintain, a rental aircraft);

(v) Contracting for full services (i.e., aircraft and related aviation services for exclusive use); or

(vi) Obtaining related aviation services (i.e., services but not aircraft) by commercial contract, except those services acquired to support a Federal aircraft.

"Unmanned Aircraft Systems (UAS)" means an unmanned aircraft and its associated elements related to safe operations, which may include but not be limited to control stations, data communications links, support equipment, payloads, flight termination systems, and launch/recovery equipment. The unmanned aircraft (UA) is the flying component of the system, flown by a pilot via a ground control system, or autonomously through the use of an on-board

computer, communication links, and any additional equipment necessary for the unmanned aircraft to operate safely. The Federal Aviation Administration issues either an Airworthiness Directive (AD) or a Certificate of Authorization (COA) for the entire system, not just the flying component of the system. Reporting UAS costs and flight hours is only required if the accumulated costs for acquisition and operations meets the agency's threshold for capitalization, and the UAS has a useful life of two years or more.

1847.5—Ocean Transportation by U.S.-Flag Vessels

1847.51 Procedures.

For NASA, the transportation activity is the cognizant center or component facility's transportation officer. The duties of the transportation officer are included in Subchapter 3.1 of NASA Procedural Requirements (NPR) 6200.1, NASA Transportation and General Traffic Management as well as NASA Interim Directive (NID) 6200.118, NASA Transportation and General Traffic Management. The list of center or component facility transportation officers (with the locations for which they are responsible) is available online at https://www.nasa.gov/transportation .

Contracting officers, working with the transportation officers, are responsible for verifying that information in the contractor-submitted bill of lading fully meets all requirements listed in FAR 52.247-64, Preference for Privately-Owned U.S.-Flag Commercial Vessels. If the contents do not meet all such requirements, Contracting officers must engage with the program office or requiring activity, and the contractor to get all such issues resolved. Once all such issues are resolved, Contracting officers must send the bill of lading and the following information to the cognizant center or component facility transportation officer. The bill of lading and this information must be sent by the Contracting officer such that the transportation officer receives them within five U.S. Government business days of the Contracting officer initially receiving the bill of lading from the contractor:

(1) NASA center sponsoring shipment;
(2) Contract number, Purchase Order number, BOA or BPA agreement number, or micro purchase order number;
(3) Delivery or task order number, BOA order number or BPA call number (if applicable);
(4) Contractor name;
(5) Subcontract number, if applicable;
(6) Name of subcontractor, if applicable; and
(7) Whether a U.S.-flag commercial vessel or a foreign-flag vessel was used.

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1848.1—Policies and Procedures

1848.11 Policies

(a) The Senior Procurement Executive is the approval authority for exemptions. In accordance with OMB Circular A-131 and the Chief Financial Officers Act of 1990 (Public Law 101-576) (CFO Act), the Director of the Enterprise Procurement Integration and Excellence (EPIX) Office is the Senior Accountable Official (SAO) responsible for coordinating, overseeing, and ensuring the appropriate consideration and use of Value Engineering as set forth in FAR Part 48.

(b) *Calculating savings.* In calculating instant or future contract savings on firm-fixed-price contracts when the parties have not set out a specific figure for profit, the contracting officer must use the total contract price as the basis for calculating the savings.

(1) *Processing value engineering change proposals.*

(i) Upon receipt of a value engineering change proposal (VECP), the contracting officer must promptly forward it to the technical officer responsible for the contract with the following information:

(A) Date of VECP receipt.

(B) Date for notifying the contractor of VECP acceptance or rejection.

(C) Notification of the potential for awarding concurrent, future, or collateral savings to the contractor if the VECP is accepted.

(D) Request for a technical evaluation, with complete rationale for recommended acceptance or rejection, to include the following if acceptance is recommended:

(1) An estimate of the type of savings, Government costs, etc., that can be expected from its acceptance.

(2) A procurement request setting forth the specification changes to be used in any contract modification accepting the VECP in whole or in part.

(3) Additional funds if acceptance of the VECP results in negative instant contract savings.

(E) Technical evaluation due date.

1848.2— Contract Clauses

Include FAR clause 52.248-1, Value Engineering, Alternate I, in initial production contracts for major systems, and major systems R&D contracts for full-scale development, unless the contracting officer determines in writing that its use is inappropriate. Use of Alternate I is appropriate for an R&D major systems contract only if the contract specifications contain detailed requirements that lend themselves to value engineering. If Alternate I is inappropriate, use Alternate II.

1848.21 Clauses for supply or service contracts

(a) The Senior Procurement Executive is the approval authority for exemptions not described above.

(b) R&D procurements are exempt from FAR Part 48 requirements when the statement of work is essentially an incorporation by reference of the prospective contractor's proposal specification that might benefit from application of VE techniques.

If any other part of the statement of work in such a contract reflects a Government specification that might benefit from application of VE techniques, the contracting officer must consider inserting the VE incentive clause at FAR 52.248-1 with any applicable Alternate(s), and establish the applicability of the clause to that part.

(c) When applying FAR clause 52.248-1, the contracting officer is authorized to make the determination that the cost of calculating and tracking collateral savings will exceed the benefits to be derived.

1848.22 Clauses for Construction contracts

When applying FAR clause 52.248-3, Value Engineering- Construction, the contracting officer is authorized to make the determination that the cost of calculating and tracking collateral savings will exceed the benefits to be derived.

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TERMINATION OF CONTRACTS

1849.1—General Principles

1849.11 NASA authorities and responsibilities

(a) Installations must appoint a termination contracting officer (TCO) (see FAR 2.101) to perform specific duties relating to contract termination as one of the individual's primary functions. In addition to the responsibilities described below and FAR part 49, such duties should include—

1. Reviewing NASA Forms 1412, Termination Authority;
2. Reviewing the contract and related documents before issuing the notice of termination, to ensure protection of the Government's rights under the contract; and
3. Issuing notices of termination, reinstatement, and rescission to contractors.

(a) Contracting offices must utilize the services of the Department of War and other Government agencies, whenever possible to administer and negotiate settlement of terminated contracts. Delegation of the negotiation of termination settlement function must be made in accordance with FAR part 42.

1849.12 Termination authority

NASA Form 1412, Termination Authority, is prescribed for use by NASA installations when initiating action to terminate a contract for convenience or default. The project manager or the activity initiating the procurement request should initiate the action by completing NASA Form 1412 and submitting it to the contracting officer.

1849.2 - Notice of termination

1849.21 Prior notification of significant contract terminations

If the contracting officer considers that a contract termination at any dollar amount is of significant interest to Headquarters or has agency public information implications, the cognizant Headquarters Office of Procurement, Procurement Analyst, should be contacted to discuss a possible Administrator Notification of a Significant Contract Action (ANOSCA) and/or NASA Headquarters Public Announcements (PA).

1849.22 Prior clearance of contract terminations resulting from a major breach of safety or security

The Senior Procurement Executive must be notified prior to taking any action to terminate because of a major breach of safety or security.

1849.3 - Duties after issuance of termination notice

1849.31 Termination docket checklist

The termination contracting officer must complete NASA Form 1413, Termination Docket Checklist.

1849.32 Fraud or other criminal conduct

If the Terminating Contracting Officer (TCO) suspects fraud or other criminal conduct when negotiating termination settlements, the TCO must notify the Suspending and Debarring official in accordance with the procedures in NFS and NFS CG 1809.

1849.33Review of proposed settlements

(a) Settlements must be reviewed in accordance with center-prescribed procedures.

(b) The TCO may authorize the contract administration office cognizant of a lower-tier subcontractor to grant approval or ratification of proposed subcontractor settlements described in FAR part 49 that are first reviewed and referred by the prime contractor to the TCO. This procedure is not applicable to settlements between the contractor and its first-tier subcontractors.

1849.34 Settlement negotiation memorandum contents

The TCO must include the following information in the settlement negotiation memorandum. Contractors and subcontractors may use this format appropriately modified for subcontract settlements submitted for review and approval.

(a) *General information.*

(1) *Identification.*

(i) Name and address of the contractor and any pertinent affiliation between prime contractors and subcontractors relative to the overall settlement.

(ii) Names and titles of contractor and Government personnel who participated in the negotiation.

(2) *Description of terminated contract.*

(i) Contract number

(ii) Date of award;

(iii) Contract type;

(iv) General description of contract items;

(v) Total contract price; and

(vi) Applicable contract termination provisions and clause.

(3) *Termination notice.*

(i) Date of the termination notice;

(ii) Effective date of termination;

(iii) Scope and nature of termination (complete or partial);

(iv) Items terminated;

(v) Unit prices;

(vi) Total price of items terminated for fixed-price contracts or the estimated cost and fee applicable to items terminated for cost-reimbursement type contracts;

(vii) Whether the termination notice was amended and, if so, why;

(viii) Whether the contractor stopped work on the termination effective date (if it did not, furnish details) and whether subcontracts were terminated promptly;

(ix) Any redirection of common items and return of goods to the contractor's suppliers; and

(x) Extent of contract performance and timely deliveries by the contractor.

(b) *Contractor's settlement proposal.*

(1) *Date and amount.* Date and location where the claim was filed and its gross amount (if interim settlement proposals were filed, information must be furnished for each claim).

(2) *Basis of claim.* E.g., inventory, total cost, or other basis, including an explanation of any approvals granted in connection with submission on other than an inventory basis.

(3) *Examination of proposal.* Types of reviews made and by whom (audit, engineering, legal, or other).

(c) *Tabular summary of contractor's claim and the settlement.* The cost elements/items, the amounts claimed, the Government recommended position (including auditor, field, and technical personnel recommendations), and the negotiated settlement amounts. This summary must include, if appropriate, previously reimbursed and unreimbursed costs applicable to the prime contractor and subcontractor, previous profit/fees paid and unpaid; settlement cost less disposal credit or other credits, and a recapitulation of previous settlements. The summary of the negotiated settlement must include the amount claimed and allowed for contractor and/or subcontractor changes, disposal, prior payment credits, and contract price.

(d) *Settlement narrative summary.*

(1) Contractor's cost.

(2) Profit/Fee.

(3) Settlement expenses not included in the audit.

(4) Number and dollar amount of any subcontractor settlements approved by the TCO and concluded by the contractor under delegation of authority.

(5) Total amount of any partial payments.

(6) Total amount of unliquidated progress or advance payments.

(7) Claims of the Government against the contractor included in settlement agreement reservations.

(8) Assignments, including the name and address of each assignee.

(9) Disposal credits.

(10) Status of plant clearance actions and all inventory sold, retained, or otherwise properly disposed of in accordance with applicable plant clearance regulations, including a consolidated closing plant clearance report, if applicable.

(11) Status of Government property accountability.

(12) Disposition of any special tooling, if applicable.

(13) Proposed reservations of rights to the Government or to the contractor.

(e) *Recommendation.* Amount of the gross settlement recommended and TCO statement that it is fair and reasonable to the Government and the contractor.

(f) *TCO Signature and date.*

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EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

1850.1—Extraordinary Contractual Actions

1850.11 Contract adjustments.

This subsection describes NASA internal procedures for processing contractors' requests and obtaining approval of contract adjustments in accordance with FAR 50.1 and NFS 1850.1.

1850.12 Processing cases.

Submission of request to the Contract Adjustment Board.

(a) After investigating the facts and evidence relevant to the contractor's requirements, the contracting officer must forward the request to the Associate General Counsel for Contracts and Procurement Law, including the forwarding letter—

(1) The nature of the cases;
(2) The recommended disposition; and
(3) If contractual action is recommended, the contracting officer's opinion that the action will facilitate the national defense.

(b) The forwarding letter must enclose the contractor's request, all supporting material submitted by the contractor, and any material the contracting officer has obtained while investigating the facts and evidence relevant to the request. Any classified information in the material forwarded must be so identified.

(c) Electronic submittal is preferred for unclassified material.

1850.13 Disposition.

Implementation of the Contract Adjustment Board's decision.

(a) The contracting officer must take action authorized in the Contract Adjustment Board's decision.

(b) Immediately upon execution, including any required Headquarters approval, of a contract or contract modification or amendment implementing the CAB decision, the contracting officer must forward a copy of the contractual document to the Associate General Counsel for Contracts and Procurement Law.

1850.14 Residual powers.

1850.15 General.

Requests for the exercise of residual powers must be sent to the Enterprise Procurement Integration and Excellence (EPIX) Office, for review and processing. The NASA Administrator is the approval authority for the Memorandum of Decision.

1850.16 Special procedures for unusually hazardous or nuclear risks.

Action on indemnification requests

(a) If recommending approval, the contracting officer must forward the required information to the EPIX Office, along with the following:

(1) For contracts of five years duration or longer, a determination, with supporting rationale, whether the indemnification approval and insurance coverage and premiums should be reviewed for adequacy and continued validity at points in time within the extended contract period;

(2) The specific definition of the unusually hazardous risk to which the contractor is exposed to in the performance of the contract(s), including specificity about which activities present such risk and the anticipated timeframes in which the risk will be incurred;

(3) A complete discussion of the contractor's financial protection program; and

(4) The extent to, and conditions under, which indemnification is being approved for subcontracts.

(b) The NASA Administrator is the approval authority for using the indemnification clause in a contract by a Memorandum of Decision.

(c) If approving subcontractor indemnification, the contracting officer must document the file with a memorandum for record addressing the items set forth in FAR 50.104-3(b) and include an analysis of the subcontractor's financial protection program. In performing this analysis, the contracting officer must take into consideration the availability, cost, terms and conditions of insurance in relation to the unusually hazardous risk.

1850.17 Indemnification for NASA Launch Services and Reentry Services.

(a) The contracting officer must coordinate any contractor requests received with Agency and Center legal offices and process the request in accordance with this NFS CG and FAR 50.104-3(b), except the requirement at FAR 50.104-3(b)(1)(iii).

(b) If recommending approval, the contracting officer must forward the required information to the cognizant HQs Procurement Analyst , in accordance with this NFS CG.

(c) The NASA Administrator is the approval authority by a Memorandum of Decision.

(d) Upon receipt of the Memorandum of Decision the contracting officer must incorporate the specific terms and conditions in Section H of the contract.

(e) Subcontractor requests for indemnification in accordance with Section 305 of the NASA Transition Authorization Act of 2017 (P.L. 115-10) must be submitted and processed in accordance with this NFS CG.

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SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.1—Instructions for Using Clauses and Provisions

1852.11 Request for the issuance of a clause or provision.

(a) The development of a proposed clause or provision is limited to those deemed necessary for compliance with a statute or agency regulation (e.g., Administrator's Directive, NASA Procedural Directive, etc.).

(b) Contracting officers may propose a contract clause or solicitation provision for NFS inclusion. Before submitting it to the cognizant HQs Procurement Analyst for coordination and approval, they must obtain Center Procurement Officer, Center Office of General Counsel, and other stakeholders review and approval. All requests must use the agency-wide "Request for Issuance of a Clause or Provision" procurement template.

1852.12 Contract specific clauses and provisions.

(a) NASA contracting offices must limit the use of contract specific clauses or provisions. Contract specific clauses or provisions should meet the need of the individual contract and must not be used repetitively to include follow-on contracts. These clauses must be included in Section H, Special contract requirements, of the contract.

(b) The development of a new contract specific clause or provision will be considered on a case-by-case basis. The Head of Contracting Activity must consult with the cognizant HQs Procurement Analyst if the need for the issuance of a Center or contract specific clause or provision is identified.

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NFS CG 1872
ACUISITION OF INVESTIGATIONS

1872.000 Scope of Part.

This part prescribes policies and procedures for the acquisition of flight investigations.

1872.001 Definitions.

"An investigation," means a goal-driven effort to obtain new scientific or technical knowledge that includes both acquiring and analyzing data and designing, developing or adapting, deploying, and operating flight instrumentation and necessary platform flight systems.

"Implementation merit and feasibility" means the capacity of a proposed investigation implementation, if successfully deployed and operated, to achieve its planned scientific or technical objectives.

Subpart 1872.1—The Flight Investigation Acquisition System

1872.11 General.

The investigation acquisition system depends on the participation of investigators in the definition and selection of investigations that contribute most effectively to the advancement of NASA's scientific and technological objectives. It is a system separate from the general Federal acquisition process for goods and services but requires similar management and discipline to assure compliance with statutory requirements and considerations of equity and quality. Its primary application is the acquisition of science, exploration, or technology space flight investigations via complete flight instrumentation and, where required, platform flight systems.

1872.12 Key features of the system.

(a) Use of the system commences with the determination by the originating Mission Directorate Associate Administrator (MDAA) that the acquisition process is appropriate for a program (but see NFS CG1872.22). The Announcement of Opportunity (AO) is recognized as a type of full and open competition (10 U.S.C. 3012). The AO is a form of Broad Agency Announcement (BAA) (see FAR 35.102 for general BAA requirements) and supports an open, fair and transparent competitive evaluation and selection process that is based on review of proposals by peer scientists or other appropriate technical experts applying their communities' standards of merit. An AO does not specify the investigations to be proposed but solicits investigator ideas that can contribute to broad, publicly documented objectives. A formal competitive evaluation process is utilized to determine which submitted proposal(s) must be selected. Evaluations for merit and feasibility are conducted by peer experts in the fields represented in the proposals. Care is taken to avoid personal and organizational conflicts of interest, both actual and perceived. Evaluators are chosen by NASA and may be from NASA, other Government agencies, universities, or the commercial sector, or other experts. In addition to the evaluation for intrinsic merit and implementation merit and feasibility, aspects of engineering, cost, schedule, management, and risk are reviewed by specialists in those areas. The

evaluation results are combined with considerations of relevance and affordability and other programmatic factors to determine investigation(s) to be selected.

(b) The AO acquisition system incorporates the following key elements ("phases") and component sub-elements ("processes"):

(1) The Announcement of Opportunity (see NFS CG1872.3)

(2) Evaluation of Proposals (see NFS CG1872.4; processes defined in NFS CG1872.41)

(3) Recommendation, Selection, and Debriefing (see NFS CG1872.5; processes defined in NFS CG 1872.51).

(c) Some AO acquisitions are conducted using a two-step system, where a subset of submitted proposals are selected through the processes described in NFS CG1872.48(a).

1872.13 Management authorities and responsibilities.

(a) For simplicity, this policy assumes that an acquisition is sponsored by a division within a directorate that is responsible for its execution. The policy and its phases and processes can be mapped onto other organizational structures as needed. The authorities and responsibilities for the major phases and their component processes emanate from the MDAA and are exercised as follows:

(1) The MDAA retains the authority and responsibility for final approval of the AO and its release as well as for proposal evaluation and resulting selection(s).

(2) The sponsoring division of a solicitation is responsible for development of the AO (see NFS CG1872.3), management and oversight of the assessment (see NFS CG 1872.43) and Accommodation (see NFS CG 1872.46) processes of the Evaluation phase as well as the recommendation (see NFS CG 1872.5), and award, notification of proposers, and debriefing (see NFS CG 1872.54) processes of the Recommendation, Selection, and Debriefing phase. During AO preparation, the division is responsible for adapting (if necessary) the standard evaluation criteria (see NFS CG 1872.42) and development of any optional specialty criteria required for the acquisition. Examples of specialty criterion would be an additional criterion for evaluating proposed technology demonstrations or student investigations. The division designates a Division Program Acquisition Lead (AL) to carry out these functions.

(3) The management and oversight of the categorization (see NFS CG 1872.44) and validation (see NFS CG 1872.45) processes of the evaluation phase, and of the selection process (see NFS CG 1872.53) of the recommendation and selection phase, are the responsibility of a senior directorate-level official appointed by the MDAA as Directorate AL. The Directorate designates a Technical, Management, and Cost (TMC) Acquisition Manager (TAM) to oversee the TMC assessments, including development of the TMC feasibility evaluation reports and to represent their results during subsequent acquisition phases. During the acquisition process, the TAM works closely with the Division Program AL.

(b) The MDAA, or other Selection Official if designated by the MDAA, selects the proposal(s) that is/are to be funded for execution.

(c) The Principal Investigator (PI) on each selected proposal is assigned responsibility and authority for success of the investigation through a contract between NASA and his or her institution. A contract is the preferred instrument for an AO award because the Agency's investment in a flight investigation is large and only one contract provides sufficient enforcement

and insight mechanisms to ensure that this investment is well managed. However, for awards to a NASA Center or other Government entities, other appropriate instruments are used. Participation by foreign investigators, or by U.S. investigators in a foreign program, is defined and governed on a no-exchange of funds basis by a formal international Space Act Agreement between NASA and the foreign sponsoring governmental agency or responsible entity (per NPD 1360.2).

(d) The MDAA may delegate Program Management responsibility for overseeing execution of the selected investigation(s) to a Program Office.

1872.14 Procurement integrity and conflicts of interest.

(a) Every participant in the AO process must be individually responsible for following applicable standards of conduct. Participants in the AO process are engaged in a Federal acquisition process, which is subject to overarching statutes and regulations, including the Federal Acquisition Regulation (FAR), which states, "Government business must be conducted in a manner above reproach, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none." (see FAR 3.101-1) Government employees and nonemployees involved in the AO process are all obligated to conduct themselves in accordance with applicable ethical standards.

(1) Government employees, including Inter-governmental Personnel Act (IPA) appointees, are subject to and deemed to know their obligations under all applicable statutes and regulations governing the conduct of their official responsibilities. Participants' attention is directed, in particular, to the following statutes and regulations that are regularly applied in NASA acquisition matters:

(A) 18 U.S.C Section 208, which prohibits participation in a particular matter, such as an AO acquisition, while holding a personal financial interest in a party involved in the acquisition;

(B) The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. part 2635 (note, in particular, those provisions defining parties with whom an employee has a covered relationship);

(C) FAR 3.101, Improper Business Practices and Personal Conflicts of Interest, and 1803.101; and

(D) The Procurement Integrity Act, 41 U.S.C. Chapter 21, as applicable.

(2) Non-government employee participants in the AO process are subject to—

(A) Applicable portions of FAR 3.101, Improper Business Practices and Personal Conflicts of Interest and corresponding provisions of NFS 1803.1;

(B) Applicable provisions of Procurement Integrity Act, 41 U.S.C. Section 2102 et seq. (Prohibitions on disclosing and obtaining procurement information);

(C) NASA Agency and Mission Directorate policies governing actual and apparent conflicts of interest, to the extent those policies are incorporated into contracts, as well as all instructions in the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES); and

(D) Clause(s) of any contract or agreement, between the government and the Participant or the Participant's employer, under which the participant supports AO processes, and which prohibits, restricts, or places conditions upon participation in any government acquisition.

(b) Participants are deemed to have knowledge of the parties (companies, universities, non-profit organizations, and governmental organizations) proposing to NASA under the AO

acquisition. The Division Program AL is responsible for compilation of a list of parties proposing under an AO as soon as possible after proposals are submitted and must distribute the list to AO acquisition process participants before the proposal evaluation (or the individual participant's evaluation activity) begins. This list must include proposing organizations, as well as every party named in a proposal as a co-proposing organization or funded participant in the proposed investigation.

(c) Each AO acquisition process participant must review the list of parties involved in the acquisition and identify all parties with whom the participant has an interest or covered relationship. The participant must report all such interests and relationships to the Directorate or Division Program AL and Office of the General Counsel (OGC) before commencing any participation in the acquisition, including attendance at any meeting pertaining to the acquisition. The Directorate or Division Program AL must require acquisition meeting attendees to sign in on a meeting attendance sheet, which will remind the attendees of their obligation to ensure that any report of a conflicting interest or relationship be resolved with the assistance of agency counsel prior to the meeting. Any government employee who has filed either an OGE Form 278 or OGE 450 must be aware that the assets and positions reported there may not include all interests that could give rise to a conflict, that filing a disclosure report does not, by itself, resolve a conflict, and that resolution of a conflict reported for a prior acquisition does not resolve the conflict for the present and subsequent acquisitions.

1872.15 Organizational conflicts of interest.

Organizational conflicts of interest can arise from a variety of circumstances in which a party competing in a government acquisition has a conflicting role potentially resulting in that party obtaining an unfair competitive advantage. Circumstances creating an actual or apparent organizational conflict of interest include, but are not limited to, an organization assisting or advising a government agency in its acquisition or a competing party, or having some role in defining Government requirements. Any AO process participant who becomes aware that a competing organization: 1) supports the government in conducting the acquisition; 2) has access to nonpublic information about the AO acquisition; 3) contributes to preparation of the AO solicitation; 4) or plays any role in the AO process affording that organization a competitive advantage; 5) must notify the Division Program AL and the OGC of these circumstances. A government employee whose organizational unit (at NASA, the organizational unit is the Center) is performing a role related to an AO (either in support of the government administration of the AO or as a member of a team competing under the AO) must seek instruction from the Division Program AL and the OGC before engaging as a participant in the AO.

1872.16 Confidentiality of proposal information and trade secrets.

(a) Participants in the AO process must properly handle and maintain the confidentiality of proposal information, trade secrets and source selection information (as defined by FAR section 2.101) obtained through the AO process. The following statutes, regulations and standards apply to all participants in the AO process:

(1) The Procurement Integrity Act, 41 U.S.C. 2102 et seq.;

(2) FAR section 3.104-4 (Disclosure, protection and marking contractor bid or proposal information and source selection information); and

(3) All instructions for proposal handling and non-disclosure agreements in NSPIRES.

(b) In addition to the statutes and regulations listed in paragraph (a) of this section, Government employees are subject to the Trade Secrets Act, 18 U.S.C. 1905, which imposes criminal sanctions for mishandling of trade secrets.

(c) Non-NASA employees are subject to clause(s) of any contract or agreement between the government and the participant or the participant's employer, under which the participant supports AO processes, and which prohibits, restricts, or places conditions upon receipt, and handling and transfer of data.

(d) Participants must immediately consult the Division Program AL or Directorate AL when they become aware of any mishandling of proposal information, trade secrets or source selection information. If needed, participants must, in consultation with the Division Program AL or Directorate AL, obtain advice from the OGC concerning the handling of proposal information, trade secrets and source selection information.

1872.2—Applicability

1872.21 General.

The AO system used for acquisition of science, technology, or exploration flight investigations is different and separate from the Agency procedures for acquisitions for prior known requirements. The decision to use the AO acquisition system is based on a determination that it is the most appropriate to meet program needs.

1872.22 Criteria for determining applicability.

The AO system can be used when conditions in (a) are met and conditions in (b) are not met.

(a) A general distinction between normal acquisitions for goods or services and AO investigation acquisitions is that AO proposers define not only how they will accomplish investigation objectives but also the objectives themselves within the framework of broader articulated NASA goals. Unlike a proposal responding to a Request for Proposals, an AO proposal effectively defines a Statement of Work in addition to the approach (and cost) for how the proposer plans to carry it out. All of the following conditions must exist for the AO acquisition system to be applicable:

(1) NASA has a general goal that can be furthered through novel experimental approaches. To develop such approaches, NASA wishes to draw upon the broadest possible reservoir of ideas;

(2) It benefits the Agency to be able to choose from among competing objectives advancing the general goals and their approach for doing so;

(3) Full responsibility and broad authorities for investigation success will be vested in the Principal Investigator(s) of selected proposal(s); and

(4) Execution of the selected investigation(s) will be subject to standard flight program management policies and procedures detailed in NPR 7120.5.

(b) The investigations acquisition process must not be used when any of the following characteristics are present:

(1) The requiring office can characterize a requirement sufficiently to define in advance a common statement of work against which all proposals will be evaluated. This calls for a Request for Proposals (RFP);

(2) The investigation is conducted on collaborative basis that requires close and ongoing Agency participation in tactical management and decision-making. A proposer may also offer a partnership contribution to the joint effort. In this case, a Cooperative Agreement Notice would be appropriate;

(3) The investigation is of modest size and is to be conducted on a best-efforts basis and deliverables are limited to progress reporting and, if applicable, publication of final results. In this case a NASA Research Announcement (NRA) solicitation, usually but not always resulting in a grant (a financial assistance agreement), would be more suitable. Execution of such investigations may be subject to NPR 7120.8; or

(4) The program is so complex, costly, or risky, as to require specialized integration or coordination extending over a lengthy period where NASA's institutional capabilities may be required for successful execution. Such investigations may be directed to one of NASA's Centers. Even in such cases, however, it may be desirable for the reasons in paragraph (a) above to compete subordinate investigation elements (such as instrumentation) via one or more AOs.

(c) Typical examples where the use of AOs is most applicable are solicitation of complete small- and intermediate-size investigations (larger and more costly than suborbital-class research but smaller and less expensive than the largest and most expensive strategic flight investigations), of instrument investigations on larger investigations whose overall management is assigned to a NASA Center, or of space flight instrument investigations contributed to a non-NASA mission.

1872.23 Approval.

Generally, the MDAA determines whether or not to use the AO acquisition system. On the largest investigations, a decision whether to use the AO system may be made by the Agency Acquisition Strategy Process (NPD 1000.5), under the aegis of the NASA Associate Administrator or designee, based on Agency-level programmatic considerations.

1872.3—The Announcement of Opportunity

1872.31 General.

The AO provides a clear statement of the requirements for acceptable proposals (including proposers' specification of objectives, technical approach to achieve these objectives, and management strategies and partnerships), as well as NASA's method of proposal evaluation and the format and content of submitted proposals. The purpose of the AO is to obtain sufficient information from offerors to correctly and equitably assess the relevance, merit, cost, and likelihood of success (risk) of proposed investigations. The solicitation must be conducted in such a way as to ensure that all potentially capable and interested offerors are alerted to the AO's release enough in advance and are provided with enough background information to enable them to submit proposals that are fully compliant with AO requirements and can be accurately evaluated.

1872.32 Preparatory effort.

(a) The originating directorate incorporates in AO planning and development the best available information on opportunities for advancement in the chosen area, including, where appropriate, results from preparatory studies and exploratory analyses.

(b) The Directorate will—

(1) Forecast the approximate time frame for AO release on an appropriate NASA web site;

(2) Synopsize the AO in the Governmentwide point of entry (GPE) prior to release;

(3) Concurrent with AO release, collect relevant technical and other information necessary for proposal preparation and post this information on the appropriate AO web site (i.e., AO solicitation library);

(4) Define AO provisions, including the evaluation process for proposals, that express a clear exposition of the acquisition's unique objectives, constraints, and requirements; and

(5) Post on the web an Evaluation Plan, specific to the AO, preferably concurrent with the AO release, but certainly well before receipt of proposals. This plan must detail the steps in the overall process, including how the evaluations are conducted and their sequence, procedures for avoiding conflicts of interest, and any special features of the evaluation process.

(c) In some cases, the best source of technical support needed to develop key elements of an AO resides at a NASA Center whose personnel will participate as proposer(s) to the AO. It is essential, out of concern for possible impairment of judgment or its appearance, to isolate these personnel and their efforts from individuals at their Center involved in any proposal development activity for the AO in question. In this case, special steps must be taken to ensure process integrity.

(1) At a NASA Center, the line management of AO support personnel must take responsibility for training and implementing firewall isolation of the individuals involved from people at that Center with proposal participation. The Directorate AL will work with the Division Program AL and Center management to put the necessary documentation in place. Except for statutory financial conflicts of interest with non-Governmental participants in proposals (for which Center Chief Counsel must be consulted), requirements for avoiding possible bias or impairment of judgment flow from the Directorate's widely recognized research community standards.

(2) At the Jet Propulsion Laboratory (JPL), a formal waiver for an organizational conflict of interest is also required and must be approved by the NASA headquarters Office of Procurement (OP). this will involve the Directorate and Division, the JPL NASA Office of JPL Management Office (NOJMO), and the OGC.

(d) Additional means of publicizing the AO may also be used, such as press releases, newsletters, and announcements at professional meetings, as appropriate, consistent with the policies of equal treatment and maximizing the pool of qualified potential proposers.

1872.33 Responsibilities.

(a) The overall responsibility for issuing AOs resides with the MDAA. The cognizant MDAA may delegate, with coordination with the OP, responsibility for development of an AO to a Program Office (see NFS CG 1872.32(c)(1)).

(b) The originating Directorate is responsible for the content of the AO and its coordination with other concerned Headquarters offices and where Headquarters has retained the task of AO development, with the related Program Office. At Headquarters, development of the AO and subsequent acquisition steps are generally performed by the Division Program AL and TAM, under the oversight of the Directorate AL (see NFS CG 1872.14 (a)(2) and (3)). All personnel involved in the evaluation of proposals are responsible for familiarizing themselves and complying with part 1872 and other applicable regulations, including those addressing ethics and procurement integrity standards (see NFS CG 1872.15, 16, and 17). To this end, they are expected to seek advice and guidance as needed from the OP, OGC, and Office of International and Interagency Relations (OIIR).

(c) The AO is released, with the concurrence of the OP, the OGC, and the Office of Interagency and International Relations, over the signature of the originating MDAA.

1872.34 Proposal opportunity period.

(a) It is good practice to issue a draft AO in advance of the final AO, with a subsequent period for comments and questions, nominally 30 days. If a draft AO has not been released, at a minimum the key elements of a pending AO must be described in a community announcement to the potential proposer community via the NSPIRES and the Governmentwide point of entry (GPE) no less than 30 days before the release of a final AO. (See FAR 5.201)

(b) Responses to questions about a draft AO judged to be material to preparation of a responsive proposal will be publicly promulgated via posting by the Division Program AL as soon as possible on the AO web site. The goal is to ensure that the same AO clarifications are made available simultaneously to all proposers.

(c) The standard time allocated for proposal submission after release of the final AO is at least 90 days. Other periods may be used with approval of the Directorate AL.

(d) In general, an AO is issued with a firm and definite proposal submission due date. Omnibus AOs are issued without specific proposal opportunities; specific proposal opportunities are added to omnibus AOs by amendment, and each specific proposal opportunity must have a firm and definite proposal submission date. However, an AO may be amended with late clarifications or changes, or to extend the due date to ensure adequate time for development of quality proposals, for whatever reason. Proposers must be promptly informed of departures from provisions in a released AO by the same means as its release NSPIRES.

1872.35 Guidelines for the announcement of opportunity.

(a) An AO must be tailored to the particular needs of the contemplated investigations and be complete in itself. To assist AO development and promote consistency between solicitations, the baseline required format and minimum necessary contents of the AO may be

defined in a template Standard AO. Tailoring may include addition of evaluation Criteria, deletion or modification of standard evaluation Factors, or incorporation of additional factors specific to program requirements (see NFS CG 1872.42(a)).

(b) An AO must incorporate proposal instructions and provisions necessary to address any AO-unique aspects.

(c) Requirements and guidelines for foreign participation in AO-solicited programs must be clearly articulated in the AO and be consistent with NPD 1360.2 and NPD 2190.1. Foreign proposals or U.S. proposals with foreign participation must be treated in accordance with NFS 1835.016-70.

(d) Proposals must be submitted electronically via NSPIRES.

(e) Noncompliant (including late) proposals may be declined without review.

1872.36 Proposals submitted by NASA investigators.

(a) NASA accepts and evaluates proposals submitted by NASA Centers in response to an AO. A NASA investigator may team with one or more non-Government co-investigators.

(1) The competitive AO process serves as a means of selecting proposals that offer the best value for the government in accordance with the evaluation factors in the AO. During the proposal preparation phase, non-government sources can assemble their research teams and select hardware fabricators and service providers without being subject to procurement rules requiring full and open competition. Although NASA Centers have the same focus of putting together a winning team, they are bound by the competition requirements of the Competition in Contracting Act (CICA) and Government ethics standards.

(2) Where a non-government partner/team member is identified in a NASA Center's proposal to have substantial involvement in conducting the investigation, but is not also providing hardware, equipment or instrumentation, selection of the proposal for funding under the AO satisfies the regulatory competition requirements for any award(s) to the participating non-government partner/team member(s) named in the proposal. The Center may directly award a contract to such entity without additional competition or approval of a Justification of Other than Full and Open Competition (JOFOC). The AO constitutes a competition that encompasses proposals submitted by all team members of every offeror including NASA Centers.

(3) Acquisition by a NASA Center of supplies or services that do not constitute research, i.e., equipment, materials, software, facilities, or non-research services incidental to the proposed investigation, must be treated differently. Examples of non-research services include program/project management assistance, supplies, and/or administrative support services. Procurement requirements for competition under an AO are not satisfied by the AO competition itself for acquisition of non-research supplies and services. Such items may be acquired under existing contract vehicles. Otherwise, they must be acquired through a newly competed contract or acquired non-competitively with support of a JOFOC.

(b) In addition to complying with proposal preparation instructions contained in the AO, proposals submitted by NASA Centers must address the following matters:

(1) *Co-investigators, Instrument Offerors, and Spacecraft Offerors*.

(A) The proposal must describe the process that was used for selecting proposed team members, which includes both spacecraft and instrument providers. While a

formal solicitation is not required, the process should include the following aspects: notice of the opportunity to participate to potential sources, submissions from and/or discussions with potential sources, and objective criteria for selecting team members among interested sources.

(B) The proposal must also include a representation that NASA investigators and any other Government employees have examined their financial interests and have determined that no personal conflict of interest exists.

(2) *Supplies and support services*.

(A) The proposal must indicate that the supplies or support services are available under an existing Government contract; or

(B) The proposal must state that the supplies or support services will be acquired under a full and open competition; or

(C) The proposal must explain the basis of a justification for acquiring the supplies or support services noncompetitively (FAR 6.1 and NFS 1806.1).

(c) A selection decision approving the non-Government research team members as selected co-investigators satisfies legal and regulatory requirements without other competition or justification.

1872.4—Evaluation of Proposals

1872.41 General.

(a) The Evaluation phase comprises a series of processes that begin with the expert review of each proposal against standard criteria and ends before formulation of specific recommendations for selection by the Selection Official. These processes, founded on the use of formal evaluation criteria and factors, constitute a series of distinct steps to consolidate and validate each proposal's characteristics that determine eligibility for selection. These Criteria and Factors and the processes that must be conducted in the evaluation of proposals received in response to any AO (Assessment, Categorization, Validation, and, only if required, Accommodation), are as follows:

(1) *Criteria and factors.* (see NFS CG 1872.42) The Standard AO template provides a generally used set of three major evaluation criteria, each with its own set of subordinate Factors that are used by evaluation panels as the rubric for their reviews. These can be adjusted in an AO to suit the needs of its program goals.

(2) *Assessment*. (see NFS CG 1872.43) The purpose of assessment is to determine the quality, relevance, and select ability of a proposed investigation in terms of science, exploration, or technology investigation intrinsic merit, implementation merit and feasibility, and TMC feasibility. The TMC feasibility includes a cost risk assessment that incorporates an analysis of cost threats such as schedule and performance risk.

(3) *Categorization.* (NFS CG 1872.44) The purpose of categorization is to assign to each proposed investigation, based on the assessment results, an integrated appraisal of its overall select ability;

(4) *Validation.* (NFS CG 1872.45) The Validation phase reviews the end-to-end acquisition activity to this point from the AO through Categorization. The fundamental objective is to ensure that selection options that are presented to the Selection Official via the accommodation and recommendation phases have undergone a review that is expertly thorough, equitable, conflict-free, and defensible; and

(5) *Accommodation.* (see NFS CG 1872.46 and 1872.47) In some acquisitions, such as instrumentation for flight on a shared platform, system and operational constraints of

various kinds (e.g. mass, power, location on the platform, pointing and viewing geometry, and thermal factors) may determine which instrument combinations are ultimately implementable, and therefore, selectable, for flight. Accommodation analysis thus may impact downstream integrated payload Recommendation decisions.

(b) The assessment, categorization, and validation processes must be accomplished in every investigation acquisition; the accommodation process must be executed where applicable. An overriding principle is the separation of the inputs, processes and criteria, and outputs for each of the sequential steps from assessment through accommodation. Some latitude is afforded as long as this principle is maintained, and the method employed clearly ensures the traits listed in paragraph (a)(4) of this section.

(c) In general, several components of the Assessment process are conducted in parallel (see NFS CG 1872.43). Categorization follows when the assessment process is complete and must be completed before proceeding to validation.

(d) Although the purposes of the validation and accommodation processes are distinct, they can be implemented in various combinations to suit the acquisition's needs. For example, acquisitions for multiple instrumentation investigations for a tightly constrained legacy platform could have two Accommodation stages. After Assessment or Categorization, an initial individual accommodation analysis can be performed for each favorably assessed instrument. This could be followed by a second more comprehensive integrated accommodation analysis during the later recommendation process (see NFS CG 1872.52) to identify implementable multi-instrument payload configurations. See NFS CG 1872.47 for additional information.

(e) Persons not having an official role in AO evaluation meetings, which often deal with confidential and proprietary proposer material, may attend only with the explicit approval of the Directorate AL, subject to provisions of NFS CG 1872.15 and NFS CG 1872.16. They are not permitted to speak unless invited to do so by the meeting chair.

1872.42 Criteria and Factors.

(a) Standards and adjustments.

(1) Each AO and its posted evaluation plan must describe the criteria and their subordinate factors that evaluators will apply in evaluating proposals. This information will be used by proposers to focus their proposals' presentation of objectives and approaches. In most cases these criteria will be the set of core criteria and their standard factors. The three core criteria and their standard factors, are defined in (b)(1) through (b)(3) below; additional criteria may be added to these three per the AO's particular needs (e.g., for student collaboration plan evaluation; see NFS CG 1872.35(a)). Alternatively, Factor C-3 may be deleted from solicitations for instrument-only investigations (i.e., where no platform is solicited);

(2) Criteria in the AO and evaluation plan may have deleted or modified Factors or additional Factors specific to the acquisition in question (see NFS CG 1872.35(a));

(3) The assessment factors that support each criterion must be explicitly provided in the AO and posted evaluation plan;

(4) The relative weighting of each Criterion must be stated in the AO if they are unequal; and

(5) Any adjustments to the criteria or factors after the release of the AO must be documented in a formal AO amendment and released via NSPIRES, generally with an extension of the due date for submitting proposals.

(b) *Core criteria and standard factors*.

(1) *Intrinsic Science, Technology, or Exploration Merit (Evaluation Criterion A).*

Factor A-1. Compelling nature and priority of the proposed investigation's science, exploration, or technology goals and objectives
Factor A-2. Programmatic value of the proposed investigation
Factor A-3. Likelihood of science, exploration, or technology success
Factor A-4. Science, exploration, or technology value of the threshold investigation

(2) *Science or Technology Implementation Merit and Feasibility of the Investigation (Evaluation Criterion B).*

Factor B-1. Merit of the instruments and investigation design for addressing the science, exploration, or technology goals and objectives
Factor B-2. Probability of technical success
Factor B-3. Merit of the data and/or sample analysis plan
Factor B-4. Science, exploration, or technology resiliency
Factor B-5. Probability of investigation team success

(3) *Technical, Management, and Cost (TMC) Feasibility of the Investigation Implementation, Including Cost Risk (Evaluation Criterion C).*

Factor C-1. Adequacy and robustness of the instrument implementation plan
Factor C-2. Adequacy and robustness of the investigation design and plan for mission operations
Factor C-3. Adequacy and robustness of the flight systems
Factor C-4. Adequacy and robustness of the management approach and schedule, including the capability of the management team
Factor C-5. Adequacy and robustness of the cost plan, including cost feasibility and cost risk

(c) Note that Factors B and C at NFS CG 1872.42(b)(2) and (b)(3) address proposed instrumentation but from different perspectives. In order to obtain a comprehensive evaluation against each of these Criteria, independent assessments are developed by reviewers with appropriate expertise in separate panels. The Division Program AL and the TAM will ensure that instrument weaknesses identified by either panel are shared with the other panels for consideration and also against the other panel's Factors. Any inconsistencies between the reports of the two panels will be considered during the categorization process.

1872.43 Assessment.

(a) One or more panels of community experts free from personal and organization conflicts of interest, evaluate proposals against the criteria. Criteria A and B are evaluated by the same science, exploration, or technology peer review panel. Criterion C is evaluated by a TMC peer review panel. Panel members will act in the capacity of individuals. For each Factor in each criterion, the panels will develop assessment findings or state that there are none. Panel chairs will prepare for each proposal a report Form on findings for each Criterion that captures the major points made during its consideration of the Criteria Factors. The findings for each Factor are expressed in short narratives for identified Major Strengths, Minor Strengths, Major Weaknesses, and Minor Weaknesses. The chair will also poll the members individually on their ratings for each of the Criteria on a standard scale and record them on its Criterion's Forms (Form A for Criterion A, Form B for Criterion B, and Form C for Criterion C). "Comments to

the Proposer" and "Comments to NASA" may be added; the latter are not provided to the proposers.

(b) Use of any approach other than the one defined in (a) above must conform to the principles and constraints in sections NFS CG 1872.15 and NFS CG 1872.16 and requires consultation with the OGC and the OP and the approval of the MDAA.

(c) *Products of the assessment process*. At the conclusion of this phase, Forms A and B for each proposal are combined with the corresponding Forms C developed by the TMC panels, plus any additional Criterion Forms, into an integrated report for that proposal. The package of these reports for all proposals is the input for the next phase, Categorization.

1872.44 Categorization.

(a) Just as the assessment process distills the distinctive strengths and weaknesses of each proposal into the concise, critical representations in the Criterion Forms, the categorization process condenses the contents of these Forms into a summary of the select ability of each proposed investigation. In doing so, the categorization process continues to focus on the scientific and technical merits, implementation feasibility, management approach, cost realism, and comprehensive risk assessment of each proposal individually. The objective of the categorization process is to derive a portfolio of consolidated merit-risk characterizations that will be subjected during the recommendation and selection processes to additional programmatic criteria.

(b) The categorization process is a critical gateway to selection. A proposal that categorizes poorly has virtually no chance of selection; conversely, a proposal that emerges from this process with a category rating in the top range is considered highly eligible to be selected for implementation. The Agency will devote years and very substantial resources to achieving the investigation's represented results and to overcoming any unforeseen technical or management problems. As a result, the Categorization process determining these ratings must be conducted by a Headquarters committee of government employees that combines appropriate scientific, technical, and project management expertise with breadth and experience. Only government employees may be appointed to the Categorization Committee. IPA personnel may also be appointed provided they are free of both actual or perceived bias and statutory restrictions as provided in NFS CG 1872.14 and NFS CG 1872.15. The OGC must be consulted in any areas of uncertainty.

(c) The authority to appoint the Categorization Committee is vested in the MDAA, who may delegate it to the Directorate AL (see NFS CG 1872.14(a)(3)). These appointments must be made well in advance of the committee's meeting in order to ensure availability and adequate preparation time. One committee member must be appointed Chair by the MDAA or Directorate AL and must have the authority and responsibility of conducting the categorization review.

(d) The sponsoring Division Program AL (see NFS CG 1872.14(a)(2)) will brief the committee on the AO and Assessment phase and present the Assessment results for each proposal. The division program AL may be assisted by other division staff involved in the Assessment phase. The TAM must be present in the categorization meeting to answer any questions about the TMC reviews.

(e) In a situation where the number of proposal Forms A, B, and C (plus any other special Forms) to be categorized exceeds what members of a single committee can reasonably be expected to absorb and retain, the Categorization Committee can be divided into two or more panels to spread the effort among more staff members. In these cases, proposals must be gathered in the same panel to ensure that the competitive outcome between them is not affected by any inter-panel standards inconsistencies. In addition, the potential for inconsistent standards in separate Categorization panels can be further mitigated by crosschecking in the subsequent Validation phase and possible leveling action. In what follows, the Committee Chair must be understood as the Panel Chair if there is more than one panel of the Committee.

(f) The appointed members must be provided with the Criterion Forms, with a description of the solicitation and evaluation process to date, and with clear instructions about how the categorization process is to be conducted, no less than seven calendar days before their meeting. This must include a list of all participating institutions for review by members for potential conflicts of interest. It must be clearly understood that all materials provided are competition-sensitive and must be protected while in use and returned for disposition to the Directorate AL.

(g) Before the meeting begins, participants must ensure compliance with ethics requirements (see NFS CG 1872.15, NFS CG 1872.16, and NFS CG 1872.17); provisions regarding observers in NFS CG 1872.41(e) also apply.

(h) The Categorization meeting must include—

(1) A briefing, usually by the Division Program AL, on the course of solicitation and evaluation, beginning with characteristics of the solicitation, through a survey of the proposals received, and continuing with the conduct of the assessment process and an overview of its results;

(2) A presentation of each proposal's evaluation, given generally by the Division Program AL, followed by discussion moderated by the Committee Chair that results in a categorization (see NFS CG 1872.43(d)) via a poll of members. A consensus is not required, but if a tie, or even a very close vote, persists after adequate discussion and several polls, the Chair may defer the decision for a proposal to be revisited at the end of the meeting. If a deadlock tie persists after this reconsideration, the Chair may break the tie by assigning the Categorization; and

(3) After the reviews for all proposal evaluations (or for all of the ones allocated to that panel if there is more than one panel) have been considered, the Chair will lead the panel in a crosscutting review of its proposals to ensure consistent standards have been applied. Any departure from equitable treatment must be corrected before adjournment of the Committee or panel.

(4) The report of the Categorization Committee Chair consists, at a minimum, of a table of the final categorizations for each of the proposals. When a strong majority is not achieved for a given categorization, the manner in which that categorization was assigned must be documented. It is good practice to include a brief categorization rationale for each proposal. This must be limited to the most influential points raised during the discussions to include how the Committee balanced strong conflicting strengths and weaknesses. This rationale must not simply restate the documented assessment findings on the criterion forms.

(i) During this process, Categorization Committee members are not permitted access to any of the proposals. This is to eliminate any possibility of re-reviewing the proposals, which

could be perceived as inequitable. In rare circumstances involving confusion or contradictions in Assessment findings for a proposal, the Chair can recess the Categorization Committee while the Division Program AL (only) consults the underlying proposal to resolve the issue for the Committee.

(j) If the Committee encounters a serious inconsistency in the assessment record, or other flaw that prevents a clear and supportable categorization from being assigned based on that record, the Committee Chair can guide the Committee in documenting the issue needing resolution and require the Division Program AL to reconvene the Criterion A/B panel or Criterion C panel to respond with a formal clarification that will enable the categorization to be completed by the Committee.

(k) A meritorious investigation is defined as one that has high overall intrinsic scientific, exploration, and/or technology merit and acceptable risk per the Criteria and objectives of the AO; categorizations are assigned according to the following definitions:

Category I – Well conceived, meritorious, and feasible investigations pertinent to the goals of the program and the AO's objectives and offered by a competent investigator from an institution capable of supplying the necessary support to ensure that any essential flight hardware or other support can be delivered on time and that data can be properly reduced, analyzed, interpreted, and published in a reasonable time. Investigations in Category I are recommended for acceptance and normally will be displaced only by other Category I investigations.
Category II – Well conceived, meritorious, and feasible investigations that are recommended for acceptance, but at a lower priority than Category I, whatever the reason.
Category III – Meritorious investigations that require further development. Category III investigations may be funded for further development and may be reconsidered at a later time for the same or other opportunities.
Category IV – Proposed investigations which are recommended for rejection for the particular opportunity under consideration, whatever the reason.

(l) *Products of the Categorization process.*
The record of the meeting, which is input to the validation and accommodation phases, consists of the following elements:

(1) Meeting sign-in sheet, with a list of participating institutions, serving as conflict of interest-free self-certification by participants;

(2) Table of categorizations for each investigation, including results of the final and preceding (if any) poll results;

(3) A brief narrative Categorization Rationale for each of the categorizations; and

(4) Detailed minutes of the meeting, to be reviewed and approved by the Division Program AL and the Committee Chair.

(5) Categorization Report (see NFS CG 1872.44(h)(4))

1872.45 Validation.

(a) The Validation phase is a procedure review intended as an independent check on the quality, balance, and integrity of the evaluation process to this point, including its adherence to the criteria and procedures defined in the AO and evaluation plan.

(b) The fundamental goals of the validation phase are to—

(1) Validate compliance of the processes followed, from solicitation through categorization, with applicable statutes and regulations and Agency procedures, and with their alignment with representations in the AO and Evaluation Plan;

(2) Ascertain that all proposals received fair and competent review;

(3) Ensure that the record of these processes is complete, including consistency of rationales for Assessment ratings and for Categorizations and adequacy of Forms A, B, and C (and others, if any); and

(4) Certify to the Selection Official that any division recommendations for selection developed from the foregoing processes are free from scientific, technical, procedural, and ethical flaws. Based on this certification, the division will be able to make recommendations for selection from the categorizations, and the Selection Official will be able to confidently make selections without concerns about flaws in any of the foregoing evaluation steps.

(c) The validation phase is conducted by a Steering Committee chaired by the Directorate AL or other senior Directorate official designated by the MDAA.

(d) The Steering Committee is composed, like the Categorization Committee, of conflict-free government employees. Potential participation by IPAs and detailees are handled the same way as for Categorization (see NFS CG1872.44(b)). Since the validation process objective is a comprehensive review that includes an objective inter-comparison of the outcomes of individual categorizations with the records available to the Committee and with each other for balance, the emphasis on Committee appointments on detailed area expertise is reduced. It is good practice to include on the Steering Committee some qualified and experienced individuals with broad or different backgrounds who can provide a fresh perspective. OP and OGC must participate in meetings of the Steering Committee.

(e) Steering Committee members are subject to the integrity provisions in sections NFS CG 1872.14 and NFS CG 1872.15; provisions regarding observers see NFS CG 1872.41(e) also apply.

(f) The Steering Committee works from a comprehensive description of the AO and Evaluation plan provided by the Division Program AL, the Forms A, B, C, and any other Forms, and the report of the Categorization Committee.

(g) In the event that the Validation process goals stated in paragraphs (b)(1), (b)(2), and/or (b)(3) of this section are not achieved, the Steering chair must notify the Division AL that the evaluation is not ready to go forward to Selection.

(h) The Steering Committee is not empowered to re-categorize proposals and does not have access to them. If it is unable based on the record available from the Categorization Committee proceedings to resolve an inconsistency or other inadequacy (see (b)(3) of this section), the Steering Committee Chair will lead the Steering Committee in documenting its concern. The Steering Committee Chair will then refer the issue to the Categorization Chair for that Committee to resolve the issue. The Categorization Chair has discretion on how to engage that Committee for this purpose, but it is good practice to reconvene the Committee in a meeting

for significant or complex problems. The Categorization Committee must respond to each identified concern in one of only three ways, in writing to the Steering Committee Chair:

(1) It can respond to a concern with clarification without making changes;

(2) It can maintain its initial Categorization and provide a clarified rationale; or

(3) It can provide a new Categorization with a new rationale.

Only one iteration is permitted. The Steering Committee Chair consults the Steering Committee, and if it accepts the Categorization Committee response, it updates its own record accordingly. If a disjoint persists, the Steering Chair will lead the Steering Committee in updating its record with reasons for disagreeing with the final position of the Categorization Committee and this will be incorporated with the Categorization Committee's original and final Categorization and rationale and clarification (if any) into the Steering Chair's summary memorandum to the Selection Official.

(i) The Categorization Committee reconsideration action is final; there is no negotiation between the Categorization and Steering Committees.

(j) The Steering Committee chair will document the outcome of the Categorization Committee's response to the Steering Committee's request(s) for reconsideration. The Steering Committee chair's memorandum to the Selection Official will present the Categorization Committee's original categorizations and rationales, the Steering Committee's request for reconsideration of categorizations and rationales and basis for its request, and the Categorization Committee's final categorizations and rationales, including any clarification that the Categorization Committee provides for its decisions. Use of this information will fall within the broad discretion of the Selection Official in making selections (see NFS CG 1872.53)

(k) *Products of the Validation process.*

The record of the Validation phase, which is input to the Accommodation, Recommendation, and Selection processes, consists of the following elements:

(1) Sign-in sheet, with a list of participating institutions, from the Steering Committee meeting serving as conflict of interest-free self-certification by participants;

(2) Summary memorandum from the Steering Committee Chair to the Selection Official certifying the process's integrity and compliance with policies and procedures, from solicitation though categorization. Any unresolved problems or outstanding exceptions (see NFS CG 1872.45(h), (i), and (j)) are to be clearly noted with explanations;

(3) Final table of Categorizations and Categorization Rationales; and

(4) Minutes, reviewed and approved by the Steering Committee Chair and Directorate AL (if not the same).

1872.46 Accommodation.

(a) Accommodation is the analysis of engineering and operational compatibility of one or more instruments on a spacecraft bus or other host platform. This includes, for example, physical parameters like available power, volume, surface mounting space, thermal management, communications and computational resources, and mass and mass distribution, viewing geometry and operational considerations like spacecraft pointing and lines-of-sight, and any other operational constraints imposed on the integrated payload by the platform.

(b) Accommodation analyses can be conducted any time, but findings are kept separated from the Assessment and Categorization processes and results.

(c) Management oversight of the Accommodation analyses is the responsibility of the sponsoring Division. However, the system and subsystem engineering expertise required for the necessary analyses can exceed that available within the Directorate. In this case, assistance can be obtained from a NASA Center or JPL technical staff. These personnel must be briefed on the provisions of NFS CG 1872.15, NFS CG 1872.16, NFS CG 1872.17, and NFS CG 1872.32(c) and their management must ensure implementation of these provisions.

(d) The accommodation analyses yield one or more complete candidate payloads, composed of instrument investigations with fully validated merit and risk that can be successfully carried and operated on the investigation spacecraft bus if selected.

(e) The AO must describe the constraints and criteria to be used during accommodation.

1872.47 Variations in validation and accommodation.

(a) In some cases, the primary driver in assessing alternative total instrument complements for a payload will be optimizing integrated payload performance against investigation scientific or technical objectives, rather than meeting spacecraft resource and operational limitations. In this case, the analysis of alternative configurations falls directly into the Recommendation phase (see NFS CG 1872.52).

(b) In other cases, the interactions between these criteria can become very complex, e.g., in the case of a legacy platform design with unusually tight constraints. It may be necessary for Headquarters Division personnel to work together with firewalled Center staff to coordinate development of selection Recommendations with Accommodation analyses. The detailed process for these cases must be tailored to the individual circumstances, in consultation with the OGC and the OP. The results of the Assessment and categorization processes, which are the principal gateways to potential selection for individual proposals, are not affected.

1872.48 Two-Step acquisitions.

(a) For some AO acquisitions, typically for medium and large complete flight investigations, a Two-step evaluation and recommendation/selection process is used. In these cases, NASA requires additional concept development to be carried out before deciding which of several investigations to continue beyond the Concept and Technology Development Phase (Phase A) into the Preliminary Design and Technology Completion Phase (Phase B) per NPR 7120.5. One or more proposed investigations are selected to begin formulation (see NFS CG 1872.5); the AO acquisition process is considered Step-One. The Step-Two investigation concept studies are conducted on the same schedule for all selected investigations in order to support a final competitive continuation decision (“down-selection”).

(b) Per NPR 7120.5, the Two-Step work constitutes the Concept and Technology Development Phase (Phase A) for the selected investigation. The product of each Phase A study is a Concept Study Report (CSR). The CSR must present the technical implementation of its investigation in sufficient detail to enable a definitive TMC analysis that includes higher fidelity cost and schedule assessment and updated risk assessment. The CSR must also revalidate the original science objectives and investigation science requirements, or, if they require amendment based on the detailed Phase A studies, revise them.

(c) For an investigation whose CSR does not present any modifications to the original proposal's science, exploration, or technology objectives and mission requirements, the Division Program AL will convene a Concept Study Review Panel with the scientific and technical expertise to assess both the Implementation Merit and Feasibility (Form B) and TMC Feasibility of each CSR, focusing on any deviations from findings of the Step-One Form B review and the results of the new, refined TMC analysis (Form C Factors). In this case, no review of intrinsic merit (Form A) is conducted.

(d) For an investigation whose CSR does present modifications to the science, exploration, or technology objectives or mission requirements, the Division Program AL must, in addition, convene the original or other properly constituted science panel to reevaluate the proposal's intrinsic merit (Form A); alternatively, the Division Program AL may elect to have the CSR Panel do so if it has sufficient subject matter breadth and depth. The CSR Panel's review for Forms B and C is the same as for (c) of this section.

(e) The results of the CSR reviews are used to validate or revise any Step-One Accommodation findings.

(f) The information derived from the CSR reviews is used by the sponsoring division to formulate and defend its final continuation (down-selection) recommendations for the Selection Official.

(g) A second Steering Committee action is not required; however, the Step-One Steering Committee or a repopulated Steering Committee may be convened to address specific concerns by the Directorate AL at his or her own discretion or at the request of either the sponsoring division or the Selection Official.

1872.5—Recommendation, Selection, and Debriefing

1872.51 General.

(a) This phase encompasses the final steps leading to selection decisions and the subsequent debriefing of both unsuccessful proposers and those selected for awards, the latter handed off to the designated Program Office for implementation. At that point, the requirements of NPR 7120.5 go into effect for the duration of the investigation.

(b) The Division Program AL must prepare, in advance of selection, a detailed timeline of the steps to be taken after the selection decisions are made.

1872.52 Recommendation.

(a) One or more options for selection must be prepared by the sponsoring Division; these recommendations must be based primarily on the categorizations, influenced by division programmatic considerations.

(b) The following are examples of programmatic factors that the sponsoring Division can apply in formulating specific recommendation(s) for consideration by the Selection Official:

(1) Accommodation constraints—see NFS CG 1872.46(a).

(2) Budget—affordability, including the impact of alternatives on other Division objectives;

(3) Scientific balance—avoiding duplication of other investigations or filling gaps in the Division program portfolio;

(4) National policy—following stated Administration or Congressional guidance;

(5) Advisory Committee guidance—including the National Academies;

(6) Technology impact—benefits related to the impact of technology development or demonstration for future investigations;

(7) Other Agency goals—relation of scientific or technical objectives to those of other Divisions or Directorates; and

(8) International factors—opportunities for partnerships with foreign space programs, either existing commitments or prospective opportunities, and concomitant risks.

(c) *Product of the Recommendation Phase.*
The Division prepares a briefing to the Selection Official to be presented for his or her consideration. The briefing contains one or more highly recommended selections, complete with rationale for the recommendation(s) and outlining unique merits and any drawbacks for each recommended option. Any specific guidance or direction to proposers of recommended investigations, for use in the event of their selection, must also be identified.

1872.53 Selection.

(a) The goal of this process is to determine which proposals will receive awards.

(b) The Selection Official may consult with other Agency officials, but retains sole authority for the selection. Results of the foregoing Evaluation and Validation phases must be made available to the Selection Official prior to any selection decision.

(c) The OP and OGC must concur with the selection statement.

(d) In making a selection, the Selection Official must clearly articulate in a written Selection Statement the following, for the record:

(1) Identify the investigations selected for implementation (one-step acquisitions) or further concept study (two-step acquisitions), including any partial selections or conditions to be levied on selected proposers;

(2) Identify the investigations not selected;

(3) Identify rationales for selections and non-selections, including especially rationales for any cases where more highly categorized investigations are displaced by lower ones;

(4) Where applicable, designate the Program Office to oversee the implementation;

(5) As applicable, a statement that no further competition is required (see NFS CG 1872.36 for awards to NASA proposers); and

(6) Where applicable, state whether offered cooperative contributions are accepted.

(e) Selection and non-selection letters must be prepared by the Division Program AL for signature by the Selection Official. The letters must be concurred upon by OP and OGC. Letters of selection must address the following:

(1) Any directed substantive changes from the investigation originally proposed;

(2) The nature of the selection, i.e., whether it should be considered final or provisional, contingent on additional hardware specification or cost definition or other conditions;

(3) Identification of the Program Office to assume oversight responsibility for execution of the investigation; and

(4) Where applicable, indication that a foreign partner's participation is accepted and that an agreement for the program will be arranged between the Office of International and Interagency Relations and the foreign partner organization that endorsed the proposal.

(f) The Division Program AL must provide a draft press release, coordinated with the Office of Communications, announcing the result of the solicitation and selection.

(g) The Division Program AL is responsible for managing the timely completion of these products and other requirements of the integrated selection timeline (see NFS CG 1872.51(b)).

1872.54 Award, notification of proposers, and debriefing.

(a) It is the responsibility of the Division Program AL to prepare letters notifying proposers of their selection or non-selection, obtain the Selection Official's signatures, and issue them promptly in accordance with the selection timeline (see NFS CG 1872.51(b)).

(b) Subsequent to the selection decision(s) by the Selection Official, it is the responsibility of the Division Program AL to work with OP to initiate a public announcement, depending on the overall value of the proposed contract action(s), in accordance with NFS 1805.3. It is the responsibility of the procurement organization at the Center Program Office responsible for the selected investigations to award contract(s). Further, for selected Government PIs, it is the responsibility of that PI's organization to award any resulting contracts.

(c) Unsuccessful proposers must be offered in their non-selection letter an oral debriefing on the evaluation and subsequent decision about their proposal. It is good practice to offer debriefings also to successful proposers as the evaluations contain feedback that will be valuable in the implementation of the investigation.

(1) The primary purposes of the debriefing are to convey to the proposers the rationales for the decisions on their proposals and to demonstrate that the evaluation and selection processes were thorough, expert, and fair.

(2) A specific and sufficient time limit must be set in advance for each debriefing.

(3) The Division Program AL is responsible for conducting the debriefings. It is a good practice to have the TAM in attendance to provide any clarifications required concerning the TMC reviews. Other NASA personnel who do not have any conflicts of interest, who can contribute materially to the debriefing can be invited by the Division Program AL to participate. Other observers, except the Directorate AL, are not permitted.

(4) The Division Program AL may prepare written debriefing materials for the debriefing. Such written debriefing materials will include (i) a brief description of the evaluation (assessment, categorization, validation, accommodation (if applicable)) and selection process

with sufficient detail to convey that all proposals received a fair and competent review; (ii) the key findings from all evaluation forms that were used as the basis for the selection or non-selection decision, and (iii) the signed selection statement. Properties of other proposals or outcomes of their reviews must not be briefed or discussed.

(5) A limit must be set to the number of attendees from the proposal team.

(6) Other than a record of attendees, written records must not be kept by NASA of the debriefing. The written debriefing materials are the notes for the debriefing, and the debriefing content must follow closely these written materials. Materials provided to attendees must be provided in advance (e.g., via NSPIRES, two days or more before the meeting).

(7) No recording is permitted. For telecon debriefings, a good practice is for the proposer to provide the dial-in line and access to it, so the proposer is responsible for its security.

(8) Whether or not other written debriefing materials are provided, a hard copy or electronic copy of the Selection Official's selection statement must be given to the proposal Principal Investigator.

(9) Care must be taken so that all debriefings share the same structure and corresponding information for all proposals.

APPENDIX A
LIST OF APPLICABLE FORMS AND AGENCY-WIDE PROCUREMENT TEMPLATES

Applicable CG Section	Form Title	Required	Optional
1801.4	NF 1634, Contracting Officer's Representative (COR)/Alternate COR Delegation	Y	
1810.1	NF 1787A, Market Research Report	Y	
1811.1, 1839.1	NF 1707, Special Approvals & Affirmations of Requisitions	Y	
1811.2	NF 1835, IPv6 Compliance Procurement Waiver	Y	
1812.3	OF 347, Order for Supplies		Y
1812.3	SF 44, U.S. Government Purchase Order Invoice Voucher		Y
1815.4	NASA Form (NF) 1434, Letter of Request for Pricing-Audit-Technical Evaluation Services	Y	
1815.4	NASA Form (NF) 634, Structured Approach Profit/Fee Objective	Y	
1819.1	NF 1787, Small Business Coordination	Y	
1842.7	NF 533, Quarterly	(see NFS 1842.7201(a)(1))	Y
1842.7	NF 533, Monthly	(see NFS 1842.7201 (a)(1)) Y	
1842.1	NF 1433, Inventory Schedule	Y	
1842.2	NF 1430, Letter of Contract Delegation	Y	
1842.2	NF 1430A, Contract Administration	Y	
1842.2	NF 1430 B, Quality Assurance	Y	
1842.2	NF 1430 C, Property	Y	
1842.2	NF 1430 D, Plant Clearance	Y	
1845.5	NF 1018, NASA Property in the Custody of Award Recipient	Y	
1845.5	NF 1019, Property Management System Analysis (PMSA)	Y	
1845.5	SF 1424, Inventory Disposal Report	Y	
1845.5	DD Form 1593, Contract Administration Completion Record	Y	

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Applicable CG Section	Template Title	Required	Optional
1801.2	Request for Issuance of A Center or Contract Specific Clause or Provision	Y	
1801.3	FAR & NFS Deviation	Y	
1801.4	Recommendation for Appointment of a COR or Alternate COR	Y	
1801.4	Contracting Officer's Representative or Alternate COR Cancellation Memorandum	Y	
1801.4	Ratification of Unauthorized Commitments	Y	
1801.4	Enterprise Contracting Officer Warrant Nomination (Non-GS-1102/1105)	Y	
1801.4	Enterprise Contracting Officer Warrant Nomination (Other than 1102/1105)	Y	
1801.4	NASA Contracting Officer Warrant Appointment Letter	Y	
1801.4	NASA Contracting Officer Warrant Termination Letter	Y	
1805.1	Governmentwide Point of Entry (GPE)	Y	
1805.3	NASA Notification of Procurement Action	Y	
1806.1	Authority to Exclude a Source Determination and Findings	Y	
1806.1	Justification for Other than Full and Open Competition	Y	
1806.1	JOFOC for Unusual and Compelling Urgency	Y	
1807.02	Determination that an Acquisition Strategy Meeting (ASM) is not Conducted	Y	
1807.1	Procurement Strategy Meeting Template for Contracts	Y	
1807.1	Written Acquisition Plan Template for Contracts	As applicable	
1807.1	Addendum Outlining Significant Changes to Approved PSMs-Written Acquisition Plans	Y	
1807.1	PSM Signature Template for Contracts	Y	
1807.1,1815.2	Self - Clerance	Y	
1807.1	Determination and Findings (D&F) for Consolidation of Requirements	Y	
1807.1	Determination and Findings (D&F) for Bundled Requirements	Y	
1807.1	Letter Notification to SB of NASA's intent to consolidate or bundle	Y	
1807.1	Notification to SBA of follow-on consolidated or bundled requirements	Y	
1807.1	Electronic Document Posting Checklist	Y	

1807.1	Annual Report on Bundled or Consolidated Contracts	Y	
1808.2	Ability One Coordination	Y	
1808.4	Determination and Findings Commercial Time and Materials or Labor Hour Contract-Order	Y	
1809.5	Organizational Conflicts of Interest – Limitation of Future Contracting Memo	Y	
1809.5	Organizational Conflicts of Interest – Determination & Checklist	Y	
1811.1	Requirements Development Team Request & Appointment Letters	Y	
1812.1	Time and Materials and Labor Hour Contract/Order Determination and Findings	Y	
1812.5	Request to Solicit a Non-Commercial Product or Service	Y	
1814.1	Construction Bond Checklist	Y	
1815.0	Request for Proposal (RFP) for Non-Competitive New Award	Y	
1815.1	Draft Request for Proposal (DRFP) Cover Letter	Y	
1815.1	Request for Proposal (RFP) Cover Letter	Y	
1815.1	Blackout Notice	Y	
1815.2	Source Evaluation Board (SEB) Membership Appointment Memorandum	Y	
1815.2	Source Selection Authority (SSA) Appointment Letter	Y	
1815.2	Source Evaluation Team (non-Source Evaluation Board Procedures) Membership Appointment Memorandum Template	Y	
1815.2	Set-Aside Preaward Apparent Successful Offeror Notification	Y	
1815.2	Postaward Notification Letter to Successful Offeror(s)	Y	
1815.2	Postaward Notification Letter to Unsuccessful Offeror(s)	Y	
1815.4	Pre-negotiation Position Memorandum	Y	
1815.4	Price Negotiation Memorandum (PNM)	Y	
1815.4	NASA Technical Evaluation Report	Y	
1816.01	Fee Determining Official (FDO) Appointment	Y	
1816.4	Determination and Findings Authority to Execute a CPIF Contract	Y	
1816.4	Determination and Findings Authority to Execute a FPAF Contract	Y	
1816.4	Determination and Findings Authority to Execute a FPI Contract	Y	

1816.4	Determination and Findings Authority to Execute a CPAF Contract	Y	
1816.4	Performance Evaluation Board (PEB) Appointment	Y	
1816.4	Award Term Determination	Y	
1816.5	Determination and Findings Single-Award Indefinite Delivery Indefinite Quantity (IDIQ) Contract Over $150M	Y	
1816.5	Fair Opportunity Exception – Brand Name Justification	Y	
1816.6	Determination and Finding Commercial Time-and-Materials or Labor Hour Contract/Order Template	Y	
1816.6	Determination and Finding Noncommercial Time-and-Materials or Labor Hour Contract/Order Template	Y	
1816.6	Justification and Approval of Undefinitized Contract Actions (UCAs) and Letter Contracts	Y	
1817.2	Determination and Findings (D&F) Period of Performance and/or Ordering Period Exceeding 5 Years	Y	
1817.2	FAR Period of Performance and Ordering Period Duration Deviation Request	Y	
1817.2	Option Justification	Y	
1817.2	Option Exercise Contractor Preliminary Notification	Y	
1819.1	Determination to Waive the Requirement for a Subcontracting Plan When No Subcontracting Possibilities Exist	Y	
1819.7	SBIR/STTR PHASE III – Contracting officer Checklist	Y	
1831.1	Instructions for the Evaluation of Total Compensation Plans	Y	
1832.7	Request for Provisional Increase in the Estimated Cost	Y	
1832.9	NASA Voucher Review Checklist (Cost-Type Contract)	Y	
1836.2	Preconstruction Orientation Checklist		Y
1842.1	Contractor Performance Assessment Reporting System (CPARS) Input	Y	
1842.7	NASA Form (NF) 533 Monthly Analysis		Y
1842.3	Postaward Conference Report	Y	
1843.2	Request for Proposal (RFP) for Existing Contracts	Y	
1843.6	Justification and Approval of Undefinitized Contract Actions (UCAs) and Letter Contracts	Y	

1844.2	Subcontract Consent Review	Y	
1845.1	Contracting Officer Determination to Provide Government Property	Y	
1850.1	Memorandum of Decision	Y	
1852.1	Request for Issuance of a Clause or Provision Template	Y	
Applicable CG Section	**Requirements Statements and Solicitation Instructions Title (statements and instructions are in NCMS)**	**See prescriptions for applicability**	
1825.7	Foreign Travel by Contractor Employees on NASA Official Business	As applicable	
1825.7	Counterintelligence Briefings	As applicable	
1845.6	Protecting and Preserving the Historic and Scientific Value of the U.S. Government Lunar Artifacts	As applicable	
1809.1	Financial Capability Assessment	As applicable	
1809.5	Prospective Contractor Responsibility and Eligibility Standards	As applicable	
1809.5	Notice of Potential Organizational Conflicts of Interest	As applicable	
1809.5	Organizational Conflicts of Interest – Limitation of Future Contracting Memo template	Y	
1815.1	Electronic Proposal Delivery – Proposal Marking and Delivery Through NASA's EFSS Box	Y	
1815.1	Section L – Notice of Potential Organizational Conflicts of Interest	Y	
1815.1	Section M – Prospective Contractor Responsibility and Eligibility Standards	Y	
1815.1	L.1 Mission Suitability Volume Instructions	Y	
1815.1	M.1 Mission Suitability Volume Evaluation	Y	
1815.1	Electronic Proposal Delivery – Proposal Marking and Delivery Through NASA's EFSS Box	Y	
1815.1	Section L – Notice of Potential Organizational Conflicts of Interest	Y	
1827.5	Right to Repair	Y	

APPENDIX B
NASA HEADQUARTERS (HQ) COORDINATION AND APPROVAL MATRIX (CAM)

Coordination and Approval Matrix (CAM).

The CAM establishes the minimum review, concurrence, coordination, and approval requirements consistent with the FAR or NFS requirements. All NASA contracting officers must follow the NASA HQ CAM and HQ EPO CAM located at: TBD **(Internal NASA Only)**

Review and Approval Thresholds.

The dollar value of the base year and all options establish the review and approval thresholds for all procurement actions. The value of a modification is the absolute value of all changes, not the net change to the contract value.

Reviews, Concurrences, and Approvals.

Documents require NASA HQ reviews, concurrences, and approvals must be routed to the cognizant HQs Procurement Analyst in the NASA Enterprise Acquisition Repository (NEAR).

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APPENDIX C
DOCUMENT HISTORY LOG

*Interim NFS CG Changes (excludes administrative changes)

Implementation Date: 4/15/26

NFS CG Sections impacted: 1807.1 and 1846.70

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1. NFS CG 1807.1 – Acquisition Plans

The following revisions to acquisition planning requirements are now in effect:

• The Headquarters Procurement Strategy Meeting (PSM) threshold has been increased from $500 million to **$1 billion or more**.

• The **PSM Executive Presentation** is now the only required submission. The previously required PSM Executive Summary and full PSM document have been eliminated. The Executive Presentation now serves as the **comprehensive acquisition plan**.

• The **PSM template is undergoing revision**, and an updated version will be issued upon completion.

• **Acquisitions valued below $1 billion** must now be approved by the **Head of the Contracting Activity (HCA), unless otherwise delegated (see NFS CG 1807)**.

2. NFS CG 1846.70 – Supply Chain Visibility (SCV)

The Supply Chain Visibility Reporting Data Requirement Document (DRD) applicability has been updated as follows:

• The previous threshold required DRD application to contracts and task orders of $20 million or more (including options) supporting programs or projects listed in the Agency Mission Program and Project List (AMPL).

• The revised requirement applies the DRD to contracts and task orders of **$20 million or more (including options)** that support programs and projects governed by **NPR 7120.5, NASA Space Flight Program and Project Management Requirement**.

Implementation Date: 5/22/26

NFS CG Sections impacted: 1805.32, 1808.13, 1812.4, 1819.12 and 1816.43

1.NFS CG 1805.32 – NASA Notification of Procurement Action (NPA) and Administrator's Notification of Significant Contract Action (ANOSCA)

Updates have been made to clarify when the NPA and ANOSCA apply. The guide now offers more detailed procedural guidance for situations where the ANOSCA application is relevant.

The following clarifications to the NPA and ANOSCA procedures have been added:

- The requirement for an NPA applies to pre-award notices, award notices, and public announcements when the contract action is valued at or greater than $7M but less than $30M.
- Center coordination requirements prior to making an entry in the ANOSCA application.
- Expectations for HQs review and approval and release of announcements.

2. NFS CG 1808.13 - Use of existing contracts

Updated 1808.13 (b) to remove the requirement for the CO to obtain SPE approval to deviate from an enterprise procurement strategy requirement. COs may obtain approval through the designated ERM and cognizant Procurement Officers.

3. NFS CG 1812- Acquisition of Commercial Products and Commercial Services

Incorporates a new section, **"1812.4 - Products and Services under the Simplified Acquisition Threshold (SAT)."** This section includes the previous agency guidance regarding micro purchases and adds guidance at 1812.41 concerning the use of the NASA Shared Service Center for the acquisition of commercial and non-commercial supplies and services valued at or below SAT.

4. NFS CG 1819.12—Contracting with the Small Business Administration (The 8(a) Program)

Incorporates paragraph 1819.12 (b) which adds a requirement for COs to provide adequate market research demonstrating that only an 8(a) business can fulfill a requirement prior to pursuing SPE approval for the issuance of an 8(a) set aside.

5. NFS CG 1816.43 -Award-fee

This change provides an exemption from the NASA Headquarters Independent Review Panel (IRP) review required by NFS CG 1816.43(e) for contracts with two or more consecutive "Excellent" ratings unless the rating drops below "Excellent," at which point the IRP reviews must resume. The following changes have been implemented:

(e) *Award fee evaluations.* Award fee evaluations for NASA's most significant contracts for design and development programs and projects, with a lifecycle cost of $1 billion or more, require ~~additional~~ **[a NASA Headquarters, Independent Review Panel (IRP)]** review prior to the Fee Determining Official (FDO) making a final determination in writing as to the amount of fee to be paid. **[Contracts with two or more consecutive "Excellent" ratings are exempt from IRP reviews unless the rating drops below "Excellent," at which point reviews must resume.]**

NFS CG Appendix C

(1) ~~NASA Headquarters, Independent Review Panel~~ **([The]** IRP**),** comprised of the NASA Assistant Administrator for Procurement or Deputy, NASA Chief Financial Officer or Deputy, NASA General Counsel or Deputy, a Program Manager (from a different program), and Center Director (from a Center other than where the program is hosted) must review the FDO determination before it is finalized.

6. NFS CG 1811- Describing Agency Needs

NFS CG 1811 has been updated to include two new sections: **NFS CG 1811.25, *"Data Requirements Descriptions"* and NFS CG 1811.26, *"Requirements Statements."*** NFS CG 1811.25 requires the use of the HQs maintained agency-wide DRDs and defines the DRD data types. NFS CG 1811.26 defines what a requirements statement is and requires the use of agency-wide requirements statements.

Implementation Date: 6/23/26

NFS CG Sections impacted: Table of Contents, 1805, 1806, 1811, 1812,1815,1817, 1819, 1822, and 1827

1. Table of Contents- Enterprise Procedures and Guides

- Inserted a link to the recent update of the Enterprise Award Fee Contracting Guide.
- Added the Enterprise Instructions for Total Compensation Plans and inserted a link to the document.

2. NFS CG 1805.32 – NASA Notification of Procurement Action (NPA) and Administrator's Notification of Significant Contract Action (ANOSCA)

- Added 1805.32 (c) which list provides a list of contract actions exempt from the ANOSCA application and NPA process.
- Removed 1805.5, NASA Strategic Sourcing Repository, and relocated to NFS CG 1808.14.

3. NFS CG 1806.01- Advocates for Competition

- Revised to remove the requirement for submission of the competition advocate report.
- Revised to identify the Agency Deputy Competition Advocate duties.

4. NFS CG 1806.15 – Justification Content

Added a reference to the agency-wide JOFOC for Unusual and Compelling Urgency procurement template.

5. NFS CG 1811.5 - Priorities and Allocations

Added section 1811.5 Priorities and Allocations.

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6. NFS CG 1812.21 -Waivers and deviations

Revised to change the approval authority to waive or tailor a provision or clause for use in a commercial products or services acquisition to the Head of Contracting Activity consistent with FAR 12.205 (d).

7. NFS CG 1815.14 - NASA competitive evaluation factors

- The requirement at paragraph (c)(4)(C) was changed from providing consideration of whether an offeror currently or planned to participate in NASA's Small Business Supplier Development program to considering the offerors current or planned participation as a mentor via a Mentor Protégé Agreement.

- Revised paragraph (c)(5)(A) to require goal setting for large (>$100M) solicitations that include FAR 52.219-9, with OSBP SBS collaboration.

8. NFS CG 1817.21 - Solicitations

For consistency with the streamlined RFO this section was revised to remove the procurement officer approval for option quantities greater than 50 percent. This removal resulted in the renumbering of the 1817.2, Options.

9. 1817.23 Documentation type and approval authority for requests to exceed a 5-year period of performance or ordering period (including all options).

Deleted "Advisory and Assistance contracts (FAR 35.403)" from the applicability listing for the agency-wide FAR Period of Performance and Ordering Period Duration Deviation Request.

10. NFS CG 1819.11 - Coordination; 1819.13 Small Business Subcontracting Plans, & 1819.31 Small Business Subcontracting Plans (other postaward responsibilities)

The following revisions were made in NFS CG 1819.11, 1819.13 & 1819.31:

1819.11 Coordination

- Revised paragraph (a)(1) to clarify and expand on who can serve as the SBA – interaction official and formally recognize the OSBP AA's role in appointing SBS to support, review and make small business recommendations on acquisitions at NASA Centers.

- Revised (a)(2)((i) to clarify the reference to "not set aside for small business" is referring to set-asides as defined in FAR Part 19.

- Revised paragraph (a)(3) to include a NF 1787 is not required for solicitations and contracts under the SBIR or STTR Programs, including Phase III awards or sole source awards to small business.

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- Added paragraph (5) "The following Table is provided as a guide to FAR Citations citing the nature and extent of SBA PCR Coordination:"

FAR RFO Citation	Trigger Event	Required Coordination with SBA PCR	Timing Requirement
7.107-2(b)	Determination that consolidation or bundling is necessary and justified	Provide a copy of the determination to SBA	Upon making the determination
7.107-3(c)	Follow-on consolidated or bundled requirement	Notify SBA PCR and provide required data (savings, benefits, changes, etc.)	No later than 30 days before issuing the solicitation
19.102(c)	SBA PCR requests contract information	Provide PCR access to all reasonably obtainable, pertinent contract information	Upon request
19.102(e)(1)(i)	Acquisition for supplies/services currently provided by small business, but new quantity/value likely excludes small business competition	Provide proposed acquisition package to SBA PCR	At least 30 days before solicitation issuance
19.102(e)(1)(ii)	Construction acquisition that packages/consolidates discrete projects such that small businesses likely cannot compete	Provide proposed acquisition package to SBA PCR	At least 30 days before solicitation issuance
19.102(e)(1)(iii)	Any consolidated or bundled requirement	Provide full justification package to SBA PCR	At least 30 days before solicitation issuance
19.109(g)	Solicitation requires a subcontracting plan	Provide SBA PCR reasonable time to review and submit advisory findings	Before issuing the solicitation
19.206-3(d)(7)	Review of subcontracting plan and CO determination of acceptability	CO should obtain advice and recommendations from the SBA procurement center representative and the agency small business specialist.	After CO review
19.302-3(a)	Award of contract or modification containing a subcontracting plan	Notify SBA Area Director with copy of award	After award

19.302-3(b)	Commercial subcontracting plan approved	Forward commercial plan to SBA Area Director	After approval
19.302-3(c)(1)	Sealed bid subcontracting plan submitted	Provide copy to SBA PCR	After receipt
19.302-3(c)(2)	Final negotiated subcontracting plan incorporated into contract or modification	Provide copy to SBA PCR	After negotiation
19.302-3(d)	Contract modification involving subcontracting plan	Notify SBA PCR of opportunity to review	Prior to executing the modification
19.303-1(b)	Award of 8(a) Contract	All contracts and modifications must be distributed to SBA District Office servicing that concern.	At time of award and/or execution of modification.

1819.13 – Small Business Subcontracting Plans

Removed paragraph (a)(i) "The OSBP SBS must send a copy to the SBA PCR."

1819.13 – Small Business Subcontracting Plans

- Revised paragraph (b)(1) to require solicitations including FAR 52.219-9 and valued over $100M to specify baseline small business subcontracting goal targets with OSBP SBS collaboration-unless an exception applies.

- Revised paragraph (b)(2) to (b)(2)(i) and included a list of exceptions to mandatory goal setting.

- Added paragraph (b)(2)(ii) and add a requirement for COs to coordinate decisions to not establish acquisition – specific subcontracting goals

- Added paragraph (b)(2)(iii) and incorporated a requirement for COs in coordination with OSBP SBS to develop evaluation criteria that ensures the fair, consistent, and transparent assessment of offerors; proposed subcontracting goals.

- Added paragraph (b)(5) and incorporated a requirement for COs to specify in the solicitation that Individual Subcontracting Plans must contain goals based on the total contract value in addition to the goals expressed as a percentage of total subcontract dollars.

- Removed the original paragraph (e) text which stated the following: "(e) Contracting officers, in collaboration with the OSBP SBS, may specify recommended subcontracting goals for each small business category in solicitations that require the submission of a subcontracting plan under FAR 52.219-9."

1819.31 Small Business Subcontracting Plans (other postaward responsibilities)

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Added paragraph (d) "When the contract includes a small business subcontracting plan, the contracting officer must –

(1) Review Individual Subcontract Reports (ISRs), and where applicable, Summary Subcontract Reports (SSRs), to ensure the contractor's compliance with 52.219-9, "Small Business Subcontracting Plan," within 75 days of each reporting period end date (refer to 13 CFR 125.3(d)(2), FAR 19.302-2(a), and Table 1819.31 below). This review includes ensuring that the data reported is acceptable, such as by verifying that the goals the contractor entered on an ISR match the goals in the approved subcontracting plan and that the report includes no apparent errors, omissions, or mistakes. If ISR or SSR revisions are required, the contracting officer must provide written notice to the contractor and require a corrected report within 30 days of providing such notice.

(2) Consider the contractor's reported performance against, and efforts to achieve, small business subcontracting plan goals to make the assessments in FAR 16.402, 19.302-2(b), 42.1102(g), and NFS 1842.112, as applicable.

(3) Consult with and consider recommendations from the OSBP SBS in carrying out the responsibilities in (d)(1) and (2) above.

(4) The following table provided for reference:"

Table 1819.31 - Subcontracting Plan Reports

Type of Report	Type of Plan	Report Due Date	Responsibility for Review and Action on the Report	Report review by the Contracting Officer or OSBP Due Date
Individual Subcontract Report (ISR)	Individual	May 15, Nov 14 and within 45 days of contract completion	NASA contracting officer	Jun 14 and Dec 14
	Commercial	Not required	Not required	Not required
Summary Subcontract Report (SSR)	Individual	Nov 14	NASA Office of Small Business Programs (OSBP)	Dec 14
	Commercial	Nov 14	The contracting officer that approved the Commercial Plan	Dec 14

11. NFS CG 1827 - Patent, Data, and Copyrights

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- Added 1827.1 General and 1827.11 Applicability.

- Renamed1827.4 AGENCY ACQUISITION REGULATION to 1827.4 RIGHTS IN DATA AND COPYRIGHTS

- Renamed 1827.46 Other existing data to 1827.46 Solicitation provisions and contract clauses; Removed 1827.47 Acquisition of data; 1827.48 General, and 1827.49 Solicitation provisions and contract clauses.

- Incorporated 1827.5 TECHNICAL AUTOMONY – RIGHT TO REPAIR and sections 1827.51 through 1827.55. This section includes two new requirements: Use of requirements statement C.301.5, Right to Repair, and the DRD entitled, *"Use, Maintenance, Repair Data and Instructions (UMRDI)".*

12. NFS CG 1831.13 – Evaluation of contractor and subcontractor compensation plans

- Added NFS CG 1831.13, to instruct COs to follow the Enterprise Total Compensation Instructions when requesting and evaluating an offeror's total compensation package.

Implementation Date: 8/05/26

NFS CG Sections impacted: 1801, 1802, 1805, 1812, 1816, 1817, 1832, 1840, 1842

1. NFS CG 1801.42 - Contracting Officers Responsibilities

- Paragraph (b) was revised to remove the requirement for a separate NF1634 for each contract delegation to the same COR.

2. NFS CG 1802 - Definitions

- Replaced Space Operations Mission Directorate (SOMD) and Exploration Systems Development Mission Directorate (ESDMD) with Human Spaceflight Mission Directorate (HSMD) to align with the current agency organizational structure.

3. NFS CG 1805.32 - NASA NPA and ANOSCA

- Paragraph (b)(1) was added to clarify who makes the determination that an action is of significant interest and to provide examples of types of significant interest actions.
- Paragraph 1805.32 (c) (iii) was revised to include an exemption for BPAs issued under an IDIQ.

4. NFS CG 1812 - Acquisition of Commercial Products and Services

- Updated paragraph 1812.5 to address the implementation of Executive Order 14271, *"Ensuring Commercial, Cost-Effective Solutions In Federal Contracts"*

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- Revised 1812.52, Other than Commercial, to incorporate the complete guidance in PIC 25-01. This revision includes the detailed process for approval to solicit a non-commercial product or service.

5. NFS CG 1816 – Types of Contracts

- NFS 1816.11 was revised to incorporate CO requirements for documenting contract type selection.
- NFS 1816.14 was added to incorporate justification requirements for covered contracts and orders required by Executive Order 1440.

6. NFS CG 1817.23 - Documentation type and approval authority for requests to exceed a 5-year period of performance or ordering period (including all options)

- This section was revised in its entirety to clarify documentation and approval requirements for requests to exceed a 5-year period of performance.

7. NFS CG 1832.101(b), Policy

- Paragraph (b) was revised to eliminate the requirement for HQs approval to utilize performance-based payments in competitive negotiated solicitations under $50M. This approval must now be obtained from the Center Procurement Officer.

8. NFS CG 1840, Information Security and Supply Chain Security

- Established NFS CG 1840 and incorporated requirements for the acquisition of unmanned aircraft systems (UAS).

9. NFS CG 1842.112 (g)

- The requirement at paragraph (g) for Centers to evaluate their compliance with CPARS reporting requirements twice per year was established when self-assessments were conducted semi-annually. Given the new self-assessment reporting requirements, this requirement was obsolete and therefore removed. The current instructions for the annual Center self- assessment include CPARS compliance.

Implementation Date: 9/11/26

NFS CG Sections impacted: 1801, 1815, 1832, 1843, 1846

NFS CG 1801.44, The Federal Acquisition Certification for Contracting Officer's Representatives (FAC – COR) Requirements

- Paragraphs (h)(1) and (2) have been eliminated since their requirements were redundant with those outlined in NFS CG 1801.42 (f)(1) and (2).

NFS CG 1815.11(e), Early Exchanges with Industry

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- Updated paragraph 1815.11 (e) to clarify when the 45-day timeline for issuing a final RFP should officially begin.

NFS CG 1832.101(b), Policy

- During the Procurement Control Board meeting on August 19, 2026, a decision was made with consent and approval from the PCB Chair to remove the requirements outlined in section 1832.101(b). Paragraph (b), which had delegated approval authority for using performance-based payments in competitive negotiated solicitations under $50 million to the Center Procurement Officer, was eliminated.

NFS CG 1843.42 (a), Definitization

- NFS CG 1843.42 (a) was revised to clarify that unpriced orders must contain definitization schedules that provide the definitization by 180 days after issuance of the change order.

NFS CG 1846

- Revised the numbering to incorporate the procedures for counterfeit electronic part detection and avoidance.

- Updated the Supply Chain Visibility (SCV) Reporting requirements to include requirements for any proposed modifications to the SCV Reporting DRD.

Implementation Date: 10/01/26

NFS CG Sections impacted: 1816 and 1827

NFS CG 1816.14

- Deleted the documenting contract type requirements and updated the section numbering.

NFS CG 1827, Patents, Data, and Copyrights

- Revised to include the new NFS CG 1827.6, “Data Sharing for Integrated Mission Execution” instructions and requirements.

**Upon completion of the NFS rulemaking process, the NFS CG will be finalized, and formal revisions will be issued through a procurement notice.*

NFS CG Appendix C