

make a decision on the claim. The Carrier must simultaneously notify the covered individual of the information requested if it requests additional information from a provider. The Carrier has 30 days after the date the information is received to affirm the denial in writing to the covered individual or pay the bill or provide the service. The Carrier must make its decision based on the evidence it has if the covered individual or provider does not respond within 60 days after the date of the Carrier's notice requesting additional information. The Carrier must then send written notice to the covered individual of its decision on the claim. The covered individual may request OPM review as provided in paragraph (b)(3) of this clause if the Carrier fails to act within 30 days after the covered individual's request for reconsideration or the Carrier's receipt of additional information.

(3) The covered individual may write to OPM and request that OPM review the Carrier's decision if the Carrier either affirms its denial of a claim or fails to respond to a covered individual's written request for reconsideration within 30 days after the date it receives the request or within 30 days after the date it receives the additional information requested. The covered individual must submit the request for OPM review within the time limit specified in paragraph (e)(1) of this clause.

(4) The Carrier may extend the time limit for a covered individual's submission of additional information to the Carrier when the covered individual shows he or she was not notified of the time limit or was prevented by circumstances beyond his or her control from submitting the additional information.

(c) *Information required to process requests for reconsideration.* (1) The covered individual must put the request to the Carrier to reconsider a claim in writing and give the reasons, in terms of applicable brochure provisions, that the denied claim should have been approved.

(2) If the Carrier needs additional information from the covered individual to make a decision, it must:

(i) Specifically identify the information needed;

(ii) State the reason the information is required to make a decision on the claim;

(iii) Specify the time limit (60 days after the date of the Carrier's request) for submitting the information; and

(iv) State the consequences of failure to respond within the time limit specified, as set out in paragraph (b)(2) of this clause.

(d) *Carrier determinations.* The Carrier must provide written notice to the covered individual of its determination. If the Carrier affirms the initial denial, the notice must inform the covered individual of:

(1) The specific and detailed reasons for the denial;

(2) The covered individual's right to request a review by OPM; and

(3) The requirement that requests for OPM review must be received within 90 days after the date of the Carrier's denial notice and include a copy of the denial notice as well as documents to support the covered individual's position.

(e) *OPM review.* (1) If the covered individual seeks further review of the denied claim, the covered individual must make a request to OPM to review the Carrier's decision. Such a request to OPM must be made:

(i) Within 90 days after the date of the Carrier's notice to the covered individual that the denial was affirmed; or

(ii) If the Carrier fails to respond to the covered individual as provided in paragraph (b)(2) of this clause, within 120 days after the date of the covered individual's timely request for reconsideration by the Carrier; or

(iii) Within 120 days after the date the Carrier requests additional information from the covered individual, or the date the covered individual is notified that the Carrier is requesting additional information from a provider. OPM may extend the time limit for a covered individual's request for OPM review when the covered individual shows he or she was not notified of the time limit or was prevented by circumstances beyond his or her control from submitting the request for OPM review within the time limit.

(2) In reviewing a claim denied by the Carrier, OPM may

(i) Request that the covered individual submit additional information;

(ii) Obtain an advisory opinion from an independent physician;

(iii) Obtain any other information as may in its judgment be required to make a determination; or

(iv) Make its decision based solely on the information the covered individual provided with his or her request for review.

(3) When OPM requests information from the Carrier, the Carrier must release the information within 30 days after the date of OPM's written request unless a different time limit is specified by OPM in its request.

(4) Within 90 days after receipt of the request for review, OPM will either:

(i) Give a written notice of its decision to the covered individual and the Carrier; or

(ii) Notify the individual of the status of the review. If OPM does not receive requested evidence within 15 days after expiration of the applicable time limit in paragraph (e)(3) of this clause, OPM may make its decision based solely on information available to it at that time and give a written notice of its decision to the covered individual and to the Carrier.

(f) *Court review.* (1) A suit to compel enrollment under § 890.102 of Title 5, Code of Federal Regulations, must be brought against the employing office that made the enrollment decision.

(2) A suit to review the legality of OPM's regulations under this part must be brought against the Office of Personnel Management.

(3) Federal Employees Health Benefits (FEHB) carriers resolve FEHB claims under authority of Federal statute (chapter 89, title 5, United States Code). A covered individual may seek judicial review of OPM's final action on the denial of a health benefits claim. A legal action to review final action by OPM involving such denial of health benefits must be brought against OPM. The recovery in such a suit will be limited to the amount of benefits in dispute.

(4) An action under paragraph (f)(3) of this clause to recover on a claim for health benefits:

(i) May not be brought prior to exhaustion of the administrative remedies provided in paragraphs (a) through (e) of this clause;

(ii) May not be brought later than December 31 of the third year after the year in which the care or service was provided; and

(iii) Will be limited to the record that was before OPM when it rendered its decision affirming the Carrier's denial of benefits.

(End of Clause)

[FR Doc. 95-7792 Filed 3-28-95; 8:45 am]

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**48 CFR Parts 1801, 1804, 1806, 1808, 1813, 1815, 1816, 1832, 1836, 1840, 1841, 1842, 1845, 1851, 1852, and 1870**

[NFS 89-18]

RIN 2700-AB83

### NASA FAR Supplement; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes dealing with NASA internal and administrative matters, such as the NASA FAR Supplement rewrite, procurement integrity, cost-reimbursement contracts, architect-engineer services, acquisition of utility services, and audit tracking and resolution.

**EFFECTIVE DATE:** March 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. David K. Beck, (202) 358-0482; e-mail: dbeck@proc.hq.nasa.gov.

### SUPPLEMENTARY INFORMATION:

#### Background

A cross-reference is added to 1813.7104(a) due to FAC 90-24. The FAC allows the head of contracting activity to exclude contracting officers (with micro-purchase authority only) from the procurement integrity definition of "procurement official" if the HCA determines that it is unlikely that the contracting officer's acquisitions will exceed \$20,000 in any 12-month period.

Sections 1816.301, 1816.301-3 and 1816.403 are removed due to FAC 90-24's removal of FAR 16.301 and 16.403.

Various changes include: (i) Lowering the selection official level for A-E contracts from the head of the installation to an executive level manager in the requirements office; (ii) eliminate 1836.600-70 on inter-organization acquisition coverage through NASA Headquarters Code HS; and (iii) upgrade the ethics certificate associated with selection of A-E contracts.

Subpart 1803.3 is redesignated as Part 1841. NFS clauses on utility services are removed where new FAR clauses provide adequate coverage.

Changes are necessary for NASA's audit followup system to comply with Office of Management and Budget (OMB) Circular A-50, "Audit Followup." In addition, they streamline the coverage on audit tracking and resolution and relocate the coverage within the NASA FAR Supplement.

Miscellaneous changes and corrections are found in the following sections: 1801.104-370; 1801.603-2 (reference to SF 171 deleted); Subpart 1804.8 (title change of subpart heading); 1804.805 (title change to section heading); 1806.303-1; 1808.002-71 and -76 (removed due to FAR coverage); Subpart 1808.7 (title change to subpart heading and "workshop" changed to new FAR terminology "nonprofit agency"; 1815.613-71; 1819.708-70; 1825.403-70; 1832.402; 1842.202-70; 1845.106-70; 1845.405; 1845.407; 1845.608-6; 1845.610-2; 1845.7203; 1845.7205; 1845.7213; 1851.102; 1870.103, App. I, Chapter 7, Appendix C; and 1870.303, App. I, Chapter 4.

#### Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, telephone number (202) 783-3238. Cite GPO Subscription Stock Number 933-003-00000-1. It is not distributed to the public, either in whole or in part, directly by NASA.

#### Impact

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

#### List of Subjects in 48 CFR Parts 1801, 1804, 1806, 1808, 1813, 1815, 1816, 1832, 1836, 1840, 1841, 1842, 1845, 1851, 1852, and 1870

Government procurement.

Thomas S. Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Chapter 18 is amended as follows:

#### PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Parts 1801, 1804, 1806, 1808, 1813, 1815, 1816, 1832, 1836, 1842, 1845, 1851, 1852, and 1870 continues to read as follows:

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

##### 1801.104-370 [Amended]

2. In section 1801.104-370, paragraph (a), "Ms. Joan Brooks (202-358-2105)" is revised to read "Mrs. Cynthia O'Bryant (202-358-1248)".

3. In section 1801.104-370, paragraphs (e) and (f), "Code JBD-4" is revised to read "Code JOB-19".

4. In section 1801.104-370, paragraph (f), "Code HS, Gloria Shively (202-358-2080)" is revised to read "Code HP, Cynthia O'Bryant (202-358-1248)" and "Code JM-2" is revised to read "Code JMS".

##### 1801.603-2 [Amended]

5. In section 1801.603-2, paragraph (d)(1) introductory text, the phrase "(or SF 171)" is removed.

#### PART 1804—ADMINISTRATIVE MATTERS

##### Subpart 1804.8 [Amended]

6. In subpart 1804.8, the title "Contract Files" is revised to read "Government Contract Files".

##### 1804.805 [Amended]

7. In section 1804.805, the section heading "Disposal of contract files." is revised to read "Storage, handling, and disposal of contract files."

#### PART 1806—COMPETITION REQUIREMENTS

##### 1806.303-1 [Amended]

8. In section 1806.303-1, paragraph (b), "Code IRD" is revised to read "Code IR".

#### PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

##### 1808.002-71 [Removed]

9. Section 1808.002-71 is removed.

##### 1808.002-76 [Removed]

10. Section 1808.002-76 is removed.

##### Subpart 1808.3 [Removed]

11. Subpart 1808.3 is removed.

##### Subpart 1808.7 [Amended]

12. The title of subpart 1808.7 "Acquisition From The Blind And Other Severely Handicapped" is revised to read "Acquisition From Nonprofit Agencies Employing People Who Are Blind Or Severely Disabled".

##### 1808.705-1 [Amended]

13. In section 1808.705-1, paragraph (b), the phrase "to obtain workshop-produced supplies" is revised to read "to obtain nonprofit agency-produced supplies".

#### PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

##### 1813.7104 [Amended]

14. In section 1813.7104, the following sentence is added to the end of paragraph (a) to read as follows:

"See 48 CFR (FAR) 3.104-4(h)(5) for procurement integrity requirements."

#### PART 1815—CONTRACTING BY NEGOTIATION

##### 1815.871 and 1815.872 [Removed]

15. Sections 1815.871 and 1815.872 are removed.

#### PART 1816—TYPES OF CONTRACTS

##### 1816.301 and 1816.301-3 [Removed]

16. Sections 1816.301 and 1816.301-3 are removed.

##### 1816.403 [Removed]

17. Section 1816.403 is removed.

#### PART 1832—ADVANCE PAYMENTS

##### 1832.402 [Removed]

18. In section 1832.402, paragraph (a)(1) is amended by removing the second sentence.

#### PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

##### Subpart 1836.6 [Amended]

##### 1836.600 and 1836.600-70 [Removed]

19. and 20. Sections 1836.600 and 1836.600-70 are removed.

##### 1836.602-2 [Amended]

21. Sections 1836.602-2 is revised to read as follows:

##### 1836.602-2 Evaluation boards.

In compliance with 48 CFR (FAR) 36.602-2, the person designated as the

selection authority, unless Field Installation Management Instructions designate higher authority, shall establish an architect-engineer selection board to be composed of at least three voting members. Membership shall at least include: one currently registered architect or professional engineer, who shall serve as the board chairperson; an appropriate official from the requiring office; and, an appropriate technical official familiar with any unique subject matter (see 48 CFR (FAR) 36.102, Definitions, "Architect-engineer services") critical to the requirement. Each board shall include an appropriate procurement official (a contracting officer, if feasible) as an ad hoc advisor to the board and the selection authority. Where appropriate, a procurement official may serve as a voting member on evaluation boards. Appointment of non-Government employees as voting members is not authorized.

22. Section 1836.602-4 is revised to read as follows:

**1836.602-4 Selection authority.**

The first level manager above the requirement office who is serving in grade GS 16 or above under the General Schedule or in a comparable or higher position under another schedule, or otherwise, is designated as the selection authority for purposes of 48 CFR (FAR) 36.602.4.

23. Section 1836.602-5 is revised to read as follows:

**1836.602-5 Short selection processes for contracts not to exceed the small purchase limitation.**

(a) Use of the procedures at 48 CFR (FAR) 36.602-5 (a) or (b) is at the discretion of the selection authority specified in 1836.602-4.

(b) The selection authority specified in 1836.602-4 is designated as the selection authority for purposes of 48 CFR (FAR) 36.602-5(b)(2).

**1836.602-70 [Amended]**

24. In section 1836.602-70, paragraph (b)(1), "the Comptroller" is revised to read "the Chief Financial Officer (CFO)/ Comptroller".

25. In section 1836.602-71, paragraph (a)(1) is revised to read as follows:

**1836.602-71 Conflict of interest.**

(a)(1) All persons participating in an architect-engineer evaluation, review or selection activity shall have a written certification on file in NASA stating knowledge of and compliance with the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (August 1992) and the NASA Supplement (September 28, 1994) to the Office of Government Ethics's Standard of Ethical Conduct for

Employees of the Executive Branch (August 1992). The minimum certification shall be:

**Certification**

I, the undersigned, hereby certify that I have: (i) read the Office of Government Ethics' Standard of Ethical Conduct for Employees of the Executive Branch (August 1992) and the NASA Supplement (September 28, 1994) to the Office of Government Ethics' Standard of Ethical Conduct for Employees of the Executive Branch (August 1992); (ii) filed the relevant [insert "Standard Form 278" for any employee who's annual salary is 120 percent above step one of grade 15 of the General Schedule (GS) or "Standard Form 450" for employees whose annual salary is at or below step ten of grade 15 of the General Schedule (GS)]; and, (iii) examined the attached list of competitors for the [Title] project before the architect-engineer selection board. I further certify that I have no financial or other personal interest in these firms.

(Signature)

(Date)

(End of certification)

\* \* \* \* \*

**1836.602-71 [Amended]**

26. In paragraph (a)(3) of section 1836.602-71, the word "center" is revised to read "installation" in two occurrences.

**PART 1840 [ADDED AND RESERVED]**

27. Part 1840 is added and reserved.

**PART 1841—ACQUISITION OF UTILITY SERVICES**

28. Part 1841 is added as set forth below:

**PART 1841—ACQUISITION OF UTILITY SERVICES**

**Subpart 1841.1—General**

1841.101 Definitions.

**Subpart 1841.2—Acquiring Utility Services**

1841.201 Policy.

1841.204 GSA areawide contracts.

1841.205 Separate contracts.

1841.205-70 Renewal of contracts.

1841.205-71 Headquarters requirement for copies of contracts.

1841.205-72 Contents of a negotiated utility service contract.

1841.205-73 Authorization for procurement of wellhead natural gas.

1841.205-74 Utility service narrative.

1841.205-75 Contracts requiring Headquarters approval.

1841.206 Interagency agreements.

**Subpart 1841.4—Administration**

1841.402 Rate changes and regulatory intervention.

**Subpart 1841.5—Solicitation Provision and Contract Clauses**

1841.501 Solicitation provision and contract clauses.

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

**Subpart 1841.1—General**

**1841.101 Definitions.**

Utility suppliers, as used in this subpart, may be quasi-public service corporations, private concerns, municipalities, associations, or cooperatives. They generally operate in a franchised territory without competition, so they may frequently be in a sole-source position. Under common law, public utilities must render service at reasonable rates and without discrimination. Their operations, management, rates, and profits are usually regulated by Federal, State, or local regulatory bodies, but absence of a regulatory body does not necessarily mean a complete lack of control. Administrative remedies pursuant to enabling statutes may be pursued or complaints may be taken to a court of competent jurisdiction.

**Subpart 1841.2—Acquiring Utility Services**

**1841.201 Policy.**

(a) Requirements for utility services shall be determined by technically qualified personnel who will assist the contracting officer as required. Before soliciting technical assistance outside the agency (see 48 CFR (FAR) 41.203), technical personnel shall contact the Environmental Management Division (Code JE), NASA Headquarters.

(b) Appropriated funds may not be used to purchase electricity in a manner inconsistent with state law governing the provision of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements (Pub. L. 100-202, Sec. 8093, 101 Stat. 1329-79). Before acquiring electric utility service, the contracting officer shall determine whether the manner of acquisition, in particular, competitive acquisition under 48 CFR (FAR) 41.205(b), would be inconsistent with state law. Section 8093 of Pub. L. 100-202 is not intended to affect transfers of electricity to agencies from Federal power marketing agencies or the Tennessee Valley Authority, such as NASA's power allocation from the Western Area Power Marketing Administration. Such transfers do not constitute "purchases" for purposes of section 8093.

**1841.204 GSA Areawide Contracts.**

(a) GSA publishes a checklist of utility services available under its areawide public utility contracts. The checklist specifies contract numbers,

expiration dates, companies, and areas serviced. Copies of the checklist may be obtained from GSA, Public Utility Division (PPU), Public Buildings Service, Washington, DC 20405 ((202) 501-3994).

(b) In determining whether a GSA area-wide public utility contract is adequate to meet requirements, procurement officers should consider (1) the areawide contract rates and volume of service required, (2) any unusual characteristics of the service required, (3) any special equipment or facility requirements, (4) any special technical contract provisions required, and (5) any other special circumstances.

(c) If a procurement officer finds that a separate negotiated contract would be more advantageous to the Government than the GSA areawide public utility contract, the procurement officer shall submit a request to the Associate Administrator for Procurement, NASA Headquarters (Code HS), for a waiver of the requirement to use the GSA areawide public utility contract. The request shall explain the merit of a separately negotiated contract.

#### 1841.205 Separate contracts.

##### 1841.205-70 Renewal of contracts.

(a) A contract may be renewed or extended by option, provided that the contract is not in effect for more than a total of 5 successive years.

(b) Contracting officers shall consider selecting an expiration date for the contract sufficiently after the end of the fiscal year to ensure that appropriations will be available when the option is exercised.

##### 1841.205-71 Headquarters requirement for copies of contracts.

The contracting officer shall forward, promptly after execution, one copy of each contract, service authorization form, memorandum of understanding, and modification to the Associate Administrator for Procurement, NASA Headquarters (Code HS) and the Environmental Management Division, NASA Headquarters (Code JE).

##### 1841.205-72 Contents of a negotiated utility service contract.

(a) All negotiated utility service contracts estimated to exceed \$2,500 annually shall be written in accordance with the directions in paragraphs (a)(1) through (5) of this section:

(1) *SF 26*. Use Standard Form 26 (see 48 CFR (FAR) 53.215-1(b)).

(2) *Appendix A*.

(i) Include the rate schedule, which shall consist of—

(A) The published rate schedule of the contractor approved or established by a

Federal, State, or other regulatory body; or

(B) The rate schedule negotiated between the contractor and the Government.

(ii) The rate schedule shall bear the legend "Appendix A, attached to and made a part of Contract No. \_\_\_\_\_," and be entitled "Rate Schedule." Each page shall indicate its number and the total number of pages comprising Appendix A, as, for example, "page 1 of 3." In addition to stating the rate applicable to the contract, Appendix A shall include any applicable rules or regulations (whether established by the regulatory body, the contractor, or negotiation between the contractor and the Government) pertaining to the Rate Schedule. Appendix A may provide for payment to the contractor of a nonrecurring, nonrefundable fee not exceeding \$1,000 for the costs of connecting the contractor's facilities to, and disconnecting them from, the Government's facilities, if the contract period is less than 6 months. In all other instances where a connection charge is involved, the "Connection Charge" clause (48 CFR (FAR) 52.241-9) and Appendix C (see paragraph (a)(4) of this section) shall be included in the contract.

(3) *Appendix B*. Include the service specifications applicable to the contract, which shall consist of a specially drafted attachment to the contract bearing the legend "Appendix B, attached to and made a part of Contract No. \_\_\_\_\_," and the title of the appropriate service specifications. Each page shall indicate its number and the total number of pages comprising Appendix B, as, for example, "page 1 of 3." Such appendix shall contain as a minimum—

(i) The premises to be served;

(ii) An estimate of the service requirements;

(iii) The point of delivery to the Government;

(iv) A description of the service;

(v) A statement of how the service is to be measured for purposes of billing; and

(vi) A statement of the capacity and flow of the service.

(4) *Appendix C*. Include the connection charge schedule required whenever the contract includes the connection charge clause at 48 CFR (FAR) 52.241-9 or the termination clause at 48 CFR (FAR) 52.241-10. It shall bear the legend "Appendix C, attached to and made a part of Contract No. \_\_\_\_\_," and be entitled "Connection Charge Schedule." Each page shall indicate its number and the total number of pages comprising

Appendix C, as, for example, "page 1 of 3." The appendix shall contain as a minimum a detailed description of the new facilities to be furnished by the contractor.

(5) Include any contract clauses required by 1841.501 or 48 CFR (FAR) 41.501.

(b) Any negotiated utility service contract estimated not to exceed \$2,500 annually shall consist of—

(1) Standard Form 26 (48 CFR (FAR) 53.215-1(b));

(2) An Appendix A (see paragraph (a)(2) of this section); and

(3) Any contract clauses required by 1841.501 or 48 CFR (FAR) 41.501.

##### 1841.205-73 Authorization for procurement of wellhead natural gas.

(a) Acquisition of wellhead natural gas and interstate transportation of the natural gas to locally franchised distribution utility companies' receipt points (city gate) is considered the procurement of supplies rather than the procurement of public utility services described in 48 CFR (FAR) part 41. Therefore, wellhead natural gas and interstate transportation of such gas should be obtained directly by NASA under applicable authorities and FAR procedures governing the acquisition of supplies. Redelivery of the gas from the city gate to the NASA facility is considered a utility service since it is provided only by the locally franchised utility. GSA is responsible for obtaining an appropriate contract for the redelivery service in accordance with 48 CFR (FAR) 41.204.

(b) GSA provides assistance to Federal agencies in the procurement of natural gas wellhead supplies. Contracting officers requiring assistance in determining the feasibility of procuring natural gas supplies on a facility by facility basis may contact General Services Administration, Public Building Services, Public Utilities Division, Code PPU ((202) 501-3994). In contacting GSA, contracting officers should provide data pertaining to present gas usage exceeding 50,000 Mcf per year. GSA has found that 50,000 Mcf is the annual volume below which wellhead purchases may not be economically feasible.

##### 1841.205-74 Utility service narrative.

(a) Before initiating negotiations, the contracting officer shall submit a Utility Service Narrative for proposed procurements for new utilities services, renegotiations or extensions of existing utility services, or existing contracts that require a negotiation for change of rate schedules, to the Associate Administrator for Procurement (Code

HS), NASA Headquarters. The Utility Service Narrative shall include—

(1) A brief technical description of the service required or being furnished;

(2) Justification of the reasonableness of the proposed rate;

(3) An outline of the field installation's proposed negotiation tactics, basis for position, and any alternative position;

(4) An estimate of the annual cost of service; and

(5) Other related items, as applicable, such as connection charges, termination liability, facilities charges, requirement for Government capital costs, or any unusual factors affecting the procurement.

(b) The Associate Administrator for Procurement (Code HS), with the coordination of the Environmental Management Division (Code JE), will review the information submitted under paragraph (a) of this section. If NASA Headquarters desires to participate in the negotiations, the Associate Administrator for Procurement (Code HS), NASA Headquarters, shall inform the contracting officer within 30 days after receipt of the Utility Service Narrative.

#### **1841.205-75 Contracts requiring Headquarters approval.**

Contracts and supplemental agreements for utility services shall be submitted to the Associate Administrator for Procurement, NASA Headquarters (Code HS), for approval as required by 48 CFR 1804.7203 and 1807.71.

#### **1841.206 Interagency agreements.**

(a) The Department of Defense (DOD) enters into areawide fuel oil and other energy-service contracts. DOD areawide contracts provide that the contractor shall, upon receipt of an order in the form prescribed by the contract, furnish the service involved without further negotiations as to rates and charges, in accordance with the established and field rate schedules applicable to the service.

(b) When procuring utility services from another Government agency by cross-servicing, the procurement office shall use a memorandum of understanding specifying the services to be provided and the conditions under which they will be supplied. A Utility Service Narrative shall be submitted in accordance with 1841.205-74.

#### **Subpart 1841.4—Administration**

##### **1841.402 Rate changes and regulatory intervention.**

(a) When the contractor notifies the contracting officer as provided in the

change of rates clause at 48 CFR (FAR) 52.241-7, or whenever the contractor requests that rate changes be negotiated, as provided in the change in rates clause at 48 CFR (FAR) 52.241-8, the contracting officer shall notify the Associate Administrator for Procurement, NASA Headquarters (Code HS) and the Environmental Management Division, NASA Headquarters (Code JE). The notification shall include sufficient information to permit a determination of the monetary effect of the proposed changes, a recommendation under paragraph (a) (1) or (2) of this section, and the basis for the recommendation.

(1) When notice is received that the contractor has filed an application for rate changes before the local regulatory body, the contracting officer shall recommend whether or not the Government should intervene at the hearing on the application. If it is recommended that the Government intervene, the recommendation shall be accompanied by a statement containing the basis for intervention and the extent to which the installation can support intervention by presenting testimony, preparing exhibits, and furnishing legal counsel.

(2) When notice is received that the contractor requests that rate changes be negotiated, the contracting officer shall recommend the position to be taken by the Government regarding the rate changes and state the extent to which installation personnel are available to support this position.

(b) The Associate Administrator for Procurement, NASA Headquarters, with the technical assistance of the Environmental Management Division (Code JE), NASA Headquarters, shall furnish the contracting officer a recommendation concerning the proposed rate changes and the extent to which NASA Headquarters will participate in the intervention before the local regulatory body or in negotiations with the contractor. Before recommending any action, the Associate Administrator for Procurement, NASA Headquarters shall, as necessary, coordinate with other staff offices or divisions, or other Government agencies. The contracting officer shall await the instructions of the Associate Administrator for Procurement, NASA Headquarters, for at least 30 calendar days before submitting the matter to GSA (see 48 CFR (FAR) 41.402(b)) or taking other action concerning the proposed rate changes.

#### **Subpart 1841.5—Solicitation Provision and Contract Clauses**

##### **1841.501 Solicitation provision and contract clauses.**

The contracting officer shall insert the clause at 48 CFR 1852.241-70, Renewal of Contract, whenever it is desirable that the utility service be provided under the same terms and conditions for more than 1 year (see 1841.205-70).

#### **PART 1842—CONTRACT ADMINISTRATION**

##### **1842.202-70 [Amended]**

29. In section 1842.202-70, paragraph (d), "Headquarters Supply and Equipment Management Office, Code JLE" is revised to read "Headquarters Logistics Management Office, Code JLG".

##### **Subpart 1842.73 [Added]**

30. Subpart 1842.73 is added as set forth below:

##### **Subpart 1842.73—Audit Tracking and Resolution**

##### **1842.7301 NASA external audit followup system.**

(a) This section implements OMB Circular No. A-50, NASA Management Instruction (NMI) 9970.1A, Audit Followup, and NASA Audit Followup Handbook 9970.2, which provide more detailed guidance. Recommendations for external audits (contracts and OMB Circulars No. A-128, Audits of State and Local Governments, and A-133, Audits of Institutions of Higher Learning and Other Non-Profit Institutions) shall be resolved by formal review and approval procedures analogous to those at 48 CFR 1815.807-71.

(b) The external audit followup system tracks all contract and OMB Circular A-128 or A-133 audits where NASA has resolution and disposition authority. The objective of the tracking system is to ensure that audit recommendations are resolved as expeditiously as possible, but at a maximum, within 6 months of the date of the audit report.

(c) (1) The identification and tracking of contract audit reports under NASA cognizance are accomplished in cooperation with DCAA by means of the DCAA form, Contract Audit Followup Summary Sheet. The use of this form by DCAA and NASA is covered in Chapter 6 of the NASA Audit Followup Handbook.

(2) Identification and tracking of A-128 and A-133 audit reports are accomplished in cooperation with the

NASA Office of the Inspector General (OIG) by means of a transmittal memorandum. A transmittal memorandum is sent by the OIG to the procurement officer of each NASA field installation having an award (contract, grant, or other agreement) covered by the audit report. The transmittal memorandum will identify whether there were any audit findings.

(d) (1) Chapter 6 of the NASA Audit Followup Handbook identifies which contract audit reports are reportable semiannually to Code HC.

(2) Only trackable A-128 and A-133 audit reports involving the following shall be reported semiannually to Code HC—

(i) A significant management control issue; or

(ii) For an individual NASA award, either the lower of 10 percent or \$10,000 of the costs incurred in the period covered by the audit are questioned; or for institution-wide issues, the lower of 10 percent or \$10,000 of the total costs incurred involving Government funds for the period covered by the audit are questioned.

(e) (1) The resolution and disposition of contract audits is covered by Chapter 6 of the NASA Audit Followup Handbook.

(2) The resolution and disposition of A-128 and A-133 are handled as follows:

(i) Audit findings pertaining to an individual NASA award are the responsibility of the procurement officer administering that award.

(ii) Audit findings having an institution-wide impact are the responsibility of the cognizant Federal agency. OMB's January 6, 1986, **Federal Register** Notice (51 FR 552), titled "Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Governments," provides cognizant agency assignments for OMB Circular A-128. For organizations subject to OMB Circular A-133, the cognizant agency is either assigned pursuant to OMB Circular A-88, "Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions," or if not formally assigned, it is based on which Federal agency provided the largest amount of funds for the audited period. In such cases where NASA is the cognizant Federal agency, audit resolution and disposition is the responsibility of the procurement officer for the "cognizant field installation," i.e., the field installation having the largest total award dollar amount for the audited period. A copy of the memorandum dispositioning the findings shall be provided by each field installation having resolution

responsibility for the particular report to the OIG Center office within whose geographic area of responsibility the audited organization is located.

**PART 1845—GOVERNMENT PROPERTY**

**1845.106-70 [Amended]**

31. In section 1845.106-70, paragraph (e), "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)".

**1845.405 [Amended]**

32. In section 1845.405, paragraph (b), "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)" and "Code IRD" is revised to read "Code IR".

**1845.407 [Amended]**

33. In section 1845.407, paragraph (a), "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)".

**1845.608-6 [Amended]**

34. In section 1845.608-6, "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)".

**1845.610-2 [Amended]**

35. In section 1845.610-2, "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)".

**1845.7203 [Amended]**

36. In section 1845.7203, "Supply and Equipment Management Office is revised to read "Logistics Management Office" and "Code JLE" is revised to read "Code JLG" in two occurrences.

**1845.7205 [Amended]**

37. In section 1845.7205, paragraph (f)(1), "Code JLE" is revised to read "Code JLG".

38. In section 1845.7205, paragraph (i), "Code JLE" is revised to read "Code JLG".

**1845.7213 [Amended]**

39. In section 1845.7213, paragraph (c)(1) introductory text, "Supply and Equipment Management Office (Code JLE)" is revised to read "Logistics Management Office (Code JLG)".

**PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS**

40. In section 1851.102, the first sentence of paragraph (b) is revised to read as follows:

**1851.102 Authorization to use Government supply sources.**

(a) \* \* \*  
 (b) The contracting officer shall forward letters of authorization to the installation's Logistics Management Officer, Attention: Activity Address Code Coordinator, who will forward them to the Logistics Management Office, NASA Headquarters (Code JLG), for verification and transmittal to GSA. \* \* \*

\* \* \* \* \*

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**1852.208-70, 1852.208-71, 1852.208-72, 1852.208-73, 1852.208-74, 1852.208-76, 1852.208-77, 1852.208-78, 1852.208-79, 1852.208-80, 1852.208-83 [Removed]**

41. Sections 1852.208-70, 1852.208-71, 1852.208-72, 1852.208-73, 1852.208-74, 1852.208-76, 1852.208-77, 1852.208-78, 1852.208-79, 1852.208-80, and 1852.208-83 are removed.

**1852.208-75 [Redesignated as 1852.241-70]**

42. Section 1852.208-75 is redesignated as section 1852.241-70 and the introductory text is revised to read as follow:

**1852.241-70 Renewal of Contract.**

As prescribed in 48 CFR 1841.501(b), insert the following clause:

\* \* \* \* \*

**PART 1870—NASA SUPPLEMENTARY REGULATIONS**

**1870.103 NASA acquisition of investigations.**

43. In Appendix C to Appendix I of section 1870.103, Section II, paragraph A.3.a., "Office of Policy Coordination and International Relations, Code IRD" is revised to read "Office of External Relations, Code IR" and in paragraph A.3.d., "Code IRD" is revised to read "Code IR" and "Office of Policy Coordination and International Relations" is revised to read "Office of External Relations".

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