

(4) Pay invoices from Government supply sources promptly. For purchases made from DoD supply sources, this means within 30 days of the date of a proper invoice (see also Defense Federal Acquisition Regulation Supplement (DFARS) 251.105). For purposes of computing interest for late Contractor payments, the Government's invoice is deemed to be a demand for payment in accordance with the Interest clause of this contract. The Contractor's failure to pay may also result in the DoD supply source refusing to honor the requisition (see DFARS 251.102(f)) or in the Contracting Officer terminating the Contractor's authorization to use DoD supply sources. In the event the Contracting Officer decides to terminate the authorization due to the Contractor's failure to pay in a timely manner, the Contracting Officer shall provide the Contractor with prompt written notice of the intent to terminate the authorization and the basis for such action. The Contractor shall have 10 days after receipt of the Government's notice in which to provide additional information as to why the authorization should not be terminated. Such termination shall not provide the Contractor with an excusable delay for failure to perform or complete the contract in accordance with the terms of the contract, and the Contractor shall be solely responsible for any increased costs.

(e) \* \* \*

(f) Government invoices shall be submitted to the Contractor's billing address, and Contractor payments shall be sent to the Government remittance address specified below:

Contractor's Billing Address (include point of contact and telephone number):

Government Remittance Address (include point of contact and telephone number):

(End of clause)

**PART 253—FORMS**

78. Section 253.209-1 is amended by revising paragraph (a)(i)(E) to read as follows:

**253.209-1 Responsible prospective contractors.**

(a) \* \* \*

(i) \* \* \*

(E) *Accounting system and related internal controls.* An assessment by the auditor of the adequacy of the prospective contractor's accounting system and related internal controls as defined in 242.7501, Definition. Normally, a contracting officer will request an accounting system review when soliciting and awarding cost-reimbursement or incentive type contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion.

\* \* \* \* \*

**253.215-70 [Amended]**

79. At the end of section 253.215-70, Form 253.303-2139, Report of Contract Performance Outside the United States, is added in numerical order to the DFARS Form List.

**Appendix C to Chapter 2**

80. Appendix C to Chapter 2, Section C-207.5 is amended by revising paragraph (b) to read as follows:

C-207.5 Subcontractor responsibility and vendor performance rating system (IIG5).

(a) \* \* \*

(b) *Vendor performance rating systems.* Contractor vendor performance rating systems may be a valuable element in the contractor's selection of subcontractors that offer the greatest value to the Government. State in the report whether the contractor has a vendor rating system. If the contractor has a system in place, evaluate its effectiveness in selecting sources. Consider whether the system—

- (1) Allows consistency of comparisons among competing subcontractors;
- (2) Protects rating information;
- (3) Provides appropriate documentation for each element rated;
- (4) Allows adequate opportunities for new subcontractors to compete;
- (5) Provides for evaluations by appropriate functional areas; and
- (6) Is kept current and accurate.

[FR Doc. 95-13061 Filed 6-2-95; 8:45 am]

BILLING CODE 3810-01-M

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1831 and 1852**

RIN 2700-AB82

**Revision to NASA FAR Supplement Coverage on Precontract Costs**

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations pertaining to precontract costs to specify the content of letters to contractors which authorize the incurrence of precontract costs, make clear the circumstances when precontract costs would be appropriate, and clarify that precontract costs are not allowable unless the clause "Precontract Costs" is included in the contract. In addition, the rule revises the prescription for the clause to allow its use in other than cost-reimbursement contracts. Also, the rule changes the title of that clauses from "Date of Incurrence of Costs" to "Precontract Costs" to more accurately reflect its purpose.

**EFFECTIVE DATE:** July 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Le Cren, (202) 358-0444.

**SUPPLEMENTARY INFORMATION:**

**Background**

NASA proposed to amend its regulation on precontract costs, 59 FR 33254, 6/28/94. The rule is intended to provide standardization in the contents of the Agency's precontract cost letters to contractors, make clear the circumstances when precontract costs would be appropriate, clarify that the precontract cost clause is required in the contract in order for such costs to be allowable, and changes the title of the precontract cost clause to more accurately reflect its purpose.

The only public comments submitted were from an industry association. The association considers the FAR coverage to be adequate and "strongly opposes the proposed revision as an unwarranted and unnecessary restriction of the FAR provisions governing precontract costs." NASA's coverage differs from the FAR cost principle by making precontract costs unallowable unless the NASA precontract costs clause is included in the contract.

The public comments were reviewed and considered. The proposed rule was determined to be compliant with the FAR as it utilizes advance agreements whose terms are incorporated in the affected contracts. In addition, the rule prevents the types of litigation identified by the commenter. Furthermore, NASA believes the need to incur precontract costs should be disclosed and only incurred when authorized.

Although no change was made to the proposed rule based on the public comments, the rule has been revised as a result of our review due to the public comments. The final rule eliminates the need for the Precontract Costs clause in firm-fixed-price contracts and fixed-price contracts with an economic price adjustment. The background for the proposed rule stated that the clause was appropriate for the firm-fixed price contracts as the FAR Part 31 cost principles would apply in the case of a termination. While that is true, FAR 49.113, Cost principles, also states that the Part 31 cost principles are subject to the general principles of 49.201. That section states that the primary objective of a termination settlement is to compensate the contractor fairly for the work done and the parties may agree on a total amount to be paid the contractor without agreeing on or segregating the particular elements of costs or profit comprising that amount. Therefore, the cost principles are viewed as a guide and not required for reaching an agreement by cost element, eliminating

the need of a precontract cost clause for such contracts.

### Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under 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 1831 and 1852

Government procurement.

#### Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1831 and 1852 are amended as follows.

1. The authority citation for 48 CFR Parts 1831 and 1852 continues to read as follows:

**Authority:** 41 U.S.C. 2473(c)(1).

### PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 1831.205–32 is revised to read as follows:

#### 1831.205–32 Precontract costs.

(a) The authorization of precontract costs is not encouraged and shall be granted only when there will be a sole source award or a single offeror has been selected for negotiations as the result of a competitive procurement, the criteria at FAR 31.205–32 are met, and a written request and justification has been submitted to and approved by the procurement officer. The authorization of precontract cost shall not apply to firm-fixed-price contracts and fixed-price contracts with economic price adjustment. The justification shall:

(1) Substantiate the necessity for the contractor to proceed prior to contract award,

(2) Specify the start date of such contractor effort,

(3) Identify the total estimated time of the advanced effort, and

(4) Specify the cost limitation.

(b) Authorization to the contractor to incur precontract costs shall be in writing and shall:

(1) Specify the start date for incurrence of such costs,

(2) Specify a limitation on the total amount of precontract costs which may be incurred,

(3) State that the costs are allowable only to the extent they would have been if incurred after the contract had been entered into, and

(4) State that the Government is under no obligation to reimburse the contractor for any costs unless a contract is awarded.

(c) Precontract costs shall not be allowable unless the clause at 1852.231–70, Precontract Costs, is included in the contract.

3. Section 1831.205–70 is revised to read as follows:

#### 1831.205–70 Contract clause.

The contracting officer shall insert the clause at 1852.231–70, Precontract Costs, in contracts for which specific coverage of precontract costs is authorized under 1831.205–32.

4. Section 1852.231–70 is revised to read as follows:

#### 1852.231–70 Precontract costs.

As prescribed in 1831.205–70, insert the following clause:

#### Precontract Costs

(June 1995)

The contractor shall be entitled to reimbursement for costs incurred on or after \_\_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_ that, if incurred after this contract had been entered into, would have been reimbursable under this contract.

(End of clause)

[FR Doc. 95–13631 Filed 6–2–95; 8:45 am]

BILLING CODE 7510–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 672

[I.D. 090892B]

RIN 0648–AD44

### Groundfish of the Gulf of Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to a final regulation (I.D. 090892B) that was published on Wednesday, October 5, 1994. The regulation established standard groundfish product types and standard product recovery rates (PRRs) for purposes of managing the groundfish fisheries off Alaska.

**EFFECTIVE DATE:** November 4, 1994.

**FOR FURTHER INFORMATION CONTACT:** Catherine Belli, 301-713-2341.

**SUPPLEMENTARY INFORMATION:** On October 5, 1994 (59 FR 50699), NMFS published a final rule establishing standard groundfish product types and standard PRRs for the groundfish fisheries off Alaska. The final rule was effective November 4, 1994. NMFS issued a correction to that rule on November 2, 1994 (59 FR 54841), adding amendatory instruction 3 that correctly amended § 672.20. The October 5, 1994, rule included Table 1 to § 672.20, but inadvertently omitted the amendatory instructions to add Table 1 to the section. This notice corrects this oversight and adds Table 1 to § 672.20.

### Correction of Publication

Accordingly, the publication on October 5, 1994 (59 FR 50699), of the final regulations (I.D. 090892B), which were the subject of FR Doc. 94–24637, is corrected as follows:

#### Table 1 to § 672.20 [Corrected]

On page 50702, before the beginning of Table 1 to § 672.20, amendatory instruction 3a. is added to read as follows:

“3a. Section 672.20 is amended by adding a new Table 1 at the end of § 672.20 to read as follows:”.

Dated: May 30, 1995

#### Rolland A. Schmitt,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–13684 Filed 6–2–95; 8:45 am]

BILLING CODE 3510–22–F