

include a certification that the petitioner was served with a copy. Parties filing replies to comments or oppositions must serve the commenting or opposing party with copies of such replies and shall include a certification that the party was served with a copy.

(8) Upon a showing of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements.

(9) Persons filing petitions and responsive pleadings must include a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

(10) The Commission may deny or approve, in whole or in part, a petition for an undue burden exemption from the video description requirements.

(11) During the pendency of an undue burden determination, the Commission will consider the video programming subject to the request for exemption as exempt from the video description requirements.

(e) *Complaint procedures.* (1) A complainant may file a complaint concerning an alleged violation of the video description requirements of this section by transmitting it to the Consumer Information Bureau at the Commission by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. Complaints should be addressed to: Consumer Information Bureau, 445 12th Street, SW, Washington, DC 20554. A complaint must include:

(i) The name and address of the complainant;

(ii) The name and address of the broadcast station against whom the complaint is alleged and its call letters and network affiliation, or the name and address of the MVPD against whom the complaint is alleged and the name of the network that provides the programming that is the subject of the complaint;

(iii) A statement of facts sufficient to show that the video programming distributor has violated or is violating the Commission's rules, and, if applicable, the date and time of the alleged violation;

(iv) The specific relief or satisfaction sought by the complainant; and

(v) The complainant's preferred format or method of response to the complaint (such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate the complainant's disability).

(2) The Commission will promptly forward complaints satisfying the requirements to the video programming distributor involved. The video programming distributor must respond to the complaint within a specified time, generally within 30 days. The Commission may authorize Commission staff to either shorten or lengthen the time required for responding to complaints in particular cases.

(3) The Commission will review all relevant information provided by the complainant and the video programming distributor and will request additional information from either or both parties when needed for a full resolution of the complaint.

(i) The Commission may rely on certifications from programming suppliers, including programming producers, programming owners, networks, syndicators and other distributors, to demonstrate compliance. The Commission will not hold the video programming distributor responsible for situations where a program source falsely certifies that programming that it delivered to the video programming distributor meets our video description requirements if the video programming distributor is unaware that the certification is false. Appropriate action may be taken with respect to deliberate falsifications.

(ii) If the Commission finds that a video programming distributor has violated the video description requirements of this section, it may impose penalties, including a requirement that the video programming distributor deliver video programming containing video description in excess of its requirements.

(f) Private rights of action are prohibited. Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845 and 1852

Property Reporting Requirements

AGENCY: National Aeronautics and Space Administration (NASA)

ACTION: Interim rule.

SUMMARY: This interim rule amends the NASA FAR Supplement (NFS) to

comply with OMB Bulletin 97-01 and makes other changes to NASA's property reporting requirements. Specific changes include: Additional instructions on how to adjust previously reported values; a new definition of Agency Peculiar Property to exclude completed end items destined for permanent operation in space; and a new definition of Work in Process to include completed end items destined for permanent operation in space which otherwise meet the definition of Agency Peculiar Property.

DATES: *Effective Date:* September 11, 2000.

Comment Date: Comments should be submitted to NASA at the address below on or before November 13, 2000.

ADDRESSES: Comments should be sent to James H. Dolvin, NASA Headquarters, Code HK, Washington, DC 20546, (202) 358-1279, jdolvin1@mail.hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: James H. Dolvin, (202) 358-1279.

SUPPLEMENTARY INFORMATION:

A. Background

OMB Bulletin 97-01, Form and Content of Agency Financial Statements, prescribes financial accounting and reporting requirements for Federal agencies. Included are accounting standards which apply to property, plant and equipment. Comments have been received from contractors regarding NASA's initial implementation of the standards through the NASA Form 1018 reporting format. In addition to changes being made to respond to contractors' concerns, changes are needed in NASA's reporting requirements to ensure compliance with the accounting standards and accurate and timely financial statements.

B. Regulatory Flexibility Act

NASA certifies that this interim rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because less than three per cent of NASA contracts with small businesses have property reporting requirements.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, applies to this proposed rule because it contains information collection requirements. Approval for the additional requirements has been obtained under OMB Control No. 2700-0017, approving an increase in burden hours from 5,700 to 8,144.

D. Determination to Issue an Interim Rule

In accordance with 41 U.S.C. 418(d), NASA has determined that urgent and compelling reasons exist to promulgate this interim rule. The basis for this determination is that the new definitions and reporting requirements in this interim rule are needed to comply with OMB Bulletin 97-01, and that it is necessary to issue these changes immediately so they can be incorporated into NASA contractor property reports for the year ending September 30, 2000. Public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 1845 and 1852

Government Procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1845 and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1845 and 1852 continues to read as follows:

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

PART 1845—GOVERNMENT PROPERTY

2. Subpart 1845.71 is revised to read as follows:

Table of Contents**Subpart 1845.71—Forms Preparation**

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1845.7101 Instructions for preparing NASA Form 1018.

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1845.7101-5 Contractor's privileged financial and business information.

Subpart 1845.71—Forms Preparation**1845.7101 Instructions for preparing NASA Form 1018.**

NASA must account for and report assets in accordance with 31 U.S.C. 3512 and 31 U.S.C. 3515, Federal Accounting Standards, and Office of Management and Budget (OMB) instructions. Since contractors maintain NASA's official records for its assets in their possession, NASA must obtain annual data from those records to meet these requirements. Changes in Federal Accounting Standards and OMB reporting requirements may occur from year to year, requiring contractor submission of supplemental information with the NASA Form (NF) 1018.

Contractors shall retain documents which support the data reported on NF 1018 in accordance with FAR subpart 4.7, Contractor Records Retention. Classifications of property, related costs to be reported, and other reporting requirements are discussed in this subpart. NASA Form 1018 (see 1853.3) provides critical information for NASA financial statements and property management. Accuracy and timeliness of the report are very important. If errors are discovered on NF 1018 after submission, the contractor shall contact the cognizant Center Industrial Property Officer (IPO) to discuss corrective action. IPO's shall work with Center finance personnel to determine appropriate corrective action and provide guidance to contractors.

1845.7101-1 Property classification.

(a) *General.* Contractors shall report costs in the classifications on NF 1018, as described in this section.

(b) *Land.* Includes costs of land and improvements to land. Contractors shall report land with a unit acquisition cost of \$100,000 or more.

(c) *Buildings.* Includes costs of buildings, improvements to buildings, and fixed equipment required for the operation of a building which is permanently attached to and a part of the building and cannot be removed without cutting into the walls, ceilings, or floors. Contractors shall report land with a unit acquisition cost of \$100,000 or more. Examples of fixed equipment required for functioning of a building include plumbing, heating and lighting equipment, elevators, central air conditioning systems, and built-in safes and vaults.

(d) *Other structures and facilities.* Includes costs of acquisitions and improvements of structures and facilities other than buildings; for example, airfield pavements, harbor and port facilities, power production facilities and distribution systems, reclamation and irrigation facilities, flood control and navigation aids, utility systems (heating, sewage, water and electrical) when they serve several buildings or structures, communication systems, traffic aids, roads and bridges, railroads, monuments and memorials, and nonstructural improvements such as sidewalks, parking areas, and fences. Contractors shall report other structures and facilities with a unit acquisition cost of \$100,000 or more and a useful life of two years or more.

(e) *Leasehold improvements.* Includes NASA-funded costs of improvements to leased buildings, structures, and facilities, as well as easements and right-of-way, where NASA is the lessee

or the cost is charged to a NASA contract. Contractors shall report leasehold improvements with a unit acquisition cost of \$100,000 or more and a useful life of two years or more.

(f) *Construction in progress.* Includes costs of work in process for the construction of Buildings, Other Structures and Facilities, and Leasehold Improvements to which NASA has title, regardless of value.

(g) *Equipment.* Includes costs of commercially available personal property capable of stand-alone use in manufacturing supplies, performing services, or any general or administrative purpose (for example, machine tools, furniture, vehicles, computers, software, test equipment, including their accessory or auxiliary items). Contractors shall separately report:

(1) The amount for all items with a unit acquisition cost of \$100,000 or more and a useful life of two years or more; and

(2) All items under \$100,000, regardless of useful life.

(h) *Special tooling.* Includes costs of equipment and manufacturing aids (and their components and replacements) of such a specialized nature that, without substantial modification or alteration, their use is limited to development or production of particular supplies or parts, or performance of particular services. Examples include jigs, dies, fixtures, molds, patterns, taps and gauges. Contractors shall separately report:

(1) The amount for all items with a unit acquisition cost of \$100,000 or more and a useful life of two years or more; and

(2) All items under \$100,000, regardless of useful life.

(i) *Special test equipment.* Includes costs of equipment used to accomplish special purpose testing in performing a contract, and items or assemblies of equipment. Contractors shall separately report:

(1) The amount for all items with a unit acquisition cost of \$100,000 or more and a useful life of two years or more; and

(2) All items under \$100,000, regardless of useful life.

(j) *Material.* Includes costs of NASA-owned property held in inventory that may become a part of an end item or be expended in performing a contract. Examples include raw and processed material, parts, assemblies, small tools and supplies. Material that is part of work-in-process is not included. Contractors shall report the amount for all Materials in inventory, regardless of unit acquisition cost.

(k) *Agency-peculiar property.* Includes costs of completed items, systems and subsystems, spare parts and components unique to NASA aeronautical and space programs. Examples include research aircraft, reusable space vehicles, ground support equipment, prototypes, and mock-ups. The amount of property, title to which vests in NASA as a result of progress payments to fixed price subcontractors, shall be included to reflect the pro rata cost of undelivered agency-peculiar property. Contractors shall separately report:

(1) The amount for all items with a unit acquisition cost of \$100,000 or more and a useful life of two years or more; and

(2) All items under \$100,000, regardless of useful life. Completed end items which otherwise meet the definition of Agency-Peculiar Property, but are destined for permanent operation in space, such as satellites and space probes, shall be reported as Contract Work in Process.

(l) *Contract work-in-process.* Includes costs of all work-in-process regardless of value; excludes costs of completed items reported in other categories. Includes completed end items of property which otherwise meet the definition of Agency-Peculiar Property, but are destined for permanent operation in space, such as satellites and space probes.

1845.7101-2 Transfers of property.

A transfer is a change in accountability between and among prime contracts, NASA centers, and other Government agencies (e.g., between contracts of the same NASA Center, contracts of different NASA Centers, a contract of one NASA Center to another, a NASA Center to a contract of another NASA Center, and a contract to another Government agency or its contract). To enable NASA to properly control and account for transfers, they shall be adequately documented. Therefore, procurement, property, and financial organizations at NASA Centers must effect all transfers of accountability, although physical shipment and receipt of property may be made directly by contractors. The procedures described in this section shall be followed to provide an administrative and audit trail, even if property is physically shipped directly from one contractor to another. Property shipped between September 1 and September 30, inclusively, shall be accounted for and reported by the shipping contractor, regardless of the method of shipment, unless written evidence of receipt at destination has

been received. Repairables provided under fixed price repair contracts that include the clause at 1852.245-72, Liability for Government Property Furnished for Repair or Other Services, remain accountable to the cognizant NASA Center and are not reportable on NF 1018; repairables provided under a cost-reimbursement contract, however, are accountable to the contractor and reportable on NF 1018. All materials provided to conduct repairs are reportable, regardless of contract type.

(a) *Approval and notification.* The contractor must obtain approval of the contracting officer or designee for transfers of property before shipment. Each shipping document must contain contract numbers, shipping references, property classifications in which the items are recorded (including Federal Supply Classification group (FSC) codes for equipment), unit acquisition costs (as defined in 1845.7101-3, Unit Acquisition Cost), original acquisition dates for items with a unit acquisition cost of \$100,000 or more and a useful life of two years or more, and any other appropriate identifying or descriptive data. Where the DD Form 250, Material Inspection and Receiving Report, is used, the FSC code will be part of the national stock number (NSN) entered in Block 16 or, if the NSN is not provided, the FSC alone shall be shown in Block 16. The original acquisition date shall be shown in Block 23, by item. Other formats, such as the DD Form 1149, Requisition and Invoice/Shipping Document, should be clearly annotated with the required information. Unit acquisition costs shall be obtained from records maintained pursuant to FAR Part 45 and this Part 1845, or, for uncompleted items where property records have not yet been established, from such other record systems as are appropriate such as manufacturing or engineering records used for work control and billing purposes. Shipping contractors shall furnish a copy of the shipping document to the cognizant property administrator. Shipping and receiving contractors shall promptly notify the financial management office of the NASA Center responsible for their respective contracts when accountability for NASA property is transferred to, or received from, other contracts, contractors, NASA Centers, or Government agencies. Copies of shipping or receiving documents will suffice as notification in most instances.

(b) *Reclassification.* If property is transferred to another contract or contractor, the receiving contractor shall record the property in the same property classification and amount appearing on the shipping document. For example,

when a contractor receives an item from another contractor that is identified on the shipping document as equipment, but that the recipient intends to incorporate into special test equipment, the recipient shall first record the item in the equipment account and subsequently reclassify it as special test equipment. Reclassification of equipment, special tooling, special test equipment, or agency-peculiar property requires prior approval of the contracting officer or a designee.

(c) *Incomplete documentation.* If contractors receive transfer documents having insufficient detail to properly record the transfer (e.g., omission of property classification, FSC, unit acquisition cost, acquisition date, etc.) they shall request the omitted data directly from the shipping contractor or through the property administrator as provided in FAR 45.505-2.

1845.7101-3 Unit acquisition cost

(a) The unit acquisition cost shall include all costs incurred to bring the property to a form and location suitable for its intended use. For example, the cost shall include the following, as appropriate:

(1) Amounts paid to vendors or other contractors.

(2) Transportation charges to the point of initial use.

(3) Handling and storage charges.

(4) Labor and other direct or indirect production costs (for assets produced or constructed).

(5) Engineering, architectural, and other outside services for designs, plans, specifications, and surveys.

(6) Acquisition and preparation costs of buildings and other facilities.

(7) An appropriate share of the cost of the equipment and facilities used in construction work.

(8) Fixed equipment and related installation costs required for activities in a building or facility.

(9) Direct costs of inspection, supervision, and administration of construction contracts and construction work.

(10) Legal and recording fees and damage claims.

(11) Fair values of facilities and equipment donated to the Government.

(12) Material amounts of interest costs paid.

(b) Acquisition cost shall include, where appropriate, for contractor acquired Special Test Equipment, Special Tooling, Agency-Peculiar Property and Contract Work-In-Process, related fees, or a *pro rata* portion of fees, paid by NASA to the contractor. Situations where inclusion of fees in the acquisition cost would be appropriate

are those in which the contractor designs, develops, fabricates or purchases property for NASA and part of the fees paid to the contractor by NASA are related to that effort.

(c) The use of weighted average methodologies is acceptable for valuation of Material.

(d) Contractors shall report unit acquisition costs using records that are part of the prescribed property or financial control system as provided in this section. Fabrication costs shall be based on approved systems or procedures and include all direct and indirect costs of fabrication.

(e) The contractor shall redetermine unit acquisition costs of items returned for modification or rehabilitation. If an item's original acquisition cost is \$100,000 or more, only modifications that improve that item's capacity or extend its useful life two years or more *and* that cost \$100,000 or more shall be added to the original acquisition cost reported on the NF 1018. The costs of any other modifications will be considered to be expensed. If an item's original unit acquisition cost is less than \$100,000, but a single subsequent modification costs \$100,000 or more, that modification *only* will be reported as an item \$100,000 or more on subsequent NF 1018s. The original acquisition cost of the item will continue to be included in the under \$100,000 total. The quantity for the modified item will remain "1" and be reported with the original acquisition cost of the item. If an item's acquisition cost is reduced by removal of components so that its remaining acquisition cost is under \$100,000, it shall be reported as under \$100,000.

(f) The computation of work in process shall include all direct and indirect costs of fabrication, including associated systems, subsystems, and spare parts and components furnished or acquired and charged to work in process pending incorporation into a finished item. These types of items make up what is sometimes called production inventory and include programmed extra units to cover replacement during the fabrication process (production spares). Also included are deliverable items on which the contractor or a subcontractor has begun work, and materials issued from inventory. Work in Process shall include the unit acquisition cost of completed end items of property which otherwise meet the definition of Agency-Peculiar Property, but which are destined for permanent operation in

space, such as satellites and space probes.

1845.7101-4 Types of deletions from contractor property records.

Contractors shall report the types of deletions from contract property records as described in this section.

(a) *Lost, damaged or destroyed.* Deletion amounts that result from relief from responsibility under FAR 45.503 granted during the reporting period.

(b) *Transferred in place.* Deletion amounts that result from transfer of property to a follow-on contract with the same contractor.

(c) *Transferred to NASA Center accountability.* Deletion amounts that result from transfer of accountability to the NASA Center responsible for the contract, whether or not items are physically moved.

(d) *Transferred to another NASA Center.* Deletion amounts that result from transfer of accountability to a NASA Center other than the one responsible for the contract, whether or not items are physically moved.

(e) *Transferred to another Government agency.* Deletion amounts that result from transfer of property to another Government agency.

(f) *Purchased at cost/returned for credit.* Deletion amounts that result from contractor purchase or retention of contractor acquired property as provided in FAR 45.605-1, or from contractor returns to suppliers under FAR 45.605-2.

(g) *Disposed of through plant clearance process.* Deletions other than transfers within the Federal Government, *e.g.*, donations to eligible recipients, sold at less than cost, or abandoned/directed destruction.

(h) *Other.* Types of deletion other than those reported in paragraphs (a) through (g) of this section.

1845.7101-5 Contractor's privileged financial and business information.

If a transfer of property between contractors involves disclosing costs of a proprietary nature, the contractor shall furnish unit acquisition costs only on copies of shipping documents sent to the shipping and receiving NASA Centers. Transfer of the property to the receiving contractor shall be on a no-cost basis.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 1852.245-73 to read as follows:

1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors.

As prescribed in 1845.106-70(d), insert the following clause:

Financial Reporting of NASA Property in the Custody of Contractors

September, 2000.

(a) The Contractor shall submit annually a NASA Form (NF) 1018, NASA Property in the Custody of Contractors, in accordance with the provisions of 1845.505-14, the instructions on the form, subpart 1845.71, and any supplemental instructions for the current reporting period issued by NASA.

(b)(1) Subcontractor use of NF 1018 is not required by this clause; however, the Contractor shall include data on property in the possession of subcontractors in the annual NF 1018.

(2) The Contractor shall mail the original signed NF 1018 directly to the Center Deputy Chief Financial Officer, Finance.

(3) Three copies shall be submitted (through the Department of Defense (DOD) Property Administrator if contract administration has been delegated to DOD) to the following address: [Insert name and address of appropriate Center office.], unless the Contractor uses the NF 1018 Electronic Submission System (NESS) for report preparation and submission.

(c) The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 31. The information contained in these reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 31. The Contracting Officer may, in NASA's interest, withhold payment until a reserve not exceeding \$25,000 or 5 percent of the amount of the contract, whichever is less, has been set aside, if the Contractor fails to submit annual NF 1018 reports when due. Such reserve shall be withheld until the Contracting Officer has determined that the required reports have been received by NASA. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.

(d) A final report shall be submitted within 30 days after disposition of all property subject to reporting when the contract performance period is complete in accordance with (b)(1) through (3) of this clause.

(End of clause)

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