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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1833 and 1852

RIN 2700-AC33

Approval Authority for Contract Actions Pending Resolution of an Agency Protest

AGENCY: National Aeronautics And Space Administration.

ACTION: Final rule.

SUMMARY: This final rule revises the NASA FAR Supplement (NFS) to specify the approval authority to award a contract or continue contract performance when a protest is filed directly with the agency. It also makes administrative changes to specify internal NASA distribution requirements for protest notifications and to correct a position title.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358-0478; e-mail: thomas.otoole@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 33.103 and 33.104 address protests to the agency and the General

Accounting Office (GAO), respectively. Both FAR sections allow an agency to establish an approval authority for awarding a contract when a protest is received prior to contract award and for continuing contract performance when a protest is received after award. NFS 1833.104(b)(1) and (c)(2) already specify that the Assistant Administrator for Procurement is the approval authority for those actions when a protest is filed with GAO, but no authority is specified relative to agency protests. To ensure the same degree of review and approval regardless of the forum where the protest is filed, this change to the NFS establishes the Assistant Administrator for Procurement as the approval authority for contract award and continuing contract performance for agency protests.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Parts 1833 and 1852 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1833 and 1852

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR parts 1833 and 1852 are amended as follows:

1. The authority citation for 48 CFR parts 1833 and 1852 continues to read as follows:

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

PART 1833—PROTEST, DISPUTES, AND APPEALS

2. Amend section 1833.103 by deleting the word "Deputy" in paragraph (c), and by revising paragraph (f) to read as follows:

1833.103 Protests to the agency.

* * * * *

(f) Protests received at NASA offices or locations other than that of the cognizant contracting officer shall be immediately referred to the contracting officer for disposition (see 1833.106(a)). The contracting officer shall advise the

Headquarters Offices of Procurement (Code HS) and the General Counsel (Code GK) of the receipt of the protest and the planned and actual disposition. This paragraph does not apply when the protester has requested an independent review under the provision at 1852.233-70.

(1) The Assistant Administrator for Procurement (Code HS) is the approval authority for contract award.

(3) The Assistant Administrator for Procurement (Code HS) is the approval authority for authorizing continued contract performance.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.233-70 [Amended]

3. Amend section 1852.233-70 by revising the date of the provision to read "Oct. 2002" and by deleting the word "Deputy" each time it appears.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1852 and 1872

RIN 2700-AC33

Broad Agency Announcements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule adopts with changes the proposed rule published in the **Federal Register** on August 31, 2001. This final rule amends the NASA FAR Supplement (NFS) to require, when relevant, consideration of safety and risk-based acquisition management in NASA's broad agency announcements. This change will ensure consistency in the way safety and risk based acquisition management are treated in all NASA acquisitions.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, NASA, Office of Procurement, Analysis Division (Code HC), (202) 358-0481, or e-mail: paul.brundage@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

NASA recently made several changes to the NFS to address safety and risk based acquisition management (RBAM) in the acquisition planning processes for