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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1817

RIN 2700-AC33

Interagency Acquisitions—Authority for Use

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule revises the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to specify that the Space Act is the authority for all NASA interagency acquisitions except those acquired under the authority of the Inspector General Act of 1978 for the NASA Office of the Inspector General. This final rule further specifies that the requirements of the Economy Act will be applied to these acquisitions as a matter of policy. These changes will ensure greater clarity regarding the source and application of NASA's authority for interagency acquisitions.

EFFECTIVE DATE: March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Lou Becker, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, telephone: (202) 358-4593, e-mail to: lbecker@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

FAR Subpart 17.5 as supplemented by NFS 1817.5 addresses interagency acquisitions under the Economy Act (31 U.S.C 1535). NFS 1817.72 addresses interagency acquisitions under the Space Act. NFS guidance is not clear on when the Economy Act or Space Act should be used as the authority for an interagency acquisition. Additionally, NFS guidance does not address interagency acquisition authority under the Inspector General Act of 1978 (5 U.S.C. Appendix III). FAR 17.500(b) states that the Economy Act applies when more specific statutory authority does not apply. The Space Act is a more specific authority and should be used as the authority for all NASA interagency acquisitions except those acquired under the authority of the Inspector General Act. This final rule revises the NFS to specify that the Inspector General Act is the authority for interagency acquisitions for the NASA

Office of Inspector General and that the Space Act is the authority for all other NASA interagency acquisitions. However, it is NASA policy to apply the requirements of the Economy Act to its interagency acquisitions. This final rule makes clear that interagency acquisitions shall conform to the requirements of the Economy Act.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it only clarifies the authority used by NASA for interagency acquisitions.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose new 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 Part 1817

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR 1817 is amended to read as follows:

1. The authority citation for 48 CFR part 1817 continues to read as follows:

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

PART 1817—SPECIAL CONTRACTING METHODS

2. Add section 1817.500 to read as follows:

1817.500 Scope of subpart.

(b) *See* 1817.72.

3. Remove sections 1817.503 and 1817.504.

4. Revise section 1817.7201 to read as follows:

1817.7201 Policy.

The Space Act (42 U.S.C. 2473) applies to NASA interagency acquisitions except those for the NASA Office of Inspector General acquired under the authority of the Inspector General Act of 1978 (5 U.S.C. Appendix III). NASA has elected to conform its implementation of the Space Act and the Inspector General Act to the requirements of the Economy Act (*see* FAR 17.5).

5. Add sections 1817.7202 and 1817.7203 to read as follows:

1817.7202 Determinations and findings requirements.

(a) Interagency acquisitions shall be supported by a Determination and Finding (D&F) equivalent to that required for Economy Act transactions (*see* FAR 17.503). This requirement applies to all purchases of goods or services under contracts entered into or administered by agencies other than NASA including the Military Departments. The Space Act shall be cited as authority for all NASA interagency acquisitions except that the Inspector General Act shall be cited as the authority for interagency acquisitions for the NASA Office of Inspector General.

(b) To satisfy the D&F requirement identified in FAR 17.503(a)(2), current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.201 may be used to ascertain whether the acquisition can be accomplished more economically from commercial sources.

(c) The determination described in paragraph (a) of this section is not required for contracts awarded under the Space Act to Government agencies pursuant to a Broad Agency Announcement when a review of the acquisition records would make it obvious that the award is not being used as a method of circumventing regulatory or statutory requirements, particularly FAR part 6, Competition Requirements (*e.g.*, when a significant number and value of awards made under the BAA are made to entities other than Government agencies).

(d) All D&F's for a servicing agency not covered by the FAR shall be approved by the Assistant Administrator for Procurement.

1817.7203 Ordering procedures.

To satisfy the ordering procedures in 17.504(b)(4), all payment provisions shall require the servicing agency or department to submit a final voucher, invoice, or other appropriate payment document within six months after the completion date of the order. A different period may be specified by mutual agreement if six months is not sufficient.

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