

■ 55. Appendix F to Chapter 2 is amended in Part 1, Section F-104, as follows:

■ a. In paragraph (a)(5)(i) introductory text by removing “*Continental United States*” and adding in its place “*Contiguous United States*”; and

■ b. In paragraph (a)(5)(ii), in the first sentence, by removing “continental U.S.” and adding in its place “contiguous United States”.

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 252

#### Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

**SUMMARY:** DoD is making technical amendments to a Defense Federal Acquisition Regulation Supplement clause addressing unique identification and valuation of items delivered under DoD contracts. The amendments clarify cross-references and correct an Internet address.

**DATES:** Effective June 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350.

#### List of Subjects in 48 CFR Part 252

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR Part 252 is amended as follows:

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR Part 252 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

#### 252.211-7003 [Amended]

■ 2. Section 252.211-7003 is amended as follows:

■ a. By revising the clause date to read “(JUN 2005)”; and

■ b. In paragraph (c)(3)(i)(C), in the second sentence, by removing “<http://www.acq.osd.mil/dpap/UID/guides.html>” and adding in its place

“<http://www.acq.osd.mil/dpap/UID/guides.htm>”;

■ c. In paragraph (d) introductory text, by adding “(1)(i) or (ii)” after “paragraph (c)”; and

■ d. In paragraph (e) introductory text, by removing “*Embedded DoD serially managed subassemblies, components, and parts. The*” and adding in its place “For embedded DoD serially managed subassemblies, components, and parts that require unique item identification under paragraph (c)(1)(iii) of this clause, the”.

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1809, 1837, and 1852

RIN 2700-AC60

#### Contractor Access to Sensitive Information

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 December 5, 2003 (68 FR 67995-67998). This final rule amends the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) by providing policy and procedures on how NASA will acquire services to support management activities and administrative functions when performing those services requires the contractor to have access to sensitive information submitted by other contractors. NASA's increased use of contractors to support management activities and administrative functions, coupled with implementing Agency-wide electronic information systems, requires establishing consistent procedures for protecting sensitive information from unauthorized use or disclosure.

**EFFECTIVE DATE:** June 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Forbes, NASA Headquarters, Contract Management Division, Washington, DC 20546, (202) 358-2051, e-mail: [David.P.Forbes@nasa.gov](mailto:David.P.Forbes@nasa.gov).

**SUPPLEMENTARY INFORMATION:**

#### A. Background

On December 5, 2003, NASA published in the **Federal Register** (68 FR 67995-67998) a proposed revision to the NFS prescribing policy, procedures, and clauses to address how NASA will acquire services to support

management activities and administrative functions when performing those services requires the service provider to have access to “confidential” information submitted by other contractors. One of the comments that NASA received in response to this publication relates to a fundamental concept and demands attention at the outset. As published, the proposed rule used the word “confidential” to describe the types of information that required special attention when turned over to a service provider. NASA intended this word to describe a general class of information, largely of a business or management nature, the value of which arose mostly from the fact that it was not readily known to the public. NASA never intended this word to refer to one of the standard classifications of information for national security purposes, as in “confidential-secret-top secret.” Nevertheless, concerns have arisen that using the word might cause confusion with national security information. To avoid possible confusion, we have replaced the word “confidential” with the word “sensitive.” This revision should clarify that the proposed rule deals with business and management information, the value of which lies primarily in the fact that is not generally known to the public. The proposed rule does not implement or refer to the classification of information for national security purposes.

With regard to more general background information, NASA's essential procurement operations generate large amounts of “sensitive information,” both from offerors and contractors. Traditionally, NASA civil servants received, analyzed, and used this information to ensure that the Agency spent tax dollars in a responsible and consistent manner. The Trade Secrets Act and other statutes have for years imposed criminal liabilities on government employees who disclosed this type of information to unauthorized outside parties. Offerors and contractors have willingly provided sensitive information about their operations, costs, business practices, and other matters, knowing that NASA would not provide another contractor (“service provider”) access to this information without first ensuring that the parties had complied with FAR 9.505-4. As a condition to allowing a service provider access to another contractor's proprietary information, FAR 9.505-4 would require that the parties execute a satisfactory protection/use agreement. Central to this process were notice to the owner of the