

3. Amend section 536.213–370 in paragraph (a) by revising the second and fourth sentences to read as follows:

**536.213–370 Bids that include alternates.**

(a) \* \* \* If it appears that funds available for a project may be insufficient to include all desired features in the base bid, the contracting officer may issue a solicitation for a base bid and include one or more alternates in the order of priority. \* \* \* Use of alternates must be limited and should involve only “add” alternates.

\* \* \* \* \*

4. Amend section 536.213–371 by revising paragraph (a) and the introductory text of (c) to read as follows:

**536.213–371 Bids that include options.**

(a) Subject to the limitations in paragraph (c) of this section, the contracting officer may include options in contracts if it is in the Government’s interest.

\* \* \* \* \*

(c) Contracting officer must not use options under any of the following conditions:

\* \* \* \* \*

**536.270 [Amended]**

5. Amend section 536.270 by removing paragraph (c) and redesignating paragraph (d) as (c).

**536.271 [Removed]**

6. Remove section 536.271.

**536.570–3 [Removed]**

7. Remove section 536.570–3.

**536.570–5 through 536.570–7 [Removed]**

8. Remove sections 536.570–5 through 536.570–7.

9. Revise section 536.570–8 to read as follows:

**536.570–8 Shop drawings and other submittals.**

Insert the clause at 552.236–77, Shop Drawings and Other Submittals, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

**536.570–9 through 536.570–12 [Removed]**

10. Remove sections 536.570–9 through 536.570–12.

**536.570–14 [Removed]**

11. Remove section 536.570–14.

12. Add section 536.570–XX to read as follows:

**536.570–XX Project Schedule.**

Insert the clause at 552.236–XX, Project Schedule, in solicitations and contracts instead of FAR 52.236–15, Schedules for Construction Contracts, if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

13. Amend section 536.602–1 by revising paragraphs (a)(2), (b) introductory text, (b)(1); and by removing paragraph (d). The revised text reads as follows:

**536.602–1 Selection criteria.**

(a) \* \* \*

(1) \* \* \*

(2) This factor must not exceed five percent of the total weight of all evaluation criteria. To receive the maximum score for this factor, the architect-engineer firm(s) must demonstrate that at least 35 percent of the architect-engineer contract services (based on the total contract price) will be accomplished within the geographical boundaries established for the project.

\* \* \* \* \*

(b) The notice posted in FedBizOpps for a proposed project must identify the general geographical area of the project by either:

(1) A radius in miles or other appropriate unit of measure; or

\* \* \* \* \*

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**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1804 and 1852**

**RIN 2700–AD46**

**Information Technology (IT) Security**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed Rule.

**SUMMARY:** NASA proposes to revise the NASA FAR Supplement (NFS) to update requirements related to Information Technology Security, consistent with Federal policies for the security of unclassified information and information systems. The rule imposes no new requirements. Its purpose is to more clearly define applicability, update procedural processes, eliminate the requirement for contractor personnel to meet the NASA System Security Certification Program, and provide a Web site link within a contract clause to a library where contractors can find all

underlying regulations and referenced documents.

**DATES:** Interested parties should submit comments on or before February 2, 2009 to be considered in formulation of the final rule.

**ADDRESSES:** Interested parties may submit comments, identified by RIN number 2700–AD46, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to Ken Stepka (Mail Stop 5P86), NASA Headquarters, Office of Procurement, Contract Analysis Division, Washington, DC 20546. Comments may also be submitted by e-mail to [ken.stepka@nasa.gov](mailto:ken.stepka@nasa.gov).

**FOR FURTHER INFORMATION CONTACT:** Ken Stepka, NASA, Office of Procurement, Contract Analysis Division (Suite 5P86); (202) 358–0492; e-mail: [ken.stepka@nasa.gov](mailto:ken.stepka@nasa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Safety and security issues related to information technology are constantly arising and Federal and Agency policy in this area is evolving. This rule clarifies NASA’s implementation of The Federal Information Security Management Act (FISMA) of 2002, Homeland Security Presidential Directive (HSPD) 12, Clinger-Cohen Act of 1996 (40 U.S.C. 1401 *et seq.*), OMB Circular A–130, Management of Federal Information Resources, and the National Institute of Standards and Technology (NIST) security requirements and standards. The revisions herein delete specific personnel qualification standards, and generally clarify the process by which NASA protects information and ensures that the Federal requirements are met.

This is not a significant regulatory action and, therefore, is not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

**B. Regulatory Flexibility Act**

NASA certifies that this proposed 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 it does not impose any new requirements. The rule may result in time savings, thereby reducing the economic impact to small entities because all contract requirements are being centralized at one easy-to-locate site.

### C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) is not applicable because the NFS changes do not impose information collection requirements that 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 1804 and 1852

Government Procurement.

**William P. McNally,**

*Assistant Administrator for Procurement.*

Accordingly, 48 CFR Parts 1804 and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1804 and 1852 continues to read as follows:

**Authority:** 42 U.S.C. 2455(a), 2473(c)(1).

#### PART 1804—ADMINISTRATIVE MATTERS

2. Sections 1804.470–3 and 1804.470–4 are revised to read as follows:

##### § 1804.470–3 IT security requirements.

(a) These IT security requirements cover all NASA contracts in which IT plays a role in the provisioning of services or products (e.g., research and development, engineering, manufacturing, IT outsourcing, human resources, and finance) that support NASA in meeting its institutional and mission objectives. These requirements are applicable when a contractor or subcontractor must obtain physical or electronic access beyond that granted the general public to NASA's computer systems, networks, or IT infrastructure. These requirements are applicable when NASA information is generated, stored, processed, or exchanged with NASA or on behalf of NASA by a contractor or subcontractor, regardless of whether the information resides on a NASA or a contractor/subcontractor's information system.

(b) The Applicable Documents List (ADL) should consist of all NASA Agency-level IT Security and Center IT Security Policies applicable to the contract. Documents listed in the ADL as well as applicable Federal IT Security Policies are available at the NASA IT Security Policy Web site at: <https://itsecurity.nasa.gov/policies/index.html>.

##### § 1804.470–4 Contract clause.

(a) Insert the clause at 1852.204–76, Security Requirements for Unclassified Information Technology Resources, in all solicitations and contracts when contract performance requires contractors to—

(1) Have physical or electronic access to NASA's computer systems, networks, or IT infrastructure; or

(2) Use information systems to generate, store, process, or exchange data with NASA or on behalf of NASA, regardless of whether the data resides on a NASA or a contractor's information system.

(b) Parts of the clause and referenced ADL may be waived by the contracting officer, if they do not apply to the contract. Contracting officers must obtain the approval of the Center IT Security Manager.

#### PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 1852.204–76 is revised to read as follows:

##### § 1852.204–76 Security requirements for unclassified information technology resources.

As prescribed in 1804.470–4(a), insert the following clause:

##### Security Requirements for Unclassified Information Technology Resources (XX/XX)

(a) The Contractor shall protect the confidentiality, integrity, and availability of NASA Electronic Information and IT resources and protect NASA Electronic Information from unauthorized disclosure.

(b) This clause is applicable to all NASA Contractors and subcontractors that process, manage, access, or store unclassified electronic information, to include Sensitive But Unclassified (SBU) information, for NASA in support of NASA's missions, programs, projects and/or institutional requirements. Applicable requirements, regulations, policies, and guidelines are identified in the Applicable Documents List (ADL) provided as an attachment to the contract. The documents listed in the ADL can be found at: <https://itsecurity.nasa.gov/policies/index.html>. For policy information considered sensitive, the documents will be identified as such in the ADL and made available through the Contracting Officer.

(c) *Definitions.* (1) IT resources means any hardware or software or interconnected system or subsystem of equipment, that is used to process, manage, access, or store electronic information.

(2) NASA Electronic Information is any data (as defined in the Rights in Data clause of this contract) or information (including information incidental to contract administration, such as financial, administrative, cost or pricing, or management information) that is processed, managed, accessed or stored on an IT system(s) in the performance of a NASA contract.

(d) The Contractor shall develop, provide, implement, and maintain an IT Security Management Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT

resources that are developed, processed, or used under this contract.

(e) All contractor personnel requiring physical or logical access to NASA IT resources must complete NASA's annual IT Security Awareness training. The training Web site is located at: <https://satern.nasa.gov>. If this address is not available, refer to the IT Training policy located in the IT Security Web site at <https://itsecurity.nasa.gov/policies/index.html>.

(f) The Contractor shall afford Government access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection (to include vulnerability testing), investigation and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of NASA Electronic Information or to the function of IT systems operated on behalf of NASA, and to preserve evidence of computer crime.

(g) At the completion of the contract, the Contractor shall provide a listing of all NASA Electronic information and IT resources provided to the Contractor during the performance of the contract. At that time, the Contractor shall request disposition instructions from the Contracting Officer. The Contracting Officer shall provide initial disposition instructions within 30 calendar days of the Contractor's request. The Contractor shall state in writing that all NASA Electronic Information (except for data or information owned by the Contractor such as limited rights data or restricted computer software of the Contractor) has been purged from Contractor-owned systems used in the performance of the contract following NASA policies for information destruction, available under the ADL.

(h) The Contracting Officer may waive specific requirements of this clause upon request of the Contractor. The Contractor shall provide all relevant information requested by the Contracting Officer to support the waiver request.

(i) The Contractor shall insert this clause, including this paragraph in all subcontracts that process, manage, access or store NASA Electronic Information in support of the mission of the Agency.

(End of clause)

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1845 and 1852

RIN 2700–AD37

#### Government Property

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule.