

were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble and addendum, accurately reflects the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the

final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

**IV. Correction of Errors**

In FR Doc. 2012–19079 of August 31, 2012 (77 FR 53258), make the following corrections:

*A. Corrections of Errors in the Preamble*

1. On pages 53601 and 53602, the table entitled “FINAL PERFORMANCE STANDARDS FOR THE FY 2015 HOSPITAL VBP PROGRAM CLINICAL PROCESS OF CARE, OUTCOME, AND EFFICIENCY DOMAINS,” the entries for the clinical process of care measures are corrected as follows:

**CLINICAL PROCESS OF CARE MEASURES**

Measure ID	Description	Achievement threshold	Benchmark
AMI–7a	Fibrinolytic Therapy Received Within 30 Minutes of Hospital Arrival	0.80000	1.00000
AMI–8a	Primary PCI Received Within 90 Minutes of Hospital Arrival	0.95349	1.00000
HF–1	Discharge Instructions	0.94118	1.00000
PN–3b	Blood Cultures Performed in the Emergency Department Prior to Initial Antibiotic Received in Hospital.	0.97783	1.00000
PN–6	Initial Antibiotic Selection for CAP in Immunocompetent Patient	0.95918	1.00000
SCIP–Card–2	Surgery Patients on Beta-Blocker Therapy Prior to Arrival Who Received a Beta-Blocker During the Perioperative Period.	0.97175	1.00000
SCIP–Inf–1	Prophylactic Antibiotic Received Within One Hour Prior to Surgical Incision	0.98639	1.00000
SCIP–Inf–2	Prophylactic Antibiotic Selection for Surgical Patients	0.98637	1.00000
SCIP–Inf–3	Prophylactic Antibiotics Discontinued Within 24 Hours After Surgery End Time	0.97494	1.00000
SCIP–Inf–4	Cardiac Surgery Patients With Controlled 6AM Postoperative Serum Glucose	0.95798	0.99767
SCIP–Inf–9	Urinary Catheter Removed on Postoperative Day 1 or Postoperative Day 2	0.94891	0.99991
SCIP–VTE–2	Surgery Patients Who Received Appropriate Venous Thromboembolism Prophylaxes Within 24 Hours Prior to Surgery to 24 Hours After Surgery.	0.97403	0.99998

*B. Correct of Errors in the Addendum*

1. On page 53695, third column, first paragraph, line 2, the figures “8.94 percent (1.0866203)” are corrected to read “8.66 percent (1.0866203)”.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 18, 2012.

**Oliver Potts,**

*Deputy Executive, Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2012–26505 Filed 10–26–12; 8:45 am]

**BILLING CODE 4120–01–P**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 1812**

**RIN 2700–AD64**

**Commercial Acquisition; Anchor Tenancy**

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

**ACTION:** Final rule.

**SUMMARY:** NASA has adopted as final, with minor changes, a proposed rule amending the NASA FAR Supplement (NFS) to include authority, under limited conditions, to issue Anchor Tenancy contracts. Anchor Tenancy means “an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.”

**DATES:** *Effective Date:* November 28, 2012.

**FOR FURTHER INFORMATION CONTACT:** Leigh Pomponio, NASA, Office of Procurement, Contract Management Division (Suite 5G84); (202) 358–0592; email: *leigh.pomponio@nasa.gov*.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

NASA published a proposed rule in the **Federal Register** at 76 FR 30301 on May 25, 2011. NASA’s Federal Acquisition Regulation Supplement (NFS) currently contains an inaccurate prohibition on anchor tenancy contracts. The prohibition is included in the NFS based on The Space Act, as amended by NASA’s FY 1992 Appropriations Act (42 U.S.C. 2459d).

The NFS states no appropriated funds may be used to enter into contracts, grants, or other agreements for more than 1 year if the primary effect is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed/used or the contract, grant, or agreement is specified in an appropriations Act. However, subsequent to the prohibition, as part of NASA’s FY 1993 Authorization Act, 15 U.S.C. 5806 was added to the Commercial Space Competitiveness Act (CSCA). The latter statute includes limited authority for NASA to enter into multi-year anchor tenancy contracts for the purchase of a good or service if the Agency receives an appropriation that (1) authorizes a multi-year anchor tenancy contract and (2) specifies the commercial space product or service to be developed or used. Furthermore, the NASA Administrator would be required to make a determination that addresses the following six criteria:

- (1) The good or service meets the mission requirements of NASA;
- (2) The commercially procured good or service is cost effective;

(3) The good or service is procured through a competitive process;

(4) Existing or potential customers for the good or service other than the United States Government have been specified identified;

(5) The long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) Private capital is at risk in the venture.

The purpose of this final rule is to reconcile the NFS with the statutory authority for Anchor Tenancy contracts.

The due date for public comments in response to the proposed rule was July 25, 2011. NASA received general comments in support of the rule from one respondent. The respondent expressed support for NASA's rule, and noted that it reflects efforts aimed at achieving goals set forth in the Administration's 2010 National Space Policy to support growth in the commercial space sector.

During the comment period, NASA recognized a need to clarify the rule. Consequently, minor changes have been made to the proposed rule in this final rule, as follows: The discussion of statutory authority has been consolidated and simplified; it is now discussed only in paragraph (a). The final rule identifies what is meant by an anchor tenancy whereas anchor tenancy was previously described in the background of the **Federal Register** Notice for the proposed rule.

#### B. Executive Orders 12866 and 13563

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, NASA determined that this rule is not excessively burdensome to the public, and is consistent with the administrative nature of rule. This is not a major rule under 5 U.S.C. 804.

#### C. Regulatory Flexibility Act

The final rule is not expected to 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 on small entities. The rule clarifies NASA's authority to enter into Anchor Tenancy contracts, under limited conditions.

#### D. 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 Part 1812

Government procurement.

**William P. McNally,**

*Assistant Administrator for Procurement.*

Accordingly, 48 CFR part 1812 is amended as follows:

#### PART 1812—ACQUISITION OF COMMERCIAL ITEMS

■ 1. The authority citation for 48 CFR part 1812 continues to read as follows:

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

■ 2. Section 1812.7000 is revised to read as follows.

##### 1812.7000 Anchor tenancy contracts.

(a) Subject to receiving an appropriation that:

(1) Authorizes a multi-year anchor tenancy contract; and

(2) Specifies the commercial space product or service to be developed or used, NASA may enter into a multi-year anchor tenancy contract only if Administrator determines—

(i) The good or service meets the mission requirements of the National Aeronautics and Space Administration;

(ii) The commercially procured good or service is cost effective;

(iii) The good or service is procured through a competitive process;

(iv) Existing or potential customers for the good or service other than the United States Government have been specifically identified;

(v) The long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(vi) Private capital is at risk in the venture.

(b) Contracts entered into under such authority may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(1) Contracts that provide for this payment of termination liability shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(2) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) *Limitations.* (1) Contracts entered into under such authority shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

(d) The term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.

[FR Doc. 2012-26546 Filed 10-26-12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 383 and 390

[Docket No. FMCSA-2012-0156]

RIN 2126-AB53

#### Gross Combination Weight Rating (GCWR); Definition

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** FMCSA withdraws its August 27, 2012, direct final rule (DFR) amending the definition of "gross combination weight rating" (GCWR) in 49 CFR parts 383 and 390. The DFR would have taken effect on October 26, 2012. However, the Agency received several adverse comments in response to the DFR and will, therefore develop a notice of proposed rulemaking to request public comments on proposed changes to the GCWR definition.

**DATES:** The direct final rule published August 27, 2012 (77 FR 51706) is withdrawn effective October 26, 2012.