

(2) The covered contractor performs inspection, testing and authentication of parts; and

(3) The covered contractor obtains traceability information for the electronic parts (*e.g.*, data code, lot code, serial number) and provides this information to the contracting officer upon request; and

(4) The selection of contractor-approved suppliers is subject to review and audit by the contracting officer.

(c) The covered contractor, including subcontractors, shall notify the applicable NASA contracting officer in writing not later than 30 calendar days after the date the covered contractor becomes aware, or has reason to suspect, that any end item, component, part or material contained in supplies purchased by NASA, or purchased by a covered contractor or subcontractor for delivery to, or on behalf of, NASA, contains a counterfeit electronic part or suspect counterfeit electronic part.

1846.7003 Contract clause.

For acquisitions with covered contractors as defined in section 1846.7001, use the clause at 1852.246-74, Contractor Counterfeit Electronic Part Detection and Avoidance, in solicitations and contracts, when procuring—

(a) Electronic parts;

(b) End items, components, parts, or assemblies containing electronic parts; or

(c) Services, if the covered contractor will supply electronic parts or components, parts, or assemblies containing electronic parts as part of the service.

PART 1847—TRANSPORTATION

Subpart 1847.3—Transportation in Supply Contracts

Sec.

1847.305 Solicitation provisions, contract clauses, and transportation factors.

1847.305-70 NASA contract clauses.

Subpart 1847.70—Protection of the Florida Manatee

1847.7001 Contract clause.

AUTHORITY: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

SOURCE: 62 FR 14028, Mar. 25, 1997, unless otherwise noted.

Subpart 1847.3—Transportation in Supply Contracts

1847.305 Solicitation provisions, contract clauses, and transportation factors.

1847.305-70 NASA contract clauses.

(a) The contracting officer may insert a clause substantially as stated at 1852.247-72, Advance Notice of Shipment, in solicitations and contracts when the f.o.b. point is destination and special Government assistance is required in the delivery or receipt of the items.

(b) The contracting officer shall insert a clause substantially as stated at 1852.247-73, Bills of Lading, in f.o.b. origin solicitations and contracts.

[62 FR 14028, Mar. 25, 1997, as amended at 67 FR 38908, June 6, 2002]

Subpart 1847.70—Protection of the Florida Manatee

1847.7001 Contract clause.

The contracting officer shall insert the clause at 1852.247-71, Protection of the Florida Manatee, in solicitations and contracts when deliveries or vessel operations, dockside work, or disassembly functions under the contract will involve use of waterways inhabited by manatees. The clause shall also be included in applicable subcontracts (including vendor deliveries).

PART 1849—TERMINATION OF CONTRACTS

AUTHORITY: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

SOURCE: 62 FR 14030, Mar. 25, 1997, unless otherwise noted.

PART 1850—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

Subpart 1850.1—Extraordinary Contractual Actions

Sec.

1850.102 Delegation of and limitations of exercise of authority.

1850.102-2 Contract adjustment boards.

1850.103 Contract adjustments.

1850.102

1850.103-5 Processing cases.
1850.103-570 Submission of request to the Contract Adjustment Board.
1850.103-6 Disposition.
1850.103-670 Implementation of the Contract Adjustment Board's decision.
1850.104 Residual powers.
1850.104-2 General.
1850.104-3 Special procedures for unusually hazardous or nuclear risks.
1850.104-370 Subcontractor indemnification requests.
1850.104-4 Contract clause.

AUTHORITY: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

SOURCE: 76 FR 72328, Nov. 23, 2011, unless otherwise noted.

Subpart 1850.1—Extraordinary Contractual Actions

1850.102 Delegation of and limitations of exercise of authority.

1850.102-2 Contract adjustment boards.

14 CFR part 1209, subpart 3, Contract Adjustment Board, establishes the Contract Adjustment Board (CAB) as the approving authority to consider and dispose of requests from NASA contractors for extraordinary contractual actions.

1850.103 Contract adjustments.

1850.103-5 Processing cases.

1850.103-570 Submission of request to the Contract Adjustment Board.

(a) After investigating the facts and issues relevant to the contractor's request, the contracting officer shall forward the request to the Associate General Counsel for Contracts and Procurement Law, including in the forwarding letter—

- (1) The nature of the case;
- (2) The recommended disposition; and,

(3) If contractual action is recommended, the contracting officer's opinion that the action will facilitate the national defense.

(b) The forwarding letter shall enclose the contractor's request, all supporting material submitted by the contractor, and any material the contracting officer has obtained while investigating the facts and issues relevant to the request. Any classified in-

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formation in the material forwarded shall be so identified.

(c) Electronic submittal is preferred for unclassified material.

[76 FR 72328, Nov. 23, 2011, as amended at 80 FR 36722, June 26, 2015]

1850.103-6 Disposition.

1850.103-670 Implementation of the Contract Adjustment Board's decision.

(a) The contracting officer shall take action authorized in the CAB's decision.

(b) Immediately upon execution, including any required Headquarters approval, of a contract or contract modification or amendment implementing the CAB decision, the contracting officer shall forward a copy of the contractual document to the Associate General Counsel for Contracts and Procurement Law.

[76 FR 72328, Nov. 23, 2011, as amended at 80 FR 36722, June 26, 2015]

1850.104 Residual powers.

1850.104-2 General.

(a) Requests for the exercise of residual powers shall be sent to the Headquarters Office of Procurement, Program Operations Division for review and processing. The NASA Administrator is the approval authority for the Memorandum of Decision.

[80 FR 36722, June 26, 2015]

1850.104-3 Special procedures for unusually hazardous or nuclear risks.

(a) *Indemnification requests.* (1) Contractor indemnification requests must be submitted to the cognizant contracting officer for the contract for which the indemnification clause is requested. The request shall be submitted six (6) months in advance of the desired effective date of the requested indemnification in order to allow sufficient time for the request to be reviewed, analyzed, and approved by the Agency. Contractors shall submit a single request and shall ensure that duplicate requests are not submitted by associated divisions, subsidiaries, or central offices of the contractor.

(ii) The contractor's request for indemnification must identify a sufficient factual basis for indemnification by explaining specifically what work activities under the contract create the unusually hazardous or nuclear risk and identifying the timeframes in which the risk would be incurred.

(iii) The contractor shall also provide evidence, such as a certificate of insurance or other customary proof of insurance, that such insurance is either in force or is available and will be in force during the indemnified period.

(b) *Action on indemnification requests.*

(1) If recommending approval, the contracting officer shall forward the required information to the NASA Headquarters Office of Procurement, Program Operations Division, along with the following:

(i) For contracts of five years duration or longer, a determination, with supporting rationale, whether the indemnification approval and insurance coverage and premiums should be reviewed for adequacy and continued validity at points in time within the extended contract period.

(ii) The specific definition of the unusually hazardous risk to which the contractor is exposed in the performance of the contract(s), including specificity about which activities present such risk and the anticipated timeframes in which the risk will be incurred;

(iv) A complete discussion of the contractor's financial protection program; and

(vi) The extent to, and conditions under, which indemnification is being approved for subcontracts.

(2) The NASA Administrator is the approval authority for using the indemnification clause in a contract by a Memorandum of Decision.

(4)(ii) If approving subcontractor indemnification, the contracting officer shall document the file with a memorandum for record addressing the items set forth in FAR 50.104-3(b) and include an analysis of the subcontractor's financial protection program. In performing this analysis, the contracting officer shall take into consideration the availability, cost, terms and condi-

tions of insurance in relation to the unusually hazardous risk.

[80 FR 36722, June 26, 2015]

1850.104-370 Subcontractor indemnification requests.

Subcontractors shall submit requests for indemnification to the prime contractor and through higher tier subcontractor(s), as applicable. If the prime contractor agrees an indemnity clause should be flowed down to the subcontractor, the prime contractor shall forward its written request for subcontractor indemnification to the cognizant contracting officer for approval in accordance with FAR 50.104-3. The prime contractor's request shall provide information responsive to 1850.104-3, FAR 50.104-3, and FAR 50.104-3(b)(1)(i), (ii), (iv), (v), and (vii). The agreed upon definition of the unusually hazardous risk to be incorporated into the subcontract shall be the same as that incorporated in the prime contract.

1850.104-4 Contract clause.

The contracting officer shall obtain the NASA Administrator's approval prior to including clause 52.250-1 in a contract.

[80 FR 36722, June 26, 2015]

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

AUTHORITY: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

SOURCE: 62 FR 14032, Mar. 25, 1997, unless otherwise noted.

Subpart 1851.2—Contractor Use of Interagency Fleet Management System (IFMS) Vehicles

1851.205 Contract clause.

When the clause at FAR 52.251-2 is included in a solicitation or contract, also include the clause set forth at 1852.223-76.

[68 FR 43334, July 22, 2003]