

Dated: Dec. 9, 2005.

Michael K. Buckley,

Deputy Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 05-24062 Filed 12-14-05; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

RIN: 2700-AD20

Property Administration and Reporting for Interagency Acquisitions

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This is a final rule to amend the NASA FAR Supplement (NFS) to revise clause 1852.217-70 Property Administration and Reporting to change the name of "NASA-Defense Purchase Request" to "NASA-Interagency Purchase Request" and to replace the term "Military Department" to "servicing agency" in order to permit the use of this clause in interagency acquisitions with military departments and civilian agencies.

DATES: *Effective Date:* December 15, 2005.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Seppi, NASA, Office of Procurement, Contract Management Division; (703) 553-2551; e-mail: Marilyn.Seppi-1@nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

This is a final rule to amend the NASA FAR Supplement (NFS) to revise clause 1852.217-70 Property Administration and Reporting to change the name of "NASA-Defense Purchase Request" to "NASA-Interagency Purchase Request" and to change the term "Military Department" to "servicing agency" in order to permit the use of this clause in interagency acquisitions with military departments and civilian agencies. This change is necessary to instruct NASA Centers to use the NASA-Interagency Purchase Request (NF-523) in all interagency acquisitions with civilian agencies and military departments. Currently, the NFS only provides the use of this clause for interagency acquisitions with Military Departments and does not address whether this clause should be utilized in interagency acquisitions with Civilian Agencies. This change is necessary to provide guidance when

contracting for supplies and services with civilian agencies.

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. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This final rule is not expected to have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because this action does not have any affect on the private business sector it only affects interagency transactions with other government agencies, military departments, and civilian agencies.

C. Paperwork Reduction Act

This final rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) does not apply. All comments regarding information collection should be sent to: Desk Officer for NASA; Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, New Executive Office Building; Washington, DC 20503.

List of Subjects in 48 CFR Part 1852

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 48 CFR part 1852 is amended as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 1852 continues to read as follows:

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

■ 2. Revise section 1852.217-70 to read as follows:

1852.217-70 Property Administration and Reporting.

As prescribed in 1817.7004-7 and 1817.7005-4, insert the following clause:

Property Administration and Reporting (DEC 2005)

All property acquired for, and reimbursed by, NASA or transferred by NASA for use under this NASA-Interagency Purchase Request shall be controlled and accounted for in accordance with the servicing agency's normal procedures. All excess items, however, costing \$500 or more and in

condition Code 7 or better (GSA Condition Codes) shall be reported to the NASA originating office for possible reutilization before disposition.

(End of clause)

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

RIN 2700-AD03

NASA Research Announcements—Small Business Subcontracting Plans and Publication Acknowledgement and Disclaimers

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to require for NASA Research Announcements: Submission of a small business subcontracting plan with any proposal having subcontracting possibilities that may result in the award of a contract whose value exceeds \$5,000,000; and acknowledgement of NASA sponsorship and disclaimer of agency endorsement of results.

DATES: *Effective Date:* December 15, 2005.

FOR FURTHER INFORMATION CONTACT: Patrick Flynn, NASA Headquarters, Office of Procurement, Contract Management Division, (202) 358-0460, e-mail: patrick.flynn@nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

On September 27, 2004, NASA published a proposed rule (69 FR 57664-57665) to solicit comments on its proposal to amend subcontracting plan and acknowledgement and disclaimer requirements for NASA Research Announcements (NRAs) and resulting contracts. During the 60-day public-comment period, NASA received one response to the proposed rule. The Aerospace Industries Association (AIA) expressed concern that the proposed rule would make preparation and response to NRAs more costly and more cumbersome to prepare, by requiring submission of a small business subcontracting plan before evaluation rather than after selection, as is currently the rule. AIA's comment and our analysis follow. No comments were received with respect to the second part of the proposal, adding acknowledgement of NASA sponsorship

and disclaimer of agency endorsement of results to standard reporting requirements.

B. Analysis

Clarification of the scope of the proposed change to the existing subcontracting plan submission requirement will show the magnitude of burden about which AIA expressed concern. The proposed rule amends the NASA FAR Supplement (NFS) requirement for submission of a small business subcontracting plan along with initial submission of any proposal having subcontracting possibilities that may result in the award of a contract whose value exceeds \$500,000 under NASA Research Announcements (NRAs), a type of broad agency announcement. The NFS already requires submission of such a plan, but only after selection is made by the agency for contract award under these competitive procedures. Consequently, the proposed rule does not affect ultimate costs or difficulty for NRA proposal preparation by successful offerors, but only by unsuccessful offerors.

The commenter's specific objection is that requiring a subcontract plan and asking potential contractors to commit to that plan is unreasonable for this type of acquisition because opportunities are often minimal. We disagree for two reasons. First, the statutory requirement on which the NFS requirement is based, Section 8(d) of the Small Business Act (15 U.S.C. 637(d)), makes no exception for research. Second, it is not unreasonable to expect that NASA will benefit from increased small business participation in contracted research, and that it should be encouraged. We are not alone in holding this position. Recently, in its National Innovation Initiative Report (December 2004), the Council on Competitiveness asserted a new trend of interdependence of small and large firms, saying on page 18, "This interdependence is particularly relevant in the context of the innovation enterprise. Big and small companies have increasingly complementary roles in technology development."

However, recognizing that the magnitude of research projects has a direct bearing on subcontracting opportunities, and considering the burden placed on offerors under smaller project announcements, we have found merit in AIA's recommended alternate proposal that subcontract plans before selection be required only above \$5,000,000, rather than \$500,000, as we originally proposed. (Plans will still be required after selection and before contract award above \$500,000.)

C. Impact

Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since the rule: (1) Only affects the timing of the submission of small business subcontracting plans by large business offerors; and (2) adds a requirement for a short legend to be affixed to publications of material based on NASA-sponsored projects. Small businesses do not submit subcontracting plans, and any costs associated with the legend are economically insignificant. No comments were received from small entities in response to the proposed rule.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public 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 1852

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 48 CFR Part 1852 is amended as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR Part 1852 continues to read as follows:

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

■ 2. Amend section 1852.235-72 by revising the date of the clause and paragraph (a)(4) to read as follows:

1852.235-72 Instructions for Responding to NASA Research Announcements.

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Instructions for Responding to NASA Research Announcements (Dec 2005)

(a) * * *

(4) A contract, grant, cooperative agreement, or other agreement may be used to accomplish an effort funded in response to an NRA. NASA will determine the appropriate award instrument. Contracts resulting from NRAs are subject to the Federal Acquisition Regulation and the NASA FAR Supplement. Any proposal from a large business concern that may result in the award of a contract, which exceeds \$5,000,000 and has subcontracting possibilities should

include a small business subcontracting plan in accordance with the clause at FAR 52.219-9, Small Business Subcontracting Plan. (Subcontract plans for contract awards below \$5,000,000, will be negotiated after selection.) Any resultant grants or cooperative agreements will be awarded and administered in accordance with the NASA Grant and Cooperative Agreement Handbook (NPR 5800.1).

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■ A. Amend section 1852.235-73 by revising the date of the clause to read (Dec 2005) and, in the first sentence of paragraph (b) removing the reference "NPR 2200.2A" and adding "NPR 2200.2" in its place.

■ B. Amend section 1852.235-73, Alternate II, by revising the date of the clause and adding a new paragraph (f) to read as follows:

1852.235-73 Final Scientific and Technical Reports.

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Alternate II (Dec 2005)

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(f) All publications of any material based on or developed under NASA sponsored projects shall include an acknowledgement similar to the following:

"The material is based upon work supported by the National Aeronautics and Space Administration under Contract Number XXXX."

Except for articles or papers published in scientific, technical or professional journals, the exposition of results from NASA supported research shall also include the following disclaimer:

"Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the National Aeronautics and Space Administration."

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