

Program, but for which EPA established blanket waivers because Energy Star compliant versions of this equipment were unavailable in the marketplace. Blanket waivers apply to the following types of equipment:

- (1) LAN servers, including file servers; application servers; communication servers; including bridges and routers;
- (2) UNIX RISC based processors with their high-end monitors;
- (3) Large LAN printers (greater than 19 pages/minute output); and
- (4) Scientific computing equipment which is used for real-time data acquisition and which, if subjected to a power down mode, would jeopardize the research project.

(b) It is anticipated that there will be Energy Star models of this equipment in the future; but in the near term, EPA will not specify Energy Star qualifications when purchasing the above items.

1523.7003 Contract Clause.

The Contracting Officer shall insert the clause at 1552.239-103, for the acquisition of microcomputers, including personal computers, monitors, printers, which are Energy Star compliant in all solicitations and contracts, including contractor-acquired property where the title reverts to the Agency upon completion of the contract.

3. Section 1552.239-103 is added to read as follows:

1552.239-103 Acquisition of Energy Star Compliant Microcomputers, Including Personal Computers, Monitors and Printers.

Acquisition of Energy Star Compliant Microcomputers, Including Personal Computers, Monitors, and Printers

July 1995

(a) The Contractor shall provide computer products that meet EPA Energy Star requirements for energy efficiency. By acceptance of this contract, the Contractor certifies that all microcomputers, including personal computers, monitors, and printers, meet EPA Energy Star requirements for energy efficiency.

(b) The Contractor shall ship all products with the standby feature activated or enabled.

(c) The Contractor shall provide models that have equivalent functionality to similar non-power managed models. This functionality should include as a minimum:

(1) The ability to run commercial off-the-shelf software both before and after recovery from a low power state, including retention of files opened (with no loss of data) before the power management feature was activated.

(2) If equipment will be used on a local area network (LAN), the contractor shall provide equipment that is fully compatible with network environments, e.g., PC's resting

in a low-power state should not be disconnected from the network.

(d) The contractor shall provide monitors that are capable of being powered down when connected to the accompanying PC.

(End of Clause)

July 7, 1995.

Jeanette L. Brown,

Acting Director, Office of Acquisition Management.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1809, 1830, and 1831

NASA FAR Supplement; Rewrite of NASA Policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This is a proposed revision of the NASA FAR Supplement in order to rewrite NASA policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures. The changes are intended to streamline the regulation.

DATES: Comments are due on or before September 25, 1995.

ADDRESSES: Comments should be addressed to: National Aeronautics and Space Administration, Contract Management Division (Code HK/Beck), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: David K. Beck, (202) 358-0482.

SUPPLEMENTARY INFORMATION:

Background

We are rewriting the NASA FAR Supplement in order to streamline the regulation, delegate authority to the lowest possible level, and eliminate unnecessary reports and requirements. This rule proposes revisions to three parts of the NASA FAR Supplement. Although the revisions are minor, we are publishing these changes for comment because the parts cover topics of considerable interest to NASA contractors.

Summary of Changes

The policy on Canadian subcontractors is shortened and relocated to § 1809.104-4. The policy on

contractor use of "Made in America" labels is removed because the topic is addressed by FAR 9.406-2(a)(4). The discussion of conditions for preaward surveys at § 1809.106-1 is removed because it is unnecessary guidance.

Several changes are made to § 1809.106-70 on preaward surveys. Paragraphs (d) (2) and (3) are changed in order to remove unnecessary words and provide additional guidance on requesting surveys. Unnecessary words are removed from paragraphs (j)(4) and (k)(1).

In paragraph 1809.202(a), the responsibility for justifying qualification requirements is restated. Paragraphs 1809.203-70(a) and 1809.206-1(b) are changed to indicate current organizational names. Paragraph 1809.203-70(c) is removed because it is not needed in this regulation.

Subpart 1809.4 on debarment is revised in order to show reassignment of this responsibility in NASA's Office of Procurement, reorganize the material for clarity, and remove redundant or unnecessary material.

The following sections on cost accounting standards (CAS) administration are removed because they provide unnecessary guidance: § 1830.101 on "national defense" contracts, § 1830.7000 on incentive contracts, § 1830.7001-2 on preaward facilities capital applications, and §§ 1830.7002 through 1830.7002-2 on facilities capital employed for facilities under construction. The remaining CAS sections are revised for clarity.

In subpart 1831 on cost principles, § 1831.205-670 is revised in order to shorten the section.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the NASA FAR Supplement do not impose any new recordkeeping requirements or new collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 48 CFR Parts 1809, 1830, and 1831

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1809, 1830, and 1831 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1809, 1830, and 1831 continues to read as follows:

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

PART 1809—CONTRACTOR QUALIFICATIONS

2. Sections 1809.102 and 1809.102-70 are removed.

3. Section 1809.104 and 1809.104-4 are added to read as follows:

1809.104 Standards.**1809.104-4 Subcontractor responsibility.**

Generally, a Canadian firm proposed by the Canadian Commercial Corporation (CCC) as its subcontractor shall be accepted as responsible by the contracting officer. However, when the CCC determination of responsibility is not consistent with other available information, the contracting officer shall request from CCC and any other appropriate sources additional information or plant surveys needed in order to make the determination of responsibility required by FAR 9.103(b).

1809.104-70 and 1809.106 [Removed]

4. Sections 1809.104-70 and 1809.106-1 are removed.

5. Section 1809.106-70 is amended by revising the section heading, revising paragraphs (d)(2) and (3), revising paragraph (g), removing the paragraph headings from paragraphs (j)(4)(i) and (ii), and in paragraph (k)(1) by revising the paragraph heading and the first sentence to read as follows:

1809.106-70 NASA preaward surveys.

* * * * *

(d) * * *

(2) Any information indicating previous unsatisfactory contract performance shall be furnished to the survey activity with the preaward survey request.

(3) If the survey activity is a DOD agency, the request is to be sent to the appropriate office shown in the DOD Directory of Contract Administration Services Components, DLAH 4105.4, Attn: Preaward Survey Monitor. The date on which the completed survey report is desired should be indicated. DOD normally allows seven working days in which to conduct a full survey

and submit the report to the requesting agency, however, more time should be allowed for the particular circumstances of the survey. For example complex items, new or inexperienced contractors, and time-consuming requirements, such as, secondary surveys, accounting system reviews, financial capability analysis, or purchasing activity participation may require additional time.

* * * * *

(g) *Steps for survey performance.*

Three steps in performing a preaward survey are—

- (1) Preliminary analysis;
- (2) Development and evaluation of information; and
- (3) Preparation and review of the preaward survey report.

* * * * *

(k) * * *

(1) *Findings and recommendations of team.* When the required information has been gathered, each participant shall (i) analyze it and evaluate the prospective contractor's capability to perform with respect to the functions or elements investigated and (ii) provide findings and recommendations to the monitor on one or more of the appropriate forms (see FAR 9.106-4(a)) or on attachments. * * *

* * * * *

6. Paragraph (a) of section 1809.202 is revised to read as follows:

1809.202 Policy.

(a) The cognizant technical activity is responsible for meeting the requirements of FAR 9.202(a) with approval by the installation's competition advocate.

* * * * *

7. Section 1809.203-70 is amended by revising paragraph (a) and removing paragraph (c) to read as follows:

1809.203-70 General.

(a) The Director, Quality Management Division (QW), is responsible for justifying, determining, and approving NASA's need for inclusion and continued use of qualification requirements in specifications under the NASA Microelectronics Reliability Program.

(b) * * *

8. Paragraph (b) section 1809.206-1 is revised to read as follows:

9.206-1 General.

(a) * * *

(b) Requests not to enforce a qualification requirement in a non-emergency situation shall be prepared by the cognizant requirements office and approved by the Headquarters

Office of Safety and Mission Assurance (Code Q).

(c) * * *

9. Section 1809.404 is revised to read as follows:

1809.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(a) NASA Headquarters, Office of Procurement, Program Operations Division (Code HS) is responsible for taking the actions enumerated under FAR 9.404(c).

(b) In compliance with FAR 9.404(c)(5), contracting officers shall consult the list entitled Parties Excluded from Procurement Programs, which is contained in the GSA publication entitled, Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs, to ensure that they do not award contracts to or consent to subcontracts with listed parties, except as provided in FAR 9.405.

(c) For the purpose of obtaining copies of the list, field installation procurement offices shall notify NASA Headquarters, Office of Procurement, Program Operations Division (Code HS) of how many copies they want and provide a single mailing address at the installation. Code HS will, in turn, place the order for the copies which will be mailed directly to the installation.

10. Section 1809.405 is revised to read as follows:

1809.405 Effect of listing.

If a contract, or subcontract subject to contracting officer consent, must be awarded, renewed, or otherwise extended with a listed party, the procurement officer shall prepare a request for a determination with all necessary supporting documentation and forward it to the Associate Administrator for Procurement (Code HS) for approval. Some examples of circumstances that may constitute a compelling reason under FAR 9.405(a), 9.405-1(b), or 9.405-2(a) for award, renewal, or extension include the following:

(a) The property or services to be acquired are available only from the listed party.

(b) The urgency of the requirement dictates that NASA deal with the listed party.

(c) Other reasons related to the national defense or program requirements that necessitate continued business dealings with the listed party.

11. Section 1809.405-1 is revised to read as follows:

1809.405-1 Continuation of current contracts.

The contracting officer may terminate a contract under FAR 9.405-1(a) if it is in the best interest of the Government to do so, unless directed otherwise by the Associate Administrator for Procurement.

12. Sections 1809.405-2, 1809.406, 1809.406-3, 1809.407, and 1809.407-3 are removed.

13. Paragraphs (b), (d), and (e) of section 1809.408 are revised to read as follows:

1809.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.

(a) * * *

(b) If the offeror indicates that it is presently debarred, suspended, or proposed for debarment, the contracting officer may make a non-responsibility determination without notifying the Associate Administrator for Procurement. If the contracting officer determines that award must be made to such firm, follow the procedures set out in 1809.405, FAR 9.405-1(b), 9.405-2, 9.406-1(c) or 9.407-1(d).

(c) * * *

(d) If the offeror indicates that it has been indicted, charged, convicted, or had a civil judgment rendered against it, the contracting officer, in accordance with FAR 9.408(a), shall immediately notify the Associate Administrator for Procurement (Attn: Code HS), providing details as known, and shall await a response from Code H before awarding the contract.

(e) If the offeror discloses information that indicates a need for a debarment or suspension determination by the agency debarring official, the contracting officer shall report the facts to the Associate Administrator for Procurement (Code HS) in accordance with 1809.470.

14. Section 1809.470-1 is amended by revising the introductory text, revising paragraph (b), and adding paragraph (c) to read as follows:

1809.470-1 Situations requiring reports.

A report incorporating the information required by 1809.470-2 below shall be forwarded by the procurement officer to the Associate Administrator for Procurement (Code HS) when a contractor—

(a) * * *

(b) Is suspected of attempting to evade the prohibitions of a debarment or suspension by change of address, multiple addresses, formation of new companies, or other devices.

(c) This report is not necessary if the NASA Office of the Inspector General

(OIG) has recommended that the Associate Administrator for Procurement take debarment or suspension action.

15. Paragraph (h) of section 1809.470-2 is revised to read as follows:

1809.470-2 Contents of reports.

* * * * *

(h) A complete summary of all pertinent evidence. If a request for debarment or suspension is based on an indictment or a conviction, provide copies of those documents.

* * * * *

16. Section 1809.470-3 is revised to read as follows:

1809.470-3 Addresses and copies of reports.

Reports, including enclosures, shall be submitted in duplicate to the Associate Administrator for Procurement (Code HS).

PART 1830—COST ACCOUNTING STANDARDS ADMINISTRATION

17. Subpart 1830.1 is removed.

18. Section 1830.201-5 is revised to read as follows:

1830.201-5 Waiver.

After the contracting officer has made the determination required by FAR 30.201-5, the procurement officer shall forward all requests for waiver of CAS requirements to the Associate Administrator for Procurement (Code HC) for submittal to the CAS Board.

19. Section 1830.7001 is removed.

20. Section 1830.7001-1 is redesignated as section 1830.7001 and revised to read as follows:

1830.7001 Contract facilities capital estimates.

(a) After the appropriate Cost Accounting Standards Board-Cost of Money (CASB-CMF) Forms have been analyzed and cost of money factors (CMFs) have been developed, the contracting officer can estimate the facilities capital cost of money and capital employed for a contract proposal. DD Form 1861 "Contract Facilities Capital Cost of Money" shall be used for this purpose and, when properly completed, becomes a connecting link between the Forms CASB-CMF and any applicable agency structured approach to determination of profit or fee objectives.

(b) The structure and allocation base units-of-measure must be compatible on the DD 1861, the proposal, and the CASB-CMF. Overhead pools, for example, engineering, manufacturing, and G&A, are listed by year in the first column of the DD Form 1861 labeled

POOL. The allocation base figure for each overhead pool objective is extracted from the evaluated cost breakdown or pre-negotiation cost objective and listed by year in the second column. Each allocation base is then multiplied by the recommended facilities capital cost of money factor calculated on the CASB-CMF for that base. The total facilities capital cost of money amounts appearing in the last column labeled AMOUNT are totaled in the space provided in the line labeled TOTAL. This total represents the estimated facilities capital cost of money amount for the contract and is the figure to be used to calculate the prenegotiation position memorandum objective cost and to reduce the profit objective in accordance with 1815.970-3(a). The lines labeled TREASURY RATE and FACILITIES CAPITAL EMPLOYED (TOTAL DIVIDED BY TREASURY RATE) and Section 7 of the form labeled DISTRIBUTION OF FACILITIES CAPITAL EMPLOYED do not apply to NASA and should be ignored.

1830.7001-2 [Removed]

21. Sections 1830.7001-2 is removed.
22. Section 1830.7002 is removed and Section 1830.7001-3 is redesignated as section 1830.7002 and revised to read as follows:

1830.7002 Payments for facilities capital.

(a) *Interim billings based on costs incurred.* Contract Facilities Capital Cost of Money may be included in cost reimbursement and progress payment invoices. The amount that qualifies as cost incurred for purposes of the Allowable Cost and Payment or Progress Payment clause of the contract is the result of multiplying the incurred portions of the indirect cost pool allocation bases by the latest available CMFs. Like applied overhead at forecasted overhead rates, such computations are interim estimates subject to adjustment. As each year's data are finalized by computation of the actual CFMs under CAS 414 and FAR 31.205-10, the new factors should be used to calculate contract facilities cost of money for the next accounting period.

(b) *Final settlement.* Contract Facilities Capital Cost of Money for final cost determination or repricing is based on each year's final CMFs determined under CAS 414 and supported by separate Forms CASB-CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of

money. However, estimated or target cost will not be adjusted.

23. Sections 1830.7002-1 through 1830.7002-2 are removed.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

24. Section 1831.205-670 is revised to read as follows:

1831.205-670 Evaluation of contractor and subcontractor compensation for service contracts.

(a) The contracting officer shall evaluate the reasonableness of employee compensation in service contracts:

(1) Prior to the award of a cost reimbursement or noncompetitive fixed-price type contract which has a total potential value in excess of \$500,000, and

(2) Periodically after award for cost reimbursement contracts and subcontracts, but at least every three years.

(b) The contracting officer shall ensure the reasonableness of compensation is evaluated for cost reimbursement and non-competitive fixed-price type service subcontracts under a prime contract meeting the criteria in paragraph (a)(1) of this section if:

(1) The subcontract has a total potential value in excess of \$500,000; and

(2) The cumulative value of all of a subcontractor's service subcontracts under the prime contract is in excess of 10 percent of the prime contract's total potential value.

(c) The results of the contracting officer's evaluation, including any excessive compensation found and its planned resolution, shall be addressed in the prenegotiation position memorandum, with the final resolution discussed in the price negotiation memorandum. The results of the periodic evaluations of contractor and subcontractor compensation after contract award shall be documented in the contract file.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95-50; Notice 02]

RIN 2127-AF74

Federal Motor Vehicle Safety Standards; Reflecting Surfaces

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: On June 26, 1995, NHTSA published a notice of proposed rulemaking to rescind Federal Motor Vehicle Safety Standard No. 107, *Reflecting Surfaces*. The NPRM stated that the comment period ends July 26, 1995. In response to a petition from an interested party, NHTSA extends the comment period to August 25, 1995. The extension of time is granted to all persons.

DATES: Comments must be received on or before August 25, 1995.

ADDRESSES: Comments must refer to Docket No. 95-50, Notice 1 and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, Office of Safety Performance Standards, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Van Iderstine's telephone number is (202) 366-5280, and his FAX number is (202) 366-4329.

SUPPLEMENTARY INFORMATION

Notice of Proposed Rulemaking

On June 26, 1995, NHTSA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (60 FR 32935) to rescind Federal Motor Vehicle Safety Standard No. 107, *Reflecting Surfaces* (49 CFR § 571.107). The proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative to remove unnecessary regulations. The proposed action discussed why NHTSA believes Standard No. 107 can be rescinded without adversely affecting motor vehicle safety. That belief is based primarily on the vehicle manufacturers' established practice of using nonglossy materials and finishes on regulated and nonregulated

components in the driver's forward field of view. Since the nonregulated components are not glossy, NHTSA believes that currently regulated components would not become glossy if they were deregulated. The NPRM stated that public comments must be received on or before July 26, 1995.

Extension of Comment Period

In a letter dated July 6, 1995, Advocates for Highway and Auto Safety (Advocates) petitioned for a 45-day extension of the comment period, i.e., until September 11, 1995. Advocates explained that in its view, the NPRM's comment period did not provide enough time to evaluate the proposed rescission of a safety standard. Advocates cited a desire to investigate the history of Standard No. 107, including past NHTSA actions described in the NPRM. Advocates argued that public interest in Standard No. 107 has continued, and extending the public comment period "will enable interested parties to supply informed comments to the docket."

NHTSA has decided to grant Advocates' request for an extension of the public comment period. NHTSA will extend the comment period an additional 30 days, to August 25, 1995. NHTSA has granted the additional time because Advocates has shown good cause for the extension of time and that the extension is consistent with the public interest. The extension of time is granted to all persons.

NHTSA believes that an additional 30 days should be sufficient to examine the Standard's rather limited history. Since Standard No. 107 took effect on January 1, 1968, it has been the subject of little rulemaking activity. The two most notable Standard No. 107 rulemaking proceedings (neither of which resulted in amendments to the standard) were discussed in NHTSA's June 26, 1995 NPRM.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

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BILLING CODE 4910-59-P