

service. The Chief, Policy and Rules Division, had granted Meredith's request by *Memorandum Opinion and Order*, 55 FR 17756, published April 27, 1990. With this action, the proceeding is terminated.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418-2100.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 86-388, adopted July 31, 1995 and released September 11, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-22833 Filed 9-13-95; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870

[NASA FAR Supplement Directive 89-20]

RIN 2700-AB85

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

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

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes dealing with NASA internal and administrative matters, such as the NASA FAR Supplement rewrite and reporting of contract data by NASA procurement offices.

EFFECTIVE DATE: October 1, 1995.

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

SUPPLEMENTARY INFORMATION:

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, telephone number (202) 512-1800. Cite GPO Subscription Stock Number 933-003-00000-1. It is not distributed to the public, either in whole or in part, directly by NASA.

Rewrite of NASA FAR Supplement

NASA is reviewing and rewriting 48 CFR chapter 18, the NASA FAR Supplement, in its entirety in order to implement recommendations of the National Performance Review. During this review, NASA is eliminating reporting requirements and making other changes in order to reduce and simplify the regulation. This rule is part of the effort to simplify NASA's regulations.

Summary of Changes

Unnecessary words in subparts 1801.6 and 1801.7 are eliminated. Sections 1801.603 and 1801.670 are substantially reduced in order to rely primarily on FAR guidance on delegation of contracting officer authority. Section 1801.703 is substantially reduced in order to rely primarily on FAR guidance on class determinations and findings (D&F's). Section 1801.770 is added on legal review of D&F's prior to signature. In subpart 1804.6, instructions are revised concerning data elements required to be reported by NASA procurement offices. Sections 1804.672 and 1852.204-70, Report on NASA Subcontracts, are removed. Section 1804.674 on subcontract reporting is removed because it is already covered by subpart 1819.7.

Paragraph 1834.005-1(k) is removed because it unnecessarily duplicates instructions in subpart 1804.6. Other sections are amended as a result of Federal Acquisition Circulars 90-29 and 90-31.

Impact

NASA certifies that this regulation will not have a significant economic effect 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 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870 are amended as follows.

1. The authority citation for 48 CFR parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870 continues to read as follows:

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

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

Subpart 1801.1—Purpose, Authority, Issuance

1801.102, 1801.103, 1801.104, 1801.104-1, 1801.104-2, 1801.104-3, 1801.104-370, 1801.105 [Redesignated]

2. Sections 1801.102, 1801.103, 1801.104, 1801.104-1, 1801.104-2, 1801.104-3, 1801.104-370, and 1801.105 are redesignated as 1801.103, 1801.104, 1801.105, 1801.105-1, 1801.105-2, 1801.105-3, 1801.105-370, and 1801.106.

3. In paragraph (b) of the newly designated section 1801.105-1, the citation "1801.104-1(b)" is revised to read "1801.105-1(b)".

Subpart 1801.6—Career Development, Contracting Authority, and Responsibilities

4. In section 1801.602-3, paragraph (a) is revised to read as follows:

1801.602-3 Ratification of unauthorized commitments.

(a) *Policy.* Individuals making unauthorized commitments may be subject to disciplinary action, and the issue may be referred to the Office of Inspector General.

* * * * *

5. Section 1801.603-2 is revised to read as follows:

1801.603-2 Selection.

(a) *Policy.* Normally, only GS-1105 and GS/GM-1102 personnel with the proper training and experience may be appointed contracting officers.

(b) *Organizational need determination.* NASA contracting officers shall be appointed only when a valid organizational need can be demonstrated. Factors to be considered in assessing the need for a contracting

officer include volume of actions, complexity of work, and organizational structure.

1801.603-3, 1801.603-4 [Removed]

6. Sections 1801.603-3 and 1801.603-4 are removed.

7. Section 1801.670 is revised to read as follows:

1801.670 Delegations to contracting officer's technical representatives (COTRs).

A COTR delegation may be made only by the contracting officer cognizant of that contract at the time the delegation is made. If the cognizant contracting officer is absent, the delegation letter may be signed by a warranted contracting officer at any level above the cognizant contracting officer. An individual COTR may have only the duties specifically identified in a written delegation to him or her by name (i.e., COTR duties may not be delegated to a position) and has no authority to exceed them. COTRs should be informed that they may be personally liable for unauthorized commitments. Contracting officer authority to sign or authorize contractual instruments should not be delegated through a COTR designation or by any means other than a contracting officer warrant.

Subpart 1801.7—Determinations and Findings

1801.703 [Removed]

8. Section 1801.703 is removed.

1801.704 [Amended]

9. In section 1801.704, the first sentence is removed.

1801.770 [Added]

10. Section 1801.770 is added to read as follows:

1801.770 Legal review.

Each determination and finding (D&F), including class D&Fs, shall be reviewed by counsel for form and legality before the signature, in accordance with FAR 1.701, is obtained.

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.6—Contract Reporting

11. Section 1804.601 is revised to read as follows:

1804.601 Record requirements.

The Headquarters Analysis Division (Code HC) is responsible for meeting the requirements of FAR 4.601, based on installation submission of Individual Procurement Action Reports (NASA Form 507 series) data.

12. Section 1804.671 is revised to read as follows:

1804.671 Individual Procurement Action Report (NASA Form 507 series).

The Individual Procurement Action Report and Supplements (NASA Form 507 series) provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to Congress, Federal Procurement Data Center, and other Federal agencies. The preparation and utilization of the NASA Form 507 series are an integral part of the agencywide Financial and Contractual Status (FACS) system.

13. Section 1804.671-1 is revised to read as follows:

1804.671-1 Applicability and coverage.

The following procurement actions are individually reportable and require the completion of one or more of the forms in the 507 series.

(a) *Initial basic procurements.*

(1) All contracts, regardless of dollar obligation amount.

(2) All grants, cooperative agreements, and Space Act agreements.

(3) Intragovernmental procurements and purchase orders when the initial value is more than \$25,000.

(4) All contracts and purchase orders for consulting services.

(5) Purchase orders of \$25,000 or less for services within the four designated industry groups identified at FAR 19.1005(a) under the Small Business Competitiveness Demonstration Program. (These actions are not FACS reportable, but are required for FPDS reports.)

(b) *Modifications.* Modifications that—

(1) Obligate or deobligate funds, regardless of dollar amount,

(2) Change the estimated cost and/or fee,

(3) Extend the completion date, or

(4) Add or change procurement statistics previously reported are reportable.

1804.671-2 [Removed and Reserved]

14. Section 1804.671-2 is removed and reserved.

15. Section 1804.671-4 is revised to read as follows:

1804.671-4 Preparing Individual Procurement Action Reports (NASA Forms 507, 507A, 507B, 507G, and 507M).

(a) Individual Procurement Action Reports shall be prepared and submitted to Headquarters for each procurement action required to be reported (see 1804.671-1). Specifically, for new contract awards, NASA Forms 507,

507A, and 507B are prepared. For new grants, agreements, intragovernmental agreements, and orders against federal supply schedules, NASA Forms 507G and 507B are prepared. For modifications to any of the above procurements, NASA Forms 507M and, if necessary, 507B are prepared.

(b) Detailed item instructions for preparing the NASA Forms 507 series are as follows:

(1) *Item 1—Contract/grant number* (11 positions, including blanks).

(i) Enter the specific contract, grant, cooperative agreement, Space Act agreement, or purchase order number for which the data are reported. The first five digits represent the prefix field, while the last six digits are used to number each contractual instrument serially. If a serial number does not fill out the entire field, leave those digit positions blank instead of using zeros.

(ii) The method of numbering—

(A) Contracts, purchase orders, and Space Act agreements is set forth in subpart 1804.71; and

(B) Grants and Cooperative agreements is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1, paragraph 306.

(2) *Item 2—Document suffix* (1 position). If an alpha suffix is used in the contract or purchase order number, enter the assigned suffix (e.g., "F" for facilities contracts). Otherwise, leave this item blank.

(3) *Item 3—Modification prefix* (1 position). If an alpha prefix is used in the modification number of the reported action, enter the assigned prefix. Otherwise, leave this item blank.

(4) *Item 4—Modification number* (4 positions). Enter the serial number assigned to the modification action.

(5) *Item 5—PR number* (12 positions). Enter the number assigned to the Procurement Request document which initiated the reported action.

(6) *Item 6—Closeout PR* (1 position). Enter "Y" if the reported action closes the PR reported in item 5. Otherwise, leave this item blank.

(7) *Item 7—Contractor VID* (7 positions). Enter the contractor's unique Vendor Identification Number (VID) which indicates the contractor's name and business address.

(8) *Item 7a—Contractor name* (29 positions, including spaces). Enter the name of the contractor. (For editing purposes, the first five characters of the contractor's name must be identical to those shown in "NASA Contractor Identification Codes.") For intragovernmental actions, enter the agency name (e.g., US Army, US Navy, US Commerce) and also see the Item 8

instructions in paragraph (b)(11) of this section.

(9) *Item 7b—Contractor division* (20 positions). Enter the name of the contractor's division if one is named in the contractual instrument. (For editing purposes, the first five characters of the division name must be identical to those shown in "NASA Contractor Identification Codes.") For intragovernmental actions, enter the name of the cognizant procuring activity (e.g., Electronic Systems Division).

(10) *Item 7c—Contractor address—city and state*. Enter city and state of contractor's address as stated in the contractual instrument.

(11) *Item 8—Contractor identification code (CIC) number* (7 positions). This coding system is managed by the Headquarters Analysis Division (Code HC). It identifies the procurement in terms of the contractor's name, division (if any), address, and the place of performance. A unique code is assigned for each different combination of these items. For combinations not found, call the Office of Procurement, NASA Headquarters (Code HC), where a code will immediately be assigned.

(12) *Item 9—Contractor Place of Performance (CPOP) VID* (7 positions). Enter the unique Contractor Place of Performance (CPOP) VID which indicates the contractor's place of performance address. This is a seven character alpha-numeric code generated by the Acquisition Management Subsystem (AMS).

(13) *Items 9a—Place of performance* (city—24 positions; state—2 positions). Enter the location (city and state) of the principal plant or place of business where the items will be produced or supplied from stock or where the service will be performed. For construction contracts, enter the site of construction. If more than one location is involved, enter the principal place of performance. For intragovernmental actions where the place of performance is unknown, enter the address of the cognizant Government agency.

(14) *Item 10—Procuring installation number* (2 positions). Enter a numeric code identifying the installation responsible for the procurement. The following is a list of installations and their assigned codes:

| Code | Installation |
|------|--------------------------------|
| 04 | NASA Headquarters. |
| 21 | Ames Research Center. |
| 22 | Lewis Research Center. |
| 23 | Langley Research Center. |
| 24 | Dryden Flight Research Center. |
| 51 | Goddard Space Flight Center. |
| 53 | Wallops Flight Facility. |
| 54 | NASA Management Office-JPL. |

| Code | Installation |
|------|---|
| 62 | George C. Marshall Space Flight Center. |
| 64 | John C. Stennis Space Center. |
| 72 | Lyndon B. Johnson Space Center. |
| 73 | Space Station Program Office. |
| 76 | John F. Kennedy Space Center. |

(15) *Item 11—POP zip code* (5 positions). Enter the five digit zip code corresponding to the contractor's place of performance address.

(16) *Item 12—Contract award/modification date* (6 positions).

(i) *Contract award*. Enter the year, month, and day (two numerics each) that the contract is signed by the contracting officer.

(ii) *Modification date*. Enter the year, month, and day (two numerics each) that the modification is signed by the contracting officer.

(17) *Item 13—Completion date* (6 positions). Enter the year, month, and day (two numerics each), either specified or estimated, when all work on the contract and any modifications is scheduled for completion. This date may or may not change as modifications to the contract are issued.

(18) *Item 14—Procurement placement code* (2 positions). Enter the alpha procurement placement code (PPC) identifying the type of solicitation process used and the extent of competition obtained on the procurement. (See 1804.671-7 for PPC matrix.)

(19) *Item 15—Kind of action* (2 positions). Enter the numeric code from the following lists that identifies in general terms the kind of procurement and the action taken to initiate it:

| Code | Kind of action |
|------------------------------------|--|
| New Contracts/Grants/Orders | |
| 01 | New letter contract. |
| 03 | New basic contract. New procurements, when the first binding document contains all the agreement's terms and conditions. |
| 05 | Intragovernmental. Orders issued to other Federal agencies. |
| 06 | Grant. |
| 21 | Cooperative agreement or Space Act agreement. |
| 23 | Order under Mandatory GSA-FSS. See FAR 8.404. |
| 24 | Order under optional (non-mandatory) GSA-FSS. See FAR 8.404-2. |
| 25 | Order under indefinite-delivery contract (IDC). |
| 26 | Order under BOA. |

| Code | Kind of action |
|--|--|
| Modifications to Existing Contracts | |
| 07 | New-work modification. Modifications that add a new procurement to existing contracts. New procurement, for the purpose of this report, means a modification action that usually requires the preparation of a Justification for Other than Full and Open Competition (see FAR 6.303). |
| 08 | Supplemental agreement. Bilateral, definitized modifications except those covered by code 10 below. |
| 09 | Change order. Change orders issued pursuant to the changes clause of the contract. |
| 10 | Supplemental agreement definitizing change order. |
| 11 | Administrative/incremental funding. This code should be used for administrative changes (such as novation agreements) as well as for incremental funding modifications. |
| 12 | Termination for default. |
| 13 | Termination for convenience. |
| 14 | Definitizing letter contract. |
| 15 | Exercising priced option. |
| 16 | Order under reporting center's indefinite delivery contract (IDC). |
| 17 | Order under reporting center's BOA. |

(20) *Item 15a—Center kind of action* (2 positions). Enter the numeric code, if applicable, from the following list that further identifies the kind of action reported in item 15:

| Code | Center kind of action |
|------|--|
| 14 | Small purchase. |
| 50 | Basic ordering agreement (BOA). |
| 52 | Indefinite delivery type contract. |
| 53 | Basic ordering agreement modification. |
| 54 | Task order modification. |
| 60 | Blanket purchasing agreement (BPA). |
| 61 | Call against BPA. |
| 99 | Closing modification. |

Leave this item blank if none of the above choices are descriptive of the action being reported. The information provided in this item is used in the generation of Procurement Management Data Reports (PMDR).

(21) *Item 16—Contractor type* (2 positions). Enter the appropriate code from the following:

| Code | Contractor |
|-----------------|---|
| Business | |
| 01 | Section 8(a)—disadvantaged. Awards placed through the Small Business Administration with a minority business firm owned and controlled by socially and economically disadvantaged individuals, in accordance with Section 8(a) of the Small Business Act. |

| Code | Contractor |
|------|---|
| 03 | Disadvantaged direct. Awards placed directly with a minority business firm owned and controlled by socially and economically disadvantaged individuals. |
| 04 | Not disadvantaged. Other large or small businesses that are not considered disadvantaged. |

Nonprofit Organization

| | |
|----|--|
| 05 | Educational (Non-Minority). A non-minority educational institution that is <i>not</i> State, Federal, or local-government-owned. |
| 06 | Hospital. A hospital that is <i>not</i> State, Federal, or local-government-owned. |
| 08 | Other nonprofit (Non-Minority). A non-minority nonprofit institution or organization that is a corporation, foundation, trust, or institution not organized for profit, and no part of its net earnings is applied to the profit of any private shareholder or individual. |
| 15 | Educational (HBCU). A Historically Black College or University (HBCU) that is <i>not</i> State, Federal, or local-government-owned. |
| 18 | Other nonprofit (Minority). A minority nonprofit institution or organization that is a corporation, foundation, trust, or institution not organized for profit, and no part of its net earnings is applied to the profit of any private shareholder or individual. |
| 25 | Educational (Other Minority). A minority educational institution, other than an HBCU, that is <i>not</i> State, Federal, or local-government-owned. |

State/Local Government

| | |
|----|--|
| 09 | Educational (Non-Minority). A State, Federal, or local-government-owned non-minority educational institution. (Privately owned non-minority educational institutions shall be coded 05.) |
| 10 | Hospital. A State, Federal, or local-government-owned hospital. (Privately owned hospitals shall be coded 06.) |
| 12 | Other State/local government. Includes State, Federal, or local-government-owned research organizations. |
| 19 | Educational (HBCU). A State, Federal, or local-government-owned Historically Black College or University (HBCU). Privately owned HBCU's shall be coded 15.) |
| 29 | Educational (Other Minority). A State, Federal, or local-government-owned non-minority educational institution, other than an HBCU. (Privately owned minority educational institutions, other than HBCU's, shall be coded 25.) |

(22) *Item 16a—Woman-Owned business* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether the business concern is a woman-owned business. A woman-owned business is one that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(23) *Item 17—Award Outside U.S.* Enter "L" for an award to a source outside the U.S. Enter "M" for an award to a source inside the U.S., if the principal place of performance will be outside the U.S. When this item is coded "L" or "M," the PPC code entered in item 14 of the NASA Form 507 must be from the "work outside U.S." category of the PPC matrix.

(24) *Item 18—Extent of competition* (1 position). Enter the appropriate code from the following list (except for non-new-work (within-scope) modifications):

| Code | Extent of competition. |
|------|---|
| 2 | Sealed Bid. Award results from acceptance of a bid in response to a formal invitation for bids or from sealed bidding following an evaluation of technical proposals (two-step sealed bidding). (See FAR part 14.) |
| 3 | Competed action—SEB. Competitive offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially; award is based on price, design, or technical competition; and Source Evaluation Board (SEB) procedures are used to evaluate the proposals (see FAR 15.608). This code shall also be used if Architect-Engineer Selection Board procedures are used (see FAR 36.603-2). |
| 4 | Other competed action. Competitive offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially; award is based on price, design, or technical competition; and Source Evaluation Board procedures are not used to evaluate the proposals. |

| Code | Extent of competition. |
|------|--|
| 5 | Noncompetitive follow-on to competed action. The procurement is for the continued development or production of a major system or highly specialized equipment, including major components thereof, that is considered available only from the original source, and it is likely that award to any other source would result in (1) substantial duplication of cost to the Government that is not expected to be recovered through competition, or (2) unacceptable delays in fulfilling NASA's requirements (see FAR 6.302-1(b)(2)). |
| 6 | Other not competed. Only one offer is solicited and only one offer is received capable of satisfying the Government's requirements wholly or partially; the work involved is not a follow-on procurement reportable under code 5 above. Include awards resulting from unsolicited proposals in this category. |

(25) *Item 19—Type of service or product* (4 positions). Enter the code indicating the principal type of effort or end item obtained under the contract. If more than one classification applies to the procurement, enter the one accounting for the largest dollar volume of procurement. Codes have been established to identify research and development (R&D) procurements, service contracts, and supply and equipment contracts. These codes may be found in the FPDS Product and Service Codes manual located in the procurement administrative office at each NASA installation.

(26) *Item 20—Physically complete* (1 position). Enter "Y" (yes) if the contract is physically complete, i.e., after all articles and services called for under the contract, including such related items as reports, spare parts, and exhibits, have been delivered to and accepted by the Government (see FAR 4.804-4). Also enter the date that the contract is physically completed. Otherwise, this field should be left blank.

(27) *20a—Contract/Grant Proposal Number* (18 positions). Enter the contract/grant proposal number in this field. This field is optional and not reported to Headquarters.

(28) *Item 21—Labor surplus area award* (1 position). "Y" or "N" to indicate whether the award is to a concern in a labor surplus area (see FAR Subpart 20.1).

(29) *Item 22—FSS/Indefinite-delivery/BOA contract no.* (15 positions). Enter the Federal Supply Schedule (FSS), indefinite-delivery, or basic ordering agreement (BOA) contract number under which a delivery order has been

placed if Item 15 (Kind of Action) is coded 23, 24, 25, or 26.

(30) *Item 23—Description of contract/modification (narrative)*. Enter a brief description of the end item or services being procured. For modifications, enter a brief description of the purpose.

(31) *Item 24—CICA applicability* (1 position).

(i) Pre-CICA: Code 1 Enter if the contract action is a new contract (or within-scope modification thereto) resulting from a solicitation issued before April 1, 1985, irrespective of the award date.

(ii) Post-CICA: Code 2 Enter if the contract action is a new contract resulting from a solicitation issued on or after April 1, 1985. All modifications to such contracts are to be reported by this code.

(32) *Item 24a—Special handling* (1 position). Center unique data element.

(33) *Item 25—Proposed procurement synopsisized* (1 position). Entry "Y" if the procurement was synopsisized prior to award in the Department of Commerce's Commerce Business Daily. Enter "N" if the procurement was not synopsisized, except enter "U" if the procurement was not synopsisized because of urgency.

(34) *Item 26—Contract type* (2 positions).

(i) Enter the code that identifies the type of contract from the following list:

| Code | Contract type |
|------|---|
| 01 | Fixed-Price, Firm (FAR 16.202 and 16.207). (Include Firm Fixed-Price, level-of-effort term contracts in this category.) |
| 02 | Fixed-Price, Redetermination (FAR 16.205). |
| 03 | Fixed-Price with Economic Price Adjustment (FAR 16.203). |
| 04 | Fixed-Price Incentive (FAR 16.204). |
| 05 | Cost (No Fee) (FAR 16.302). |
| 06 | Cost-Sharing (FAR 16.303). (The estimated cost reported shall include only the Government's share.) |
| 07 | Cost-Plus-Fixed-Fee (FAR 16.306). |
| 08 | Cost-Plus-Incentive-Fee (FAR 16.404-1). |
| 09 | Time-and-Materials (FAR 16.601). |
| 10 | Labor-Hour (FAR 16.602). |
| 12 | Cost-Plus-Award-Fee (FAR 16.404-2). |

(ii) Combination contract types shall be reported as follows:

(A) Where the contract has one type of incentive arrangement applying to cost performance and another to technical and/or schedule performance, report the contract type assigned to the cost-incentive feature; e.g., a contract providing a cost-plus-incentive-fee arrangement on cost and an award fee arrangement on technical and/or schedule performance will be reported as "Code 08—Cost-Plus-Incentive-Fee."

(B) Where one or more items of work are priced exclusively under one of the

arrangements coded above, with one or more additional items priced exclusively under another such arrangement, report the contract type in accordance with the code assigned to the arrangement under which the predominate dollar amount will be spent.

(35) *Item 27—No. of offerors solicited* (3 positions). Enter the number of firms to which solicitations were provided.

(36) *Item 28—Number of offers received* (3 positions). Enter the actual number of offers received in response to the solicitation.

(37) *Item 29—Solicitation procedures* (1 position). This item pertains to the requirements of FAR subparts 6.1 (Full and Open Competition), 6.2 (Full and Open Competition After Exclusion of Sources), and 6.3 (Other Than Full and Open Competition), with the exception of the statutory authorities for other than full and open competition (subpart 6.3), which are reported in Item 30. Codes "A" through "L" designate the competition alternatives described in FAR part 6. Delivery-order contract actions under indefinite-delivery contracts shall be reported the same as the initial contract when the following criterion, in FAR 6.001(e), is met: They are orders placed under indefinite-delivery contracts that were entered into pursuant to FAR part 6, and either the contract was awarded under subpart 6.1 or 6.2 and all responsible sources were realistically permitted to compete for the requirements contained in the order, or the contract was awarded under subpart 6.3 and the required justification and approval adequately covers the requirements contained in the order.

(i) Code A—Full and open competition sealed bid is entered when the sealed bidding (see FAR 6.401(a)) method of contracting was used.

(ii) Code B—Full and open competition—competitive proposal is entered when the FAR part 15, Contracting by Negotiation, procedures were used for a competitive solicitation.

(iii) Code C—Full and open competition—combination is entered when any combination of competitive procedures (e.g., two-step sealed bidding) was used (see FAR 6.102(c)).

(iv) Code D—Architect-engineer is entered if the action resulted from selection of sources for architect-engineer (A&E) contracts in accordance with Public Law 92-582 and procedures in FAR subpart 36.6 (see FAR 6.102(d)(1)). The selection of a potential A&E contractor is made by an A&E Evaluation Board conducted in accordance with 41 U.S.C. 541 et seq. This selection process is considered a competitive procedure and shall be reported as a competitive award. When

award is an A&E contract and was a result of a small business set-aside or labor surplus area set-aside, use code K in lieu of this code.

(v) Code E—NASA Research Announcement/Announcement of Opportunity is entered if the action

resulted from competitive selection of basic research proposals as a result of (A) A broad agency announcement (NASA Research Announcement or Announcement of Opportunity) that is general in nature identifying areas of research interest, including criteria for selecting proposals, and soliciting the participation of all offerors capable of satisfying the Government's needs and (B) A peer or scientific review (see FAR 6.102(d)(2)).

(vi) Code F—Multiple-award schedule is entered if the action is an order issued against a multiple-award schedule using the procedures in FAR 8.405-1 (see FAR 6.102(d)(3)). This code shall be used for multiple-award schedule contracts (mandatory or optional). This code may be used for ADP procurements, unless the solicitation utilized make-or-model specifications. Use of the multiple-award schedule program is considered to be a competitive procedure because competitive procedures were used by GSA to make the basic multiple-award schedule contract awards under 41 U.S.C. 259(b)(3)(A). For reporting purposes, an order issued against a multiple-award schedule shall be reported as a competitive award.

(vii) Code G—Alternate source—reduced cost is entered if the action was taken pursuant to FAR 6.202(a)(1), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition of such supplies or services.

(viii) Code H—Alternate source—mobilization is entered if the action was taken pursuant to FAR 6.202(a)(2), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization.

(ix) Code J—Alternate source—engineering/R&D capability is entered if

the action was taken pursuant to FAR 6.202(a)(3), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

(x) Code K—Set-asides is entered if the action resulted from use of procedures for set-asides pursuant to FAR 6.203. This includes small business set-asides, labor surplus area set-asides, or combinations thereof, but not architect-engineer contracts (use Code D). Code K also includes contract actions under the Small Business Innovation Research (SBIR) Program established under Public Law 97-219.

(xi) Code L—Other than full and open competition is entered if the action resulted from use of other than full and open competition pursuant to 10 U.S.C. 2304(c). The conditions or exceptions permitting contracting without providing for full and open competition are prescribed in FAR 6.302. Enter this code for noncompetitive awards made under the authority of Section 8(a) of the Small Business Act (see FAR subpart 19.8). This code shall also be used for all ADP procurements where the solicitation utilized make-and-model specifications.

(38) *Item 30—Authority for other than full and open competition.* When Item 29 is coded "L," this item must be completed. Enter the applicable code from the categories listed in this paragraph (b)(38). This item identifies the solicitation process and not the extent of competition obtained.

(i) Code A—Unique source is entered when the contract action is under 10 U.S.C. 2304(c)(1) and the agency's minimum needs can be satisfied only by unique supplies or services available from only one source or only one supplier with unique capabilities (see FAR 6.302-1(b)(1)).

(ii) Code B—Fellow-on contract is entered when the contract action is under 10 U.S.C. 2304(c)(1) and it is likely that the award of follow-on contracts must be to the original source because award to any other source would result in—

(A) Substantial duplication of cost to the Government that is not expected to be recovered through competition or

(B) Unacceptable delays in fulfilling the agency's requirements (see FAR 6.302-1(a)(2)(ii)).

(iii) Code C—Unsolicited research proposal is entered when the contract action is under 10 U.S.C. 2304(c)(1) as the result of acceptance of an unsolicited research proposal that demonstrates a unique and innovative concept, the substance of which—

(A) Is not otherwise available to the Government and

(B) Does not resemble the substance of a pending competitive acquisition (see FAR 6.302-1(a)(2)(i)).

(iv) Code D—Patent/data rights is entered when the contract action is under 10 U.S.C. 2304(c)(1) because the existence of limited rights in data, patent rights, copyrights, or secret processes; the control of basic raw material; or similar circumstances make the supplies and services available from only one source (see FAR 6.302-1(b)(2)).

(v) Code E—Utilities is entered when—

(A) The contract action is under 10 U.S.C. 2304(c)(1) when acquiring electric power or energy, gas (natural or manufactured), water, or other utility services and circumstances dictate that only one supplier can furnish the service or

(B) The contemplated contract is for construction of a part of a utility system and the utility company itself is the only source available to work on the system (see FAR 6.302-1(b)(3)).

(vi) Code F—Standardization is entered when the contract action is under 10 U.S.C. 2304(c)(1) because the agency head has determined under the agency's standardization program that only specified makes and models of technical equipment and parts will satisfy the agency's needs for additional units or replacement items and only one source is available (see FAR 6.302-1(b)(4)).

(vii) Code G—Only one source—other is entered when the contract action is under 10 U.S.C. 2304(c)(1) to a single source and codes "A" through "F" of this paragraph (b)(38) do not apply (see FAR 6.302-1(b)).

(viii) Code H—Urgency is entered when the contract action is under 10 U.S.C. 2304(c)(2) because—

(A) An unusual and compelling urgency precludes full and open competition and

(B) Delay in award of a contract would result in serious injury, financial or other, to the Government (see FAR 6.302-2(b)).

(ix) Code J—Mobilization is entered when the contract action is under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to maintain a

facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization (see FAR 6.302-3(b)(1)).

(x) Code K—Essential R&D capabilities is entered when the contract action is under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center (see FAR 6.302-3(b)(2)).

(xi) Code L—International agreement is entered when the contract action is under 10 U.S.C. 2304(c)(4) because full and open competition is precluded by—

(A) The terms of an international agreement or treaty between the United States and a foreign government or international organization or

(B) The written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services (see FAR 6.302-4).

(xii) Code M—Authorized by statute is entered when the contract action is under 10 U.S.C. 2304(c)(5) because a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source (see FAR 6.302-5(a)(2)(i)). This code should be used for noncompetitive 8(a) awards.

(xiii) Code N—Authorized resale is entered when the contract action is under 10 U.S.C. 2304(c)(5) for a brand-name commercial item for resale through commissaries or other similar facilities (see FAR 6.302-5(a)(2)(ii)).

(xiv) Code P—National security is entered when the contract action is under 10 U.S.C. 2304(c)(6) because disclosure of the Government's needs would compromise the national security (see FAR 6.302-6).

(xv) Code Q—Public interest is entered when the contract action is under 10 U.S.C. 2304(c)(7) because the agency head has determined that full and open competition is not in the public interest in the particular acquisition concerned (see FAR 6.302-7).

(39) *Item 31—Labor statutes* (1 position). Enter the appropriate code, in accordance with the provisions of the contract, from the following list:

| Code | Statutory requirements |
|------|---|
| N | Not subject to statutory requirements listed below. |
| 1 | Subject to Walsh-Healey Act, manufacturer (FAR 22.606-1). |
| 2 | Subject to Walsh-Healey Act, regular dealer (FAR 22.606-2). |

| Code | Statutory requirements |
|------|--|
| 3 | Subject to Service Contract Act (FAR subpart 22.10). |
| 4 | Subject to Davis-Bacon Act (FAR 22.403-1). |

(40) *Item 32—Standard Industrial Classification (SIC) Code* (4 positions). Enter the code identifying the industry category within which the principal (determined by the predominance of dollars awarded) product produced or distributed or services rendered would best fit. Industry categories are published in the Standard Industrial Classification Manual maintained and issued by the Office of Management and Budget (OMB). A listing of the SIC codes, without the detailed lists of products and services falling within each category, can be found at FAR 19.102(g).

(41) *Item 33—Contract administration delegated*. Enter "Y" (yes) or "N" (no) in the first blank to indicate whether any contract administration functions have been delegated to another Government agency (see FAR subpart 42.2). If an "N" was entered, leave the rest of this field blank. If a "Y" was entered, continue to the second blank and enter a "Y" or "N" to indicate whether there was a blanket delegation. A blanket delegation is defined as a delegation of all contract administration functions listed in FAR 42.302(a), with the exception of those non-assignable functions specified in 1842.202(c), plus post award audit. If not a blanket delegation, enter a "Y" for each individual function delegated among the ten items listed. It is not necessary to enter an "N" for non-delegated functions.

(42) *Item 34—Preference program*. Report the code that represents the preference program used in making the award. Report Code H if no preference program applies or the preference program is not otherwise listed.

(i) Code A—Directed to sheltered workshops. Report this code for an award to a workshop for the blind or a workshop for the other severely handicapped pursuant to FAR subpart 8.7.

(ii) Code B—8(a) Program. Report this code for actions with the Small Business Administration pursuant to FAR subpart 19.8.

(iii) Code C—Combined labor surplus/small business set-aside. Report this code for a combined labor surplus area and small business set-aside award made to a small business concern pursuant to FAR subpart 19.5.

(iv) Code D—Small business set-aside. Report this code for a small business

set-aside (including Small Business Innovation Research (SBIR)) award made pursuant to FAR subpart 19.5.

(v) Code E—Labor surplus area set-aside. Report this code for a labor surplus area set-aside award made pursuant to FAR subpart 20.2.

(vi) Code F—Tie-bid preference. Report this code for all tie-bid preference awards (see FAR 19.202-3) made pursuant to FAR subpart 19.5.

(vii) Code G—Designated entities set-aside. Report this code for awards set-aside for disadvantaged business, women-owned business, HBCU's, and other minority institutions. (This covers the 26 procurements authorized by the D&F signed by the Administrator on December 1, 1992.)

(viii) Code H—No preference program. Report this code if the award is not made pursuant to a preference program, or if the preference program is not listed in this paragraph (b)(42).

(43) *Item 35—Advisory/Assistance services contract* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether the contract is for advisory and assistance services.

(44) *Item 36—Support services type contract* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether the contract is for support services. This includes on- or near-site performance where the services are a major element of the contract. It excludes:

(i) Construction, alteration, and repair;

(ii) Small purchases and incidental services;

(iii) Prime product development contracts;

(iv) Operations support contracts, i.e., effort at major facilities associated with carrying out mission operations; tracking station operations; and support funded by STS operations; and

(v) Tenants.

(45) *Item 37—Cost Accounting Standards clause* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether the contract contains the Cost Accounting Standards clause (see FAR 30.201-4).

(46) *Item 38—New technology or patent rights clause* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether a new technology or patent rights clause is included in the contract. (See 1827.373). A "Y" entry for contracts with small businesses, nonprofit organizations, and educational institutions will indicate a patent rights clause. A "Y" entry for contracts with large businesses will indicate a new technology clause.

(47) *Item 39—Subcontracting program plan* (1 position). Enter "Y" (yes) or "N" (no) to indicate whether the contract contains a subcontract plan requiring

the contractor to furnish the information prescribed on Standard Forms 294 and 295 (see 1804.674 and FAR 19.702).

Enter "W" (waiver) when there are no subcontracting opportunities, for contracts performed entirely outside the United States, and for GSA Federal Supply Schedule contracts containing plans. Use Code "Y" for corporate plans with individual contract goals.

(48) *Item 40—SBIR award* (1 position). Enter "N" (no) if the contract action is not in support of the Small Business Innovation Research (SBIR) Program (Pub. L. 97-219). Enter Code "1" if the contract action is related to a Phase I contract in support of the program. Enter Code "2" if the contract action is related to a Phase II contract in support of the program. Enter Code "3" for Phase III SBIR contracts. Phase II SBIRs and SBIRs funded by agencies other than NASA should use PPC Code GF.

(49) *Item 41—STTR award* (1 position). Enter Code "N" (no) if the contract action is not in support of the Small Business Technology Transfer (STTR) Program (Pub. L. 102-564).

Enter Code "1" if the contract action is related to a Phase I contract in support of the program. Enter Code "2" if the contract action is related to a Phase II contract in support of the program.

(50) *Item 42—Contract for foreign government or international organization*. Enter "Y" (yes) if a foreign government or international organization is bearing any part of the cost of the action. Otherwise, enter "N" (no).

(51) *Item 43—Management reporting requirements (MRR): correlated cost and performance data reporting* (1 position). Enter one of the following codes (see NHB 9501.2):

| Code | Reporting required |
|------|----------------------------------|
| N | None required. |
| 2 | NASA Form 533M only. |
| 3 | NASA Forms 533M and 533Q. |
| 4 | NASA Forms 533M and 533P. |
| 5 | NASA Forms 533P and 533Q. |
| 6 | NASA Forms 533M, 533P, and 533Q. |

(52) *Item 44—Management reporting requirements (MRR): property and space hardware reporting* (1 position). Enter one of the following codes (see FAR 45.505-11):

| Code | Reporting required |
|------|---|
| N | None required. |
| 2 | NASA Form 1018, without space hardware. |
| 3 | NASA Form 1018, with space hardware. |

(53) *Item 45—Trade data* (3 blocks).

(i) First block—number of bidders offering foreign item (1 position). Enter one numeric code (0–9) to indicate the number of firms that offered foreign end products. An entry is required regardless of whether the Buy American Act is invoked or not. If none, enter “0”. If 9 or more, enter “9”.

(ii) Second block—Percent difference (2 positions). If the evaluation factor under the Buy American Act is used and results in award to a firm offering a domestic product, enter the percentage difference between the award price and that of the low firm offering a foreign end product, computer before application of the Buy American Act differential, i.e., the difference divided by the price of the low firm offering a foreign end product. Enter the percentage as a whole number. If the evaluation factor under the Buy American Act is not used, enter “00”.

(iii) Third block—Country of manufacturer (2 positions). If the product is manufactured, mined, or grown in the United States (the 50 states and the District of Columbia) or the service is performed by a U.S. contractor, enter “US”. If the product is manufactured, mined, or grown in a foreign country, enter the code from FIPS PUB 10–3 of that country/area. In the case of a service, if the service is performed by a foreign contractor, enter the code from FIPS PUB 10–3 of that country/area. This publication may be obtained from the Headquarters Office of Procurement, Analysis Division (Code HC).

(54) *Item 46—Demonstration test program* (1 position). Enter “Y” or “N” to indicate whether the award is a new contract awarded to a U.S. business concern as a result of a solicitation issued on or after January 1, 1989, under the Small Business Competitiveness Demonstration Program (see FAR subpart 19.10 and 1819.10). This item must be completed for awards to large businesses as well as for awards to small businesses.

(55) *Item 47—Emerging small business* (1 position). Complete this item only if Item 46 is coded “Y.” Enter “Y” or “N” to indicate whether the contractor represents that it is an emerging small business concern (see FAR 19.1002 for definition of emerging small business).

(56) *Item 48—Emerging small business reserve award* (1 position). Complete this item only if Item 46 is coded “Y.” Enter “Y” or “N” to indicate whether the contract award was reserved for emerging small business concerns.

(57) *Item 49—Size of small business* (1 position). Complete this item only if Item 46 is coded “Y” and the award is to a small business. Enter the code that corresponds to the range of the number of employees or the range of the average annual gross revenue for the small business contractor receiving the award as represented by the contractor in response to the solicitation.

(58) *Item 50—Value Engineering Clause*. Enter “Y” (yes) or “N” (no) to indicate whether the contract contains any one of the value engineering clauses at FAR 52.248–1, 52.248–2, or 52.248–3.

(59) *Item 51—Effective date*. Enter the year, month, and day (two numerics each) of the contract’s effective date.

(60) *Item 52—Security code* (1 position). Enter “Y” or “N” to indicate whether Defense Industrial Security clearances are required during contract performance.

(61) *Item 53—Equipment code* (1 position). Enter “Y” or “N” to indicate whether the contract will involve government furnished or contractor acquired property.

(62) *Item 54—Administrator code* (3 positions). Enter the code which identifies the individual at the contracting installation responsible for administration of the contract.

(63) *Item 55—Contracting officer code* (3 positions). Enter the code which identifies the contracting officer assigned to the contract.

(64) *Item 56—Negotiator code* (3 positions). Enter the code which identifies the individual responsible for negotiating the contract.

(65) *Item 57—COTR name* (15 positions). Enter the name of the Contracting Officer’s Technical Representative (COTR) for the contract.

(66) *Item 58—Organization code* (5 positions). Enter the organization code for the responsible technical organization for which the contract has been awarded.

(67) *Item 59—Contract fund code* (1 position). Enter the appropriate code to indicate whether the contract is fully funded, incrementally funded, or unfunded.

(68) *Item 60—Reason not small business* (2 positions). Enter the appropriate two digit code to identify the reason the contract was not awarded to a small business concern.

(69) *Item 61—FIP Resources Decision Document* (1 position). Enter FRDD number, if applicable.

(70) *Item 62—KMA number* (7 positions). Enter the Delegation of Procurement Authority case number assigned by GSA for FIP Resources (KMA–xx–yyyy(–y)), if applicable.

(71) *Item 63—Center unique*. This field may be used at the discretion of individual centers to collect data not elsewhere reported on the form (e.g., taxpayer identification numbers). Otherwise leave this time blank.

(72) *Item 64—Cancellation date* (6 positions). If it is necessary to cancel a previously executed modification, enter the year, month, and day (two numerics each) of such cancellation.

(73) *Item 65—Total contract value including options*. Enter the definitized contract value (including maximum potential fee or profit) plus the value of any options (including maximum potential fee or profit) available in the contract. Round entries to the nearest whole dollar.

(74) *Item 66—Estimated cost or fixed price* (11 positions). Enter the estimated cost or fixed price for all new awards. For modifications, enter only the increase or decrease effected by the respective modification. For cost-reimbursement contracts, enter the estimated cost, exclusive of fee. For fixed-price contracts, enter the total fixed price, including the negotiated profit. For time-and-materials and labor-hour contracts, enter the total estimated contract price, including profit. Round all entries to the nearest whole dollar. Do not report amounts for priced options that have not been exercised in this field.

(75) *Item 67—Fee* (11 positions). This item pertains to cost-reimbursement contracts only. For new awards, enter the definitized negotiated fee, broken down into the types of fee indicated on the form. For modifications, enter only the increase or decrease effected by the respective modification. For incentive contracts, enter the target fee. For award-fee contracts, enter the base fee plus the maximum, available award fee. Also enter the total of the different types of fees reported. Round entries to the nearest whole dollar.

(76) *Item 68—Action obligation*. Enter the dollar amount obligated (increase or decrease) of the reported action. Report obligations for cost and fee separately and enter the total obligations reported. Round entries to the nearest whole dollar.

(77) *Item 69—Funded through date* (6 positions). For incrementally funded contracts, enter the date through which the contract is funded.

(78) *Item 70—Delegation of Procurement Authority ceiling amount* (11 positions). Enter DPA ceiling amount, if applicable.

(79) *Item 71—FIRMR Applicability* (1 position). Indicate whether the FIRMR applies to the procurement.

(80) *Item 72—Delegation of Procurement Authority expiration date* (6 positions—YYMMDD). Enter the date that the DPA expires, if applicable.

16. Section 1804.671-6 is revised to read as follows:

1804.671-6 Special procurement placement codes (PPC's) for certain procurements.

(a) The accounting copies for all procurements of \$25,000 or less from "Disadvantaged Business Firms-Direct" shall be coded with the second letter "M" in the PPC; e.g., BM or KM.

(b) The accounting copies for all procurement of \$25,000 or less from "Women-Owned Business Firms" shall be coded with the second letter "W" in the PPC; e.g., BW or KW.

(c) All procurement awards over \$25,000 and the accounting copies for procurement actions of \$25,000 or less (no NASA Form 507 is required) placed through the Small Business Administration with a disadvantaged business firm under section 8(a) of the Small Business Act shall be coded with PPC "PS" for noncompetitive and "PF" for competitive. The accounting copies for all procurements (except FSS orders) of \$2,500 or less shall be coded with PPC's CC, EC, HC, IC, LC, MC, OC, PC, VC, or ZC.

17. Sections 1804.672 through 1804.675 are removed.

18. In section 1804.676, "(Code FEH)" is revised to read "(Code FET)".

PART 1812—CONTRACT DELIVERY OR PERFORMANCE

1812.103 [Amended]

19. In section 1812.103, the citations "1814.407 and 1815.1002" are revised to read "1814.408 and 1815.1003".

1812.302 [Amended]

20. In section 1812.302, paragraph (b) is revised to read as follows:

1812.302 General.

(a) * * *

(b) Additional regulatory guidance is available in "DPAS, Defense Priorities and Allocations System," Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Washington, DC 20250, October 1984, 66 pages (copies available from Department of Commerce), and the DOD Priorities and Allocations Manual, DOD 4400.1-M, May 1995. The DOC booklet contains the pertinent parts of 15 CFR part 700 and is the recommended guidance on the DPAS to contractors and suppliers receiving rated orders.

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1813.4—Imprest Fund

1813.403, 1813.403-70, 1813.404, 1814.405 [Redesignated]

21. Sections 1813.403, 1813.403-70, 1813.404, and 1813.405 are redesignated as sections 1813.402, 1813.402-70, 1813.403, and 1813.404.

22. In paragraph (b) of the newly designated section 1813.402-70, the citation "FAR 13.403" is revised to read "FAR 13.402".

23. In paragraph (b)(5) of the newly designated section 1813.403, the citation "1813.405(b)" is revised to read "1813.404(b)".

24. In paragraph (e)(3) of the newly designated section 1814.404, the citation "1813.404" is revised to read "1813.403".

1813.505-2 [Redesignated]

25. Section 1813.505-2 is redesignated as section 1813.505-1, and the section heading to the newly designated section 1813.505-1, "Agency order forms in lieu of Optional Forms 347 and 348" is revised to read "Optional Form (OF) 347, Order for Supplies or Services, and Optional Form (OF) 348, Order for Supplies or Services-Continuation".

1813.7003 [Amended]

26. In paragraph (a) of section 1813.7003, the citation "FAR 13.404" is revised to read "FAR 13.403".

PART 1814—SEALED BIDDING

Subpart 1814.4—Opening of Bids and Award of Contract

1814.406, 1814.406-3, 1814.406-4, 1814.407, 1814.407-1 [Redesignated]

27. Sections 1814.406, 1814.406-3, 1814.406-4, 1814.407, and 1814.407-1 are redesignated as sections 1814.407, 1814.407-3, 1814.407-4, 1814.408, and 1814.408-1.

28. In paragraph (a) of the newly designated section 1814.407-3, the citation "FAR 14.406-3(a) and (b)" is revised to read "FAR 14.407-3(a) and (b)", the citation "FAR 14.406-3(d)" is revised to read "FAR 14.407-3(d)", and the citation "FAR 14.406-3(c)" is revised to read "FAR 14.407-3(c)".

29. In paragraph (b) of the newly designated section 1814.407-3, the citation "FAR 14.406-3(a)" is revised to read "FAR 14.407-3(a)".

30. In paragraph (c) of the newly designated section 1814.407-3, the citation "FAR 14.406-3" is revised to read "FAR 14.407-3".

31. In the newly designated section 1814.407-4, the citation "FAR 14.406-4(b) and (c)" is revised to read "FAR 14.407-4(b) and (c)" and the citation "FAR 14.406-4 (d)" is revised to read "FAR 14.407-4(d)".

PART 1815—CONTRACTING BY NEGOTIATION

1815.412 [Amended]

32. In section 1815.412, the section heading "Late proposals and modifications" is revised to read "Late proposals, modifications, and withdrawals of proposals".

1815.413 [Amended]

33. In paragraph (b) to section 1815.413, the citations "FAR 15.1003 and 1815.1003" are revised to read "FAR 15.1004 and 1815.1004".

Subpart 1815.10—Preward, Award, and Postaward Notifications, Protests, and Mistakes

1815.1002, 1815.1003, 1815.1003-1, 1815.1003-2, 1815.1003-3, 1815.1003-4 [Redesignated]

34. Sections 1815.1002, 1815.1003, 1815.1003-1, 1815.1003-2, 1815.1003-3 and 1815.1003-4 are redesignated as sections 1815.1003, 1815.1004, 1815.1004-1, 1815.1004-2, 1815.1004-3 and 1815.1004-4.

35. In newly designated section 1815.1003, the citation "FAR 15.1002" is revised to read "FAR 15.1003".

36. In paragraph (a) to the newly designated section 1815.1004-2, the citation "FAR 15.1003" is revised to read "FAR 15.1004".

1819.502-3 [Amended]

37. In section 1819.502-3, paragraph (a)(1) is revised to read as follows:

1819.502-3 Partial set-asides.

(a)(1) Contracting officers shall require offers obtained from firms eligible for the set-aside portion of the requirement under the clause at FAR 52.219-7, Notice of Partial Small Business Set-Aside, to be in writing and to include agreement—

(i) On the price for the available set-aside quantity,

(ii) On the delivery schedule,

(iii) That all other terms and conditions of the solicitation apply to the set-aside award, and

(iv) To include the clause at FAR 52.215-2, Audit and Records—Negotiation.

* * * * *

PART 1825—FOREIGN ACQUISITION

Subpart 1825.9—Additional Foreign Acquisition Clauses

1825.901 [Amended]

38. Section 1825.901 is revised to read as follows:

1825.901 Omission of Audit Clause.

(a) The contracting officer's request to use the clause at FAR 52.215-2, with its Alternate III, shall consist of the proposed determination and findings (together with any relevant support information) prepared for the Administrator's signature. The procurement officer shall forward the package to the Associate Administrator for Procurement (Code HC).

(b) When the clause at FAR 52.215-2 is used with its Alternate III, the contracting officer shall prepare a written report in triplicate to be furnished to the Congress. The head of the installation concerned shall sign the report and forward it to the Associate Administrator for Procurement (Code HC), who shall submit it to the Administrator for the Administrator's signature and forwarding to Congress.

PART 1834—MAJOR SYSTEM ACQUISITION

1834.005-1 [Amended]

39. In section 1834.005-1, paragraph (k) is removed, and the existing paragraph (l) is redesignated as paragraph (k).

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.016-70 [Amended]

40. In paragraph (e)(9) of section 1835.016-70, the citation "1815.1003" is revised to read "1815.1004".

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1836.304 [Amended]

41. In section 1836.304, the citation "1814.407-1(f)" is revised to read "1814.408-1(f)".

1836.602-5 [Amended]

42. In section 1836.602-5, the section heading "Short selection processes for contracts not to exceed the small purchase limitation" is revised to read "Short selection process for contracts not to exceed the simplified acquisition threshold".

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.204-70 [Removed]

43. Section 1852.204-70 is removed.

PART 1870—NASA SUPPLEMENTARY REGULATIONS

Subpart 1870.1—NASA Acquisition of Investigations System

44. In the introductory text to section 1870.102, App. I, Chapter 5, paragraph 504, the citation "1815.1003" is revised to read "1815.1004".

Subpart 1870.3—NASA Source Evaluation

45. In section 1870.303, App. I, Chapter 4, paragraph 407, paragraph 8. is revised to read as follows:

1870.303 Source Evaluation Board Procedures.

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Chapter 4 * * *

407 Initial Evaluation * * *

8. Notification of Unsuccessful Offerors. The contracting office shall notify each unsuccessful offeror in accordance with FAR 15.1002.

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46. In section 1870.303, App. I, Chapter 6, paragraph 602, paragraph 1.a., the citation "FAR 15.1001" is revised to read "FAR 15.1002", and in paragraph 1.b. the citations "FAR 15.1001(c) and 15.1002" are revised to read "FAR 15.1002(c) and 15.1003".

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222, and 227

[Docket No. 950427117-5220-03; I.D. 042095E]

RIN 0648-AH97

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule establishes all inshore and offshore waters from Cape

Canaveral, FL (28°24.6' N. lat.) to the North Carolina-Virginia border (36°30.5' N. lat.) as the leatherback conservation zone and provides for short-term closures of areas in that zone when high abundance levels of leatherback turtles are documented. Upon such documentation, NMFS will prohibit, in the closed areas, fishing by any shrimp trawler required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED installed is specified in the regulations as having an escape opening large enough to exclude leatherback turtles. This rule is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

EFFECTIVE DATE: October 16, 1995.

ADDRESSES: Requests for a copy of the environmental assessment (EA) or the contingency plan, prepared for this rule should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, (813) 570-5312, or Phil Williams, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA) of 1973. The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermodochelys coriacea*), and hawksbill (*Eretmodochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. The incidental take and mortality of these species, as a result of fishing activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard.

Under the ESA and its implementing regulations, it is prohibited to take sea turtles. The incidental taking of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 227.72, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing throughout the year. The use of TEDs significantly reduces mortalities of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because