

facilities-based common carriers providing basic frame relay service must file tariffs within sixty (60) days of the effective date of this order.

Federal Communications Commission.

Kathleen M.H. Wallman,

Chief, Common Carrier Bureau.

[FR Doc. 95-27470 Filed 11-6-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-180; RM-7698, RM-7818, RM-7819]

Radio Broadcasting Services; Seabrook, Huntsville, Bryan, Victoria, Kenedy, and George West, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This document denies an Application for Review filed by Helen Maryse Casey directed against the *Report and Order* in this proceeding. See 58 FR 12903, March 8, 1993. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776-1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 91-180, adopted July 31, 1995, and released August 29, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

List of Subjects in Part 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1815

Acquisition Regulation; Cost or Pricing Data; Correction

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

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule which was published October 18, 1995 (60 FR 53878) The final rule revised NASA policies on cost or pricing data in order to make the policies consistent with recently revised Federal-wide policies.

EFFECTIVE DATE: October 18, 1995.

FOR FURTHER INFORMATION CONTACT: William T. Childs, (202) 358-0454.

SUPPLEMENTARY INFORMATION:

Background

The Federal Acquisition Streamlining Act of 1994 (FASA) revised policy on cost or pricing data under the Truth in Negotiations Act (TINA), among other things. The TINA changes have been implemented in the Federal Acquisition Regulation (FAR) at 48 CFR chapter 1, and those changes necessitate corresponding revisions of the NASA FAR Supplement (NFS).

Need for Correction

Two section headings were incorrectly published. In section 1815.804-1, paragraph (a)(1) is removed because it is adequately covered by FAR 15.804-1, two citations are corrected, and the term "exemption" is revised to read "exception", which is the term used by the FAR. Paragraph (b) was inadvertently omitted from § 1815.804-2. The paragraph provides guidance that the agreed date under FAR 15.804-2(b)(2) should generally be within two weeks of the date of price agreement.

Correction of Publication

Accordingly, the publication on October 18, 1995 of the final rule which was the subject of FR Doc. 95-25858, is corrected as follows:

1815.804 [Corrected]

Paragraph 2. on page 53879, in the first column, is corrected by revising the heading of § 1815.804 to read as follows:

1815.804 Cost or pricing data and information other than cost or pricing data.

1815.804-1 [Corrected]

Paragraph 3. on page 53879, in the first column, is corrected by revising the

heading and paragraphs (a), (b), and (c) of section 1815.804-1 to read as follows:

1815.804-1 Prohibition on obtaining cost or pricing data.

(a)(1) When the adequate price competition exception will be used in a single-offer situation, the exception shall be approved by the head of the contracting activity. The exception document shall cite the authority of 10 U.S.C. 2306(b)(1)(B), and the procedure in paragraph (d) of this section shall be used.

(2) The adequate price competition exception is applicable to both fixed-price and cost-reimbursement type procurements.

(i) The use of this exception for a cost-reimbursement procurement requires the careful exercise of judgment on the part of the contracting officer based on the application of the guidance in FAR 15.804-1(b)(1)(i)(A) and the regulations of this chapter to the facts of each procurement. The instances when its use under cost-reimbursement procurements would be appropriate should be limited. One reason is that, unlike fixed-price type contracts, where the final cost to the Government is set at the negotiated contract amount, in cost-reimbursement contracts, the contract amount is only an estimate of the Government's final cost. As a consequence, the failure to obtain cost or pricing data could result in a competing contractor intentionally underestimating its costs for the purpose of winning the award, which could then cause the actual contract costs to significantly exceed those proposed.

(ii) If and when negotiations conducted with a successful offeror after receipt of Best and Final Offers result in a substantial change in that offeror's price, the validity of any adequate price competition exception which previously applied could be nullified, regardless of contract type.

(3) When the decision is made to apply the adequate price competition exception, that decision shall be documented in the contract file. In addition, for cost-reimbursement procurements, that document shall be signed by the procurement officer and a copy provided to the Analysis Division, Code HC.

(b) When an exception is granted under FAR 15.804-1(c)(4) for repetitive submissions of catalog items, Government approval of the exception request shall state the effective period, usually not more than one year, and require the contractor to furnish any later information that might raise a

question as to the exception's continuation.

(c) When excepting submission under FAR 15.804-1(b)(2)(iii), the contracting officer shall document the reasons for the exception. It is generally appropriate to include a description of the similarities and differences from a commercial item, along with a discussion of the actual sales prices of the commercial item and an explanation of the value of the differences from that

item. If the fact of substantial sales to the general public is well known, information addressing the quantity of sales is not required.

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1815.804-2 [Corrected]

Paragraph 4. on page 53879, in the third column, is corrected by adding paragraph (b) to read as follows:

1815.804-2 Requiring cost or pricing data.

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(b) If a certificate of current cost or pricing data is made applicable as of a date other than the date of price agreement, the agreed date should generally be within two weeks of the date of price agreement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

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