

**1801.105-1 Publication and code arrangement.**

(a) The single official NASA-maintained version of the NFS is on the Internet (<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>).

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**1801.105-3 and 1801.105-370 [Removed]**

3. Sections 1801.105-3 and 1801.105-370 are removed.

4. Section 1801.270 is revised to read as follows:

**1801.270 Amendment of the NFS.**

(a) The NFS is amended by publishing changes in the **Federal Register**. These changes are then incorporated into the NASA-maintained Internet version of the NFS through Procurement Notices (PNs). PNs are numbered consecutively, prefixed by the last two digits of the calendar year of issuance of the current edition of the NFS.

(b) Compliance with a revision to the NFS shall be in accordance with the PN containing the revision. Unless otherwise stated, solicitations that have been issued, and bilateral agreements for which negotiations have been completed, before the receipt of new or revised contract clauses need not be amended to include the new or revised clauses if including them would unduly delay the acquisition.

5. Sections 1801.270-1, 1801.270-2, 1801.270-3, and 1801.270-4 are removed.

**PART 1804—ADMINISTRATIVE MATTERS**

6. Section 1804.202 is revised to read as follows:

**1804.202 Agency distribution requirements.**

In addition to the requirements in FAR 4.201, the contracting officer shall distribute one copy of each R&D contract, including the Statement of Work, to the NASA Center for AeroSpace Information (CASI), Attention: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076-1320.

**PART 1809—CONTRACTOR QUALIFICATIONS**

7. Section 1809.200 is revised to read as follows:

**1809.200 Scope of subpart.**

This subpart prescribes policies and procedures to be followed in the use of qualified products lists for acquisition of parts consistent with the policies of NASA Policy Directive 8730.2, NASA Parts Policy.

**PART 1815—CONTRACTING BY NEGOTIATION**

8. Section 1815.670 is revised to read as follows:

**1815.670 Foreign proposals.**

Unsolicited proposals from foreign sources are subject to NPD 1360.2, Initiation and Development of International Cooperation in Space and Aeronautics Programs.

**PART 1827—PATENTS, DATA, AND COPYRIGHTS**

9. In section 1827.303, paragraph (a)(5) is added to read as follows:

**1827.303 Contract clauses.**

(a) \* \* \*  
(5) Alternate IV to 52.227-11 is not used in NASA contracts. See instead 1827.303-70(a).

\* \* \* \* \*

**PART 1832—CONTRACT FINANCING**

10. In section 1832.906, the first sentence in paragraph (a) is revised to read as follows:

**1832.906 Contract financing payments.**

(a) Except as authorized in 1832.908, it is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. \* \* \*

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**PART 1845—GOVERNMENT PROPERTY**

11. Section 1845.406 is redesignated as 1845.407, and the existing section 1845.407 is redesignated as 1845.406.

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

12. In section 1852.235-70, the date and paragraph (d) are revised to read as follows:

**1852.235-70 Center for AeroSpace Information.**

\* \* \* \* \*

**Center for Aerospace Information**

July 1999

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(d) When the contract requires the delivery of reports or data to CASI, a reproducible copy and a printed or reproduced copy of such reports or data shall be concurrently submitted to: Center for AeroSpace Information (CASI), Attn: Document Processing Section, 7121 Standard Drive, Hanover, Maryland 21076-1320.  
(End of clause)

**PART 1871—MIDRANGE PROCUREMENT PROCEDURES**

13. Section 1871.602 is revised to read as follows:

**1871.602 Specifications for MidRange procurements.**

BVS refines the traditional approach to preparing specifications. BVS envisions that the requirement will focus on the end result that is to be achieved and will serve as a statement of the Government's baseline requirements. The offeror will be guided in meeting the Government's needs by a separate set of value characteristics which establish what the Government considers to be valuable in an offer beyond the baseline requirement. These value characteristics will be performance based and will permit the selection of the offer which provides better results for a reasonable marginal increase in price.

**PART 1872—ACQUISITIONS OF INVESTIGATIONS****§ 1872.303 [Amended]**

14. In section 1872.303, the reference in paragraph (b) to "(See NMI 1362.1, Initiation and Development of International Cooperation in Space and Aeronautical Programs)" is revised to read "(see NPD 1360.2, Initiation and Development of International Cooperation in Space and Aeronautics Programs)".

**§ 1872.305 [Amended]**

15. In section 1872.305, the reference in paragraph (c) to "Acquisition" is revised to read "Procurement".

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**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 1833****NASA FAR Supplement; Protests to the Agency**

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

**ACTION:** Final rule.

**SUMMARY:** NASA has a mandatory solicitation provision required to be inserted in all solicitations which informs potential bidders or offerors to whom Agency protests may be submitted. The provision provides that potential bidders or offerors may submit a protest directly to the Contracting Officer or alternatively to the Deputy Associate Administrator for Procurement, who will serve as or

designate the official responsible for conducting an independent review of the protest. Based on our experience with protests submitted to the Agency, we are amending NASA regulations to address whether or not there is any appeal from or reconsideration of Agency protest decisions within NASA. This final rule also addresses whether or not NASA will continue to consider an Agency protest that is related to pending judicial proceedings or where the protester has filed a protest on the same procurement with the United States General Accounting Office prior to receipt of an Agency protest decision. The effect of this additional information is to give potential bidders or offerors a better understanding of NASA's process for considering protests to the Agency.

**EFFECTIVE DATE:** July 7, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dave Beck, NASA Headquarters, Code HK, Washington, DC 20546-0001, email: dbeck@hq.nasa.gov, telephone: (202) 358-0482.

**SUPPLEMENTARY INFORMATION:**

**Background**

A proposed rule was published in the **Federal Register** on April 12, 1999 (64 FR 17603). No comments were received. The final rule adopts the proposed rule without change.

**Regulatory Flexibility Act**

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*,

because there are few protests of NASA procurements.

**Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the NASA FAR Supplement do not impose any new recordkeeping or information collection 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.*

**List of Subjects in 48 CFR Part 1833**

Government procurement.

**Tom Luedtke,**

*Associate Administrator for Procurement.*

Accordingly, 48 CFR part 1833 is amended as follows.

**PART 1833—PROTESTS, DISPUTES, AND APPEALS**

1. The authority citation for 48 CFR part 1833 continues to read as follows:

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

**Subpart 1833.1—Protests**

2. Section 1833.103 is amended by revising the section heading, redesignating paragraph (b) as paragraph (f) and adding paragraph(c), paragraph (d) introductory text, and paragraph (d)(4) to read as follows:

**1833.103 Protests to the agency. (NASA supplements paragraphs(c), (d) and (f).)**

(c) An independent review under the provision at 1852.233-70 is available as

an alternative to a protest to the contracting officer, but not as an appeal of a protest decision. All independent reviews shall be conducted by the Deputy Associate Administrator for Procurement or designee. Such reviews are different from the Ombudsman Program described at 1815.7001.

(d) NASA shall summarily dismiss and take no further action upon any protest to the Agency if the substance of the protest is pending in judicial proceedings or the protester has filed a protest on the same acquisition with the United States General Accounting Office prior to receipt of an Agency protest decision.

(4) When a potential bidder or offeror submits an Agency protest to NASA to the contracting officer or alternatively requests an independent review, the decision of the contracting officer or the independent review official shall be final and is not subject to any appeal or reconsideration within NASA.

(f) Protests received at NASA offices or locations other than that of the cognizant contracting officer shall be immediately referred to the contracting officer for disposition (see 1833.106(a)). The contracting officer shall advise the Headquarters Office of the General Counsel (Code GK) of the receipt of the protest and the planned and actual disposition. This paragraph does not apply when the protester has requested an independent review under the provision at 1852.233-70.

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