



**Billing Code 7510-01**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 1809**

**RIN 2700-AD54**

**NASA Federal Acquisition Regulation Supplement; Responsibility, Suspension and Debarment**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** NASA has adopted as final, without change, a proposed rule amending the NASA FAR Supplement (NFS) to require contracting officers to notify prospective contractors if they are found to be nonresponsible.

**EFFECTIVE DATE:** [INSERT FEDERAL REGISTER PUBLICATION DATE.]

**FOR FURTHER INFORMATION CONTACT:** Leigh Pomponio, Procurement Analyst, at (202) 358-0592 or [leigh.pomponio@NASA.gov](mailto:leigh.pomponio@NASA.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

NASA published a proposed rule in the Federal Register at 76 FR 25656 on May 5, 2011, to implement a requirement for contracting officers to notify prospective contractors if they are found to be nonresponsible under FAR Subpart 9.1. Public comments were due on or before July 5, 2011. No comments were received.

**II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental,

public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **III. 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 it does not impose any new requirements on small entities. This rule only imposes requirements on Government personnel; the impact on the public, including small entities, is the receipt of additional information.

### **IV. Paperwork Reduction Act**

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

### **List of Subjects in 48 CFR Part 1809**

Government procurement.

Sheryl Goddard  
Director, Program Operations Division

Accordingly, 48 CFR Part 1809 is amended as follows:

### **PART 1809--CONTRACTOR QUALIFICATIONS**

1. The authority citation for 48 CFR Part 1809 continues to read as follows:

**Authority:** 42 U.S.C. 2455(a), 2473(c)(1)

**Subpart 1809.1 – Responsible Prospective Contractors**

2. Section 1809.105-2 is added to subpart 1809.1 to read follows:

**1809.105-2 Determinations and documentation.**

(a) The contracting officer shall provide written notification to a prospective contractor determined not responsible, which includes the basis for the determination. Notification provides the prospective contractor with the opportunity to take corrective action prior to future solicitations.

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