



Billing Code 7510-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1817 and 1852

RIN 2700-AE28

Removal of Outdated and Duplicative Guidance (2016-N010)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: National Aeronautics and Space Administration (NASA) is proposing to amend the NASA FAR Supplement (NFS) to remove duplicative language of the FAR and superseded NFS guidance. The revision is part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to be considered in formulation of the final rule.

ADDRESSES: Submit comments identified by NFS Case 2016-N010, using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "NFS Case 2016-N010" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "NFS Case 2016- N010." Follow the instructions provided at the "Submit a Comment" screen. Please include your

name, company name (if any), and "NFS Case 2016-N010" on your attached document.

- o E-mail: manuel.quinones@nasa.gov. Include NFS Case 2016-N010 in the subject line of the message.

- o Fax: (202) 358-3082.

- o Mail: National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Mr. Manuel Quinones, Suite 5K32, 300 E. Street SW, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, Suite 5K32, 300 E. Street SW, Washington, DC 20456-0001. Telephone (202) 358-2143; facsimile 202-358-3082; email: manuel.quinones@nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication

for public comment. NASA conducted a comprehensive review of the NFS to validate the accuracy and relevancy of its policy, guidance, and procedures. Additionally, to streamline and clarify its regulation, NASA identified a number of NFS parts and sections to be (1) deleted because of its duplication of the FAR or (2) relocated as internal Agency operating procedures to a NASA maintained website available on the internet at <http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>. During a recent review of the NFS we discovered that an extraneous provision and two inapplicable clauses had been inadvertently retained in the regulation and for which their respective prescriptions had been previously deleted during one of the NASA FAR Supplement Rewrite final rules. Accordingly, this rule proposes to remove from the CFR the duplicative provision and superseded clauses, and relocate internal Agency-specific guidance and operating procedures.

The NFS document found on the NASA Procurement Library website will continue to contain both information requiring codification in the CFR and internal Agency guidance and procedures in a single document.

II. Discussion

NASA's proposed changes to the CFR are as follows:

- Remove section 1817.200, as this statement is redundant.

- Remove section 1817.204, as this section pertains to internal Agency guidance and operating procedures.
- Remove section 1852.210-70, which is duplicative of FAR requirements and for which no prescriptive language exists.
- Remove sections 1852.212-70 and 1852.212-74, which are superseded and for which no prescriptive language exists.

III. 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.

IV. Regulatory Flexibility Act

NASA does not expect this proposed rule to 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 this rule proposes to remove from the CFR only information that is either considered internal Agency administrative procedures or extraneous provisions/clauses that were invalidated by previous final rules. Therefore, an initial regulatory flexibility analysis has not been performed. NASA invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS case 2016- N010) in their correspondence.

V. Paperwork Reduction Act

The 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 Parts 1817 and 1852

Government Procurement

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Accordingly, 48 CFR parts 1817 and 1852 are amended as follows:

1. The authority citation for parts 1817 and 1852 continues to read as follows:

Authority: 51 U.S.C. sec. 20113(a) and 48 CFR chapter 1.

PART 1817—SPECIAL CONTRACTING METHODS

1817.200 and 1817.204 [Removed]

2. Remove sections 1817.200 and 1817.204.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.210-70, 1852.212-70, and 1852.212-74 [Removed]

3. Remove sections 1852.210-70, 1852.212-70, and 1852.212-74.

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