



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1831 and 1852

[Notice: 23-099]

RIN 2700-AE72

NASA Federal Acquisition Regulation Supplement (NFS): Removal of Total Compensation Plan Language (NFS Case 2023-N002)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is finalizing amendments to the NASA Federal Acquisition Regulation Supplement (NFS) as well as corresponding sections of the CFR to a solicitation provision and clause.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Edgar Lee, NASA HQ, Office of Procurement Grants and Policy Division, LP-011, 300 E. Street SW, Washington, DC 20456-001. Telephone 202-420-1384; facsimile 202 358-3082.

SUPPLEMENTARY INFORMATION:

I. Background

NASA proposed a rule in the Federal Register at 88 FR 67720 on October 2, 2023, to amend the NFS by removing NFS 1831.205-671, Solicitation provision, and NFS 1852.231-71, Determination of Compensation Reasonableness, from the NFS. NASA has determined these provisions are unnecessary as they exceed the scope requirements adequately covered in Federal Acquisition

Regulation (FAR) provision 52.222-46, Evaluation of Compensation for Professional Employees (48 CFR 52.222-46). Currently, NFS requires an evaluation for all labor categories and periodic review of total compensation plans after contract award for cost reimbursement contracts (at least every 3 years) to evaluate the reasonableness of compensation for all proposed labor categories in service contracts.

NASA has made a determination to rely on FAR provision 52.222-46, agencywide templates, and instructions, to ensure consistency in the data provided to NASA and subsequent evaluations to ensure NASA continues to pay fair and reasonable wages.

II. Discussion

As no public comments were submitted on the proposed rule, NASA is finalizing this rule with no changes.

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 by OMB under

E.O. 12866, Regulatory Planning and Review. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this 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 the rule is removing the NFS unique requirements for submission of total compensation plan. Therefore, an Initial Regulatory Flexibility Analysis was not performed.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply. With the publication of this final rule, an existing information collection currently approved under Office of Management and Budget (OMB) control number 2700-0077, *Contractor and Subcontractor Compensation Plans*, is no longer needed. Once the final rule is effective, NASA will discontinue this collection and rely on OMB control number 9000-0066, *Certain Federal Acquisition Regulation Part 22 Labor Requirements—FAR Sections Affected: 52.222-2, 52.222-6, 52.222-11, 52.222-18, 52.222-33, 52.222-34, 52.222-46, and SF 1413 and 1444.*

List of Subjects

48 CFR Part 1831

Accounting, Government procurement.

48 CFR Part 1852

Accounting, Government procurement, Reporting and recordkeeping requirements.

Erica Jones,

NASA FAR Supplement Manager.

For the reasons stated in the preamble, NASA amends 48 CFR parts 1831 and 1852 as follows:

PART 1831 – CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for part 1831 continues to read as follows:

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

1831.205-671 [Removed and Reserved]

2. Remove and reserve section 1831.205-671.

PART 1852 – SOLICITATION PROCEDURES AND CONTRACT CLAUSES

3. The authority citation for part 1852 continues to read as follows:

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

1852.231-71 [Removed and Reserved]

4. Remove and reserve section 1852.231-71.

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