

positions that are mission critical. Some of the positions as identified may now or in the future be held by employees of the Contractor. Upon notification by the Contracting Officer that a mission-critical position is being or will be filled by one or more of the Contractor's employees, the Contractor shall (1) provide the affected employees with a clear understanding of the investigative and medical requirements and, (2) to the extent permitted by applicable law, assist the Government by furnishing personal data and medical records.

(b) The standard that will be used in certifying individuals for a mission-critical position is that they must be determined to be suitable, competent, and reliable in the performance of their assigned duties in accordance with the screening requirements 14 CFR 1214.5. If the Government determines that a Contractor employee occupying or nominated to occupy a mission-critical position will not be certified for such duty, the Contracting Officer shall (1) furnish to the employee the specific reasons for its action; (2) advise the employee that he/she may avail himself/herself of the review procedures that are a part of the certification system; and (3) furnish him/her a copy of those procedures upon request.

(c) If a Contractor employee who has been nominated for (but has not yet filled) a mission-critical position is not certified, the Contractor agrees to defer the appointment to the position until the employee has had an opportunity to pursue the referenced procedures. If the employee is an incumbent to the position, the Contractor agrees, upon the request of the Government, to remove him/her from the position temporarily pending an appeal of the action under the review procedures. If any employee not certified elects not to take action under the procedures, or, if having taken action, is not successful in obtaining a reversal of the determination, the Contractor agrees not to appoint the employee to the position, or if already appointed, to promptly remove the employee.

(End of clause)

1852.246-71 [Amended]

27. In the introductory text to section 1852.246-71, the citation "1846.470-2(a)" is revised to read "1846.470".

1852.246-73 [Amended]

28. Section 1852.246-73 is revised to read as follows:

1652.246-73 Human Space Flight Item.

As prescribed in 1845.370(b), insert the following clause:

HUMAN SPACE FLIGHT ITEM (MAR 1997)

The Contractor shall include the following statement in all subcontracts and purchase orders placed by it in support of this contract, without exception as to amount or subcontract level:

"FOR USE IN HUMAN SPACE FLIGHT; MATERIALS, MANUFACTURING, AND WORKMANSHIP OF HIGHEST QUALITY STANDARDS ARE ESSENTIAL TO ASTRONAUT SAFETY.

IF YOU ARE ABLE TO SUPPLY THE DESIRED ITEM WITH A HIGHER QUALITY THAN THAT OF THE ITEMS SPECIFIED OR PROPOSED, YOU ARE REQUESTED TO BRING THIS FACT TO THE IMMEDIATE ATTENTION OF THE PURCHASER."

(End of clause)

1852.246-74, 1852.246-75 [Removed]

29. Section 1852.246-74 and 1852.246-75 are removed.

1852.247-70 [Removed]

30. Section 1852.247-70 is removed.

1852.247-72 [Amended]

31. In the introductory text to section 1852.247-72, the citation "1847.305-70(b)" is revised to read "1847.305-70(a)".

1852.247-73 [Amended]

32. In the introductory text to section 1852.247-73, the citation "1847.305-70(c)" is revised to read "1847.305-70(b)".

33. In the clause to section 1852.247-73, the date "(MARCH 1989)" is revised to read "(MAR 1997)", and in paragraph (b), the word "certificate" is revised to read "statement".

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48 CFR Parts 1819 and 1845

Revision to the NASA FAR Supplement to Eliminate Non-Statutory Certification Requirements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement to eliminate offeror and contractor certification requirements not mandated by statute.

EFFECTIVE DATE: March 25, 1997.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, (202) 358-0478.

SUPPLEMENTARY INFORMATION:

Background

NASA published a proposed rule in the December 18, 1996 Federal Register (61 FR 66643-66646) of its intent to delete a number of offeror and contractor certification requirements in the NASA FAR Supplement (NFS). Only editorial comments were received, and these are considered in the final rule. The proposed changes to sections 1819.7211 and 1845.302-73 are incorporated as a final rule without revision.

The changes to the following NFS sections listed in the proposed rule have

already been accomplished via the ongoing NFS rewrite:

1. 1816.303 Cost Sharing Contracts. Certification requirement deleted from renumbered section 1816.303-70 in the October 7, 1996 interim rule (61 FR 52325-52347) and subsequent January 23, 1997 final rule (62 FR 3464-3487).

2. 1823.7002 Responsibility. Section deleted in the October 29, 1996 final rule (61 FR 55753-55764).

3. 1832.7004(b) Contractual Implementation (Milestone Billing). Section deleted in the October 29, 1996 final rule (61 FR 55765-55774).

4. 1834.005-1 Competition. Certification requirement deleted from renumbered Subpart 1834.70 in the January 30, 1997 final rule (62 FR 4466-4492).

5. 1870.102-703, VI, Proposed Submission Information (Investigation Acquisition System). Certification requirement deleted in renumbered Part 1872 in the January 30, 1997 final rule (62 FR 4466-4492).

The changes to the following sections listed in the proposed rule will be accomplished as part of the NFS rewrite in a separate final rule:

1. 1852.223-70, Safety and Health.

2. 1852.247-73, Shipment by Government Bills of Lading.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This final rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1819 and 1845

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1819 and 1845 are amended as follows:

1. The authority citation for 48 CFR Parts 1819 and 1845 continues to read as follows:

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

PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

1819.7211 [Amended]

2. In section 1819.7211, paragraph (b)(1) is revised to read as follows:

1819.7211 Application process for mentor firms to participate in the program.

(a) * * *

(b) * * *

(1) A statement that the mentor firm is currently performing under at least one active approved subcontracting plan (small business exempted) and that they are eligible, as of the date of application, for the award of Federal contracts.
* * * * *

PART 1845—GOVERNMENT PROPERTY

1845.302–73 [Amended]

3. In section 1845.302–73(b), the first two sentences of paragraph 3 under

FINDINGS are revised to read as follows:

1845.302–73 Determination and findings.

- (a) * * *
- (b) * * *

Findings

* * * * *

3. (If the contract effort cannot be fulfilled by any other means, indicate why the contractor cannot provide the facilities. For example, due to financial constraints, the contractor has demonstrated inability to

acquire the facilities; or, even though the contractor is willing and financially able to acquire these facilities for its own account, the contractor has stated that time will not permit making arrangements to obtain timely delivery to meet NASA requirements. * * *

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